

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1104

INTRODUCER: Senator Bradley

SUBJECT: Policy Cancellations and Nonrenewals by Property Insurers

DATE: February 2, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Knudson</u>	<u>BI</u>	<u>Favorable</u>
2.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1104 amends s. 627.4133, F.S., relating to cancellation and nonrenewal of property insurance policies.

If a commercial property was damaged by any covered peril, the insurer (whether authorized lines or surplus lines) may not cancel or nonrenew the property insurance policy until the earlier of completion of repairs or 1 year after the insurer issues the final claim payment. However:

- If flood is not a covered peril and the property has been damaged by flood, the insurer may not cancel or nonrenew until the earlier of completion of repairs or 1 year after the date of loss.
- The insurer may cancel or nonrenew on 10 days' notice for nonpayment of premium; or on 45 days notice for material misstatement, fraud, unreasonable delay by the insured, or if the insurer has paid policy limits.
- Any nonrenewal after damage requires at least 90 days notice that the policy will be not renewed and that the nonrenewal must not take effect until at least 90 days after completion of repairs.

If a personal residential or commercial residential property has been damaged as a result of hurricane or wind loss (declared emergency), the current law prohibition on cancellation or nonrenewal until 90 days after the property is repaired is expanded from solely applying to authorized insurers to also apply to surplus lines. The 90 days is extended to 1 year where the damage was caused by flood related to a hurricane. Also, the bill clarifies that, for the purpose of determining when a residential property is "repaired," it is repaired when it is insurable by a like-kind insurer (authorized or surplus lines).

The bill does not appear to have a significant fiscal impact on state or local government.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Notice of Cancellation or Nonrenewal of Insurance Policies

The requirements for an insurer to provide notice of cancellation or nonrenewal of a policy are set forth in s. 627.4133, F.S. The specific notice depends on the type of insurance provided and the particular circumstances of the subject policy.

For coverage of property, casualty (except for mortgage guaranty), surety, or marine insurance (except for certain motor vehicle insurance), an insurer must inform the first-named policyholder with 45 days' advance written notice of the cancellation or nonrenewal.¹ When cancellation is due to failure to pay a premium, at least 10 days' written notice of cancellation and the reason for the cancellation must be provided to the insured.² When cancellation occurs during the first 60 days and is not a result of nonpayment of premium, at least 20 days' written notice and the reason for cancellation must be given to the insured except where there has been a material misstatement, misrepresentation, or failure to comply with the policy's underwriting requirements.³ After 60 days, no such policy may be cancelled by the insurer unless there has been a material misstatement, a failure to pay the premium, a failure to comply with the policy's underwriting requirements within a specified time, or a substantial change in the risk covered by the policy or when cancellation is given for a class of insureds.⁴ If an insurer fails to provide the 45-day or 20-day written notice, the coverage provided remains in effect until 45 days after the notice is given or until the effective date of replacement coverage obtained by the named insured, whichever occurs first.⁵

With respect to personal lines or commercial residential property insurance policies, such as any homeowner, mobile home owner, farm owner, condominium association, condominium unit owner, or apartment building, the insurer must give the first-named insured written notice at least 120 days before the effective date of the cancellation or nonrenewal.⁶ Such insureds must receive 10 days' advance notice of cancellation for a failure to pay a premium, or 20 days' notice for a reason other than nonpayment if cancellation occurs within the first 90 days of coverage.⁷ An insurer may not cancel the policy after it has been in effect for 60 days unless there has been a material misstatement, nonpayment, a failure to comply with the policy's underwriting requirements within a specified time, a substantial change in the risk covered by the policy or unless the cancellation is for a given class of insureds.⁸

An authorized insurer may not cancel or nonrenew a residential property insurance policy:

- For a period of 90 days after the property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.

¹ Section 627.4133(1)(a) and (b), F.S.

² Section 627.4133(1)(b)1., F.S.

³ Section 627.4133(1)(b)2., F.S.

⁴ Section 627.4133(1)(b), F.S.

⁵ Section 627.4133(1)(c), F.S.

⁶ Section 627.4133(2)(b), F.S.

⁷ Section 627.4133(2)(b)1. and 2., F.S.

