

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1149 Policy Cancellations and Nonrenewals by Property Insurers

**SPONSOR(S):** Commerce Committee, Insurance & Banking Subcommittee, Botana and others

**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 1104

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N, As CS	Fortenberry	Lloyd
2) Commerce Committee	19 Y, 0 N, As CS	Fortenberry	Hamon

### **SUMMARY ANALYSIS**

An authorized insurer may not cancel or nonrenew any personal residential or commercial residential property insurance policy: for 90 days after the dwelling or residential property has been repaired, if the property has been damaged as a result of a hurricane or wind loss; until the earlier of when the dwelling or residential property has been repaired or one year after the final claim payment, if the property was damaged by a covered peril, but not a hurricane or wind loss.

However, an authorized insurer or agent may cancel or nonrenew a policy before the dwelling or residential property has been repaired: upon 10 days' notice (for nonpayment of premium); or upon 45 days' notice (for: 1. a material misstatement or fraud related to the claim, 2. if the insurer determines that the insured has unreasonably caused a delay in the repair, or 3. if the insurer has paid policy limits).

If an insurer elects to nonrenew a policy covering a damaged property, the insurer must provide at least 90 days' notice that it intends to nonrenew the policy 90 days after the property has been repaired. A structure is considered repaired when substantially completed and restored such that it is insurable by another authorized insurer writing policies in Florida.

Section 626.9201, F.S., governs a surplus lines insurer's cancellation or nonrenewal of personal residential and commercial residential property insurance policies. However, current law contains no specific language regarding cancellation or nonrenewal of surplus lines policies issued on properties with unrepairs damage.

The bill changes when an authorized insurer may cancel or nonrenew personal residential or commercial residential property insurance policies on properties with unrepairs damage. As a result, the standards for cancellation apply to personal residential and commercial residential property insurance policies issued by **both authorized insurers and surplus lines insurers**. An insurer **may not** cancel or nonrenew a personal residential or commercial residential property policy covering a dwelling or residential property in Florida damaged by a covered peril until the earlier of: the completion of repairs; or, the expiration of one subsequent renewal of the policy that was in force at the time of the loss.

"Damage" includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance policy.

The bill specifies exceptions which will allow an insurer to cancel a policy when unrepairs damage remains. These include failure to pay premium, a lack of insurable interest in the property, fraud, and failure to timely respond to written inquiries by the insurer.

Additionally, the bill provides the Insurance Commissioner with the authority to prohibit insurers from canceling or nonrenewing policies in selected zip codes affected by wide-spread significant flooding caused by a hurricane or other natural event, upon the issuance of an order that may last up to 270 days. Such an order would apply regardless of whether flood is a covered peril under a personal residential or commercial residential property insurance policy in force at the time of loss.

The bill has no impact on state or local revenues or expenditures. It may have indeterminate positive and negative economic impacts on the private sector.

The bill is effective July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

In general, with respect to any personal residential or commercial residential property insurance policy covering a dwelling or residential property in Florida, including but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents, an authorized insurer must give the first-named insured:

- At least 45 days' advance written notice of the renewal premium.<sup>1</sup>
- Written notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation, or termination. Such notice must contain the reason for the nonrenewal, cancellation, or termination.<sup>2</sup>

However, an authorized insurer may not cancel or nonrenew any personal residential or commercial residential property insurance policy:

- For 90 days after the dwelling or residential property has been repaired, if the property has been damaged as a result of a hurricane or wind loss that is the subject of a declaration of emergency and the filing of an order by the Insurance Commissioner.<sup>3</sup>
- Until the earlier of when the dwelling or residential property has been repaired or one year after the insurer issues the final claim payment, if the property was damaged by a covered peril, but not a hurricane or wind loss.<sup>4</sup>

Additionally, an authorized insurer or agent may cancel or nonrenew a policy before the dwelling or residential property has been repaired:

- Upon 10 days' notice for nonpayment of premium; or
- Upon 45 days' notice for:
  - A material misstatement or fraud related to the claim;
  - If the insurer determines that the insured has unreasonably caused a delay in the repair; or
  - If the insurer has paid policy limits.<sup>5</sup>

If an insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice that the insurer intends to nonrenew the policy 90 days after the property has been repaired.<sup>6</sup> A structure is considered repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer writing policies in Florida.<sup>7</sup>

Section 626.9201, F.S., governs the cancellation or nonrenewal of personal residential and commercial residential property insurance policies issued by surplus lines insurers. Currently, a surplus lines insurer issuing a policy for property insurance must give the first named insured at least 45 days' advance written notice as to why the policy is not to be renewed.<sup>8</sup> A surplus lines insurer issuing a policy providing covering property must give the named insured written notice of cancellation or termination, including the reasons for the cancellation or termination, with certain exceptions.<sup>9</sup> However, current law contains no specific language regarding cancellation or nonrenewal of surplus lines policies issued on properties with unrepairs damage.

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<sup>1</sup> S. 627.4133(2)(a), F.S.

<sup>2</sup> S. 627.4133(2)(b), F.S.

<sup>3</sup> S. 627.4133(2)(e)1.a., F.S.

<sup>4</sup> S. 627.4133(2)(e)1.b., F.S.

<sup>5</sup> S. 627.4133(2)(e)2., F.S.

<sup>6</sup> S. 627.4133(2)(e)3., F.S.

<sup>7</sup> S. 627.4133(2)(e)5., F.S.

<sup>8</sup> S. 626.9201(1), F.S.

<sup>9</sup> S. 626.9201(2), F.S.

