

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 1149 Policy Cancellations and Nonrenewals by Property Insurers

**SPONSOR(S):** Insurance & Banking Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Fortenberry	Lloyd

### 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 insurer issues 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 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. 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.

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 unrepaired damage.

The bill changes when an authorized insurer may cancel or nonrenew personal residential or commercial residential property insurance policies on properties with unrepaired 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 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.

"Damage" includes flood damage related to a hurricane if flood is a covered peril under the personal residential or commercial residential property insurance, or under a separate flood insurance policy, in effect at the time of the loss for which the damage remains unrepaired. Additionally, if flood is not a covered peril under the policy or under a separate flood insurance policy, and the property has been damaged as a result of flood related to a hurricane, an insurer **may not** cancel or nonrenew the policy 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 specifies exceptions which will allow an insurer to cancel a policy when unrepaired 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.

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.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives .**

**STORAGE NAME:** pcs1149.IBS

**DATE:** 2/4/2024

# 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 unrepaired 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 unrepaired 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, or under a separate flood insurance policy, in effect at the time of the loss for which the damage remains unrepaired.

Additionally, if flood is not a covered peril under the policy or under a separate flood insurance policy, and the property has been damaged as a result of flood related to a hurricane, an insurer **may not** cancel or nonrenew the policy 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.

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 unrepaired 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 unrepaired 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.

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

**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 unrepaired 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 unrepaired 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**

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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.