⁸ Section 627.4133(2)(b)3., F.S.

- Until the earlier of when property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by a covered peril, but was not damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.⁹

A structure is deemed repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer.¹⁰ An insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property 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 of the dwelling; or
- If the insurer has paid policy limits.¹¹

If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired.¹² This requirement does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations.¹³ Any cancellation or nonrenewal subject to these limitations that is set to become effective during a hurricane, the effective date is extended until the end of the duration of the hurricane.¹⁴

Insurers may not cancel or nonrenew a property insurance policy based on the policyholder making a claim based on the result of an act of God, unless the insurer can demonstrate that the insured failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the insured property.¹⁵

III. Effect of Proposed Changes:

The bill amends s. 627.4133(1), F.S., to provide that an insurer may not cancel or nonrenew a property insurance policy covering a commercial property located in this state:

- For a period of 90 days after the property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency pursuant to s. 252.36, F.S., and the filing of an order by the Commissioner of Insurance Regulation. Damage includes flood damage caused by a hurricane if flood is a covered peril under the commercial property policy or under a separate flood insurance policy. If flood is not a covered peril and the property has been damaged as a result of flood caused by a hurricane, an insurer may not cancel or nonrenew the commercial property

⁹ Section 627.4133(2)(e)1., F.S.

¹⁰ Section 627.4133(2)(e)5.a., F.S.

¹¹ Section 627.4133(2)(e)2., F.S.

¹² Section 627.4133(2)(e)3., F.S.

¹³ *Id.*

¹⁴ Section 627.4133(2)(f), F.S.

¹⁵ Section 627.4133(3), F.S.

policy until the earlier of when the property has been repaired or 1 year after the date of loss; or

- Until the earlier of when the commercial property is been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by any covered peril other than a hurricane or wind loss that is the subject of a declaration of emergency.

The bill authorizes an insurer or agent to cancel or nonrenew a policy prior to the repair of the commercial property 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 of the dwelling; or
- If the insurer has paid the policy limits for a loss to each insured structure that was damaged.

If the insurer elects to nonrenew a policy covering a commercial property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the property has been repaired. This requirement does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for these limitations. The bill grants rulemaking authority to the Financial Services Commission necessary to implement these provisions and gives the Commissioner of Insurance Regulation authority to issue orders necessary to implement the provisions.

The bill provides that a commercial property structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer. A structure insured by a surplus lines insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer or eligible surplus lines insurer. Such a policy extended or renewed must contain the same policy terms as the policy being extended or renewed.

With respect to any personal lines or commercial residential property insurance policy, 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, the bill amends s. 627.4133(2)(e), F.S., to include flood damage caused by a hurricane if flood is a covered peril under the policy or a separate flood insurance policy. If flood is not a covered peril and the property is damaged as a result of flood caused by a hurricane, the insurer may not cancel or nonrenew the policy until the earlier of when the property has been repaired or 1 year after the date of loss.

The bill amends s. 627.4133(2)(e)2., F.S., to provide that an insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property 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 of the dwelling; or

- If the insurer has paid policy limits for a loss to the insured dwelling under a personal residential policy, or policy limits for a loss to each insured structure that was damaged under a commercial residential policy.

The bill amends s. 627.4133(2)(e)5., F.S., to provide, with respect to any personal lines or commercial residential property insurance policy, 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, that a structure insured by an authorized insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer. The bill provides that a structure insured by a surplus lines insurer is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer or eligible surplus lines insurer. The bill provides that the term “insurer” means an authorized insurer or an eligible surplus lines insurer. Finally, the bill provides that if a policy is extended or renewed to comply with these provisions, the policy must contain the same policy terms as the policy being extended or renewed.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill should benefit commercial property owners affected by hurricanes or windstorm damage by assuring they can maintain insurance coverage while having property damage repaired. Insurers will be affected by ensuring the provisions of the bill are implemented and followed.

C. Government Sector Impact:

The bill does not appear to have a significant fiscal impact on state or local government. The bill gives rulemaking authority to the Financial Services Commission. The Commission may incur some costs if it does adopt any rules pursuant to this authority.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.4133 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.