## **Effect of the Bill**

The bill changes when an authorized insurer may cancel or nonrenew personal residential or commercial residential property insurance policies on properties with unrepairs damage. It eliminates the separate timeframes for authorized insurers to cancel or nonrenew personal residential or commercial residential policies following losses due to hurricane and wind and all other covered perils.

The bill also establishes standards for cancellation and nonrenewal of such policies issued by surplus lines insurers.

As a result, the following standards for cancellation apply to personal residential and commercial residential property insurance policies issued by **both authorized insurers and surplus lines insurers**. An insurer **may not** cancel or nonrenew a personal residential or commercial residential property policy covering a dwelling or residential property in Florida which has been damaged by a covered peril until the earlier of:

- The completion of repairs; or
- The expiration of one subsequent renewal of the policy that was in force at the time of the loss.

The bill states that the term "damage" includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance policy.

An insurer or agent **may** cancel or nonrenew a personal residential and commercial residential policy prior to the repair of the dwelling or residential property:

- Upon 10 days' notice:
  - For nonpayment of premium; or
  - If the named insured no longer has an insurable interest in the property; or
- Upon 45 days' notice:
  - For a material misstatement or fraud related to the claim;
  - If the insurer or its agent has made a reasonable written inquiry of the insured as to the status of the repair and the insured fails to respond within 30 calendar days; or
  - If the insurer has paid policy limits under a personal residential property insurance policy for a loss to the insured dwelling that was damaged, or policy limits under a commercial residential property insurance policy for a loss to each structure that was damaged.

If the insurer elects to nonrenew a policy after the expiration of one subsequent renewal of the policy in force at the time of the loss, the insurer must comply with normal notice requirements in the statutes for authorized and surplus lines insurers.<sup>10</sup> Additionally, the provisions prohibiting cancellation or nonrenewal of policies on properties with unrepairs damage do not prevent the insurers from canceling or nonrenewing the policies after the repair is completed for the same reasons they would have canceled if the unrepairs damage did not exist.

The bill provides that a structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by:

- Another authorized insurer writing policies in Florida if the structure is currently insured by an authorized insurer; or
- Another authorized or eligible surplus lines insurer writing policies in Florida if the structure is currently insured by an eligible surplus lines insurer.

Pursuant to the bill, in the event of wide-spread significant flooding, as determined by the Insurance Commissioner, caused by a hurricane or other natural event, the Insurance Commissioner may issue an order preventing insurers from canceling or nonrenewing personal residential or commercial residential property insurance policies covering dwellings or residential properties within zip codes directly affected by the flooding. If a claim is made while such an order is in effect, the insurer may not cancel or nonrenew such policies until the earlier of the completion of repairs or the expiration of one subsequent renewal of the policy that was in force at the time of the loss. This prohibition on cancellation and nonrenewal applies even if the personal residential or commercial residential property insurance policy in place at the time of the loss does

<sup>10</sup> Ss. 627.4133(2) and 626.9201, F.S., respectively.

not cover the peril of flood. Such an order issued by the Insurance Commissioner may remain in effect for an initial period of 90 days, and may be renewed for subsequent 90-day periods, not to exceed a total of 270 days.

B. SECTION DIRECTORY:

**Section 1.** Amends s. 626.9201, F.S., relating to notice of cancellation or nonrenewal.

**Section 2.** Amends s. 627.4133, F.S., relating to notice of cancellation, nonrenewal, or renewal premium.

**Section 3.** Provides an effective date of July 1, 2024.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Personal residential and commercial residential policyholders may experience an indeterminate economic impact as a result of the bill. Those policyholders who might have had to pay higher premiums for force-placed insurance when their existing insurers canceled or nonrenewed them due to unrepairs damage will remain insured by their current insurers for at least one subsequent renewal period. Admitted and surplus lines insurers may experience a negative economic impact by being forced to renew policies on properties with unrepairs damage that they otherwise would have nonrenewed or canceled.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Financial Services Commission is provided sufficient authority to, and may adopt rules necessary to, implement the provisions within the bill.<sup>11</sup>

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 6, 2024, the Insurance & Banking Subcommittee considered the bill as a Proposed Committee Substitute (PCS), adopted one amendment to the PCS, and reported the bill favorably as a committee substitute.

The PCS made the following changes from the bill as filed:

- Established that the standards for cancellation apply to personal residential and commercial residential property insurance policies issued by **both authorized insurers and surplus lines insurers** such that an insurer **may not** cancel or nonrenew a personal residential or commercial residential property policy covering a dwelling or residential property in Florida which has been damaged by a covered peril until the earlier of:
  - the completion of repairs; or
  - the expiration of one subsequent renewal of the policy that was in force at the time of the loss.
- Eliminated the section of the bill prohibiting cancellation or nonrenewal of a commercial property insurance policy.
- Eliminated the provision of the bill requiring policies that are extended or renewed to contain the same policy terms as the policies being extended or renewed.

The amendment to the PCS corrected a cross-reference.

On February 22, 2024, the Commerce Committee considered the bill, adopted two amendments, and reported the bill favorably as a committee substitute. The amendments:

- allowed the Insurance Commissioner discretion in the event of wide-spread significant flooding, caused by a hurricane or other natural event, to issue an order preventing admitted and surplus lines insurers from canceling or nonrenewing personal residential or commercial residential property insurance policies covering dwellings or residential properties within certain zip codes for a specific period of time.
- corrected a “notwithstanding” clause to make certain insurers can still cancel or nonrenew a policy for nonpayment of premium, consistent with other provisions of the bill.

The analysis is drafted to the committee substitute as passed by the Commerce Committee.

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<sup>11</sup> The Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for the purposes of rulemaking.