

1 A bill to be entitled
2 An act relating to flood insurance; amending s.
3 627.715, F.S.; authorizing flexible flood insurance;
4 specifying coverage requirements; requiring such
5 insurance to be acceptable to the mortgage lender if
6 intended to satisfy a mortgage requirement; deleting a
7 provision that prohibited supplemental flood insurance
8 from including excess coverage over any other
9 insurance covering the peril of flood; revising the
10 information that must be prominently noted on a policy
11 declaration page; requiring the Office of Insurance
12 Regulation to require the return of certain premiums
13 to affected insureds if the office determines that a
14 rate is excessive or unfairly discriminatory; revising
15 the notice required to be acknowledged by an applicant
16 for flood coverage from certain insurers if the
17 applicant's property is receiving flood insurance
18 under the National Flood Insurance Program; allowing
19 an authorized insurer to request a certification from
20 the Office of Insurance Regulation which indicates
21 that a policy, contract, or endorsement issued by the
22 insurer provides coverage for the peril of flood which
23 equals or exceeds the flood coverage offered by the
24 National Flood Insurance Program; specifying
25 requirements for such certification; authorizing such
26 insurer or its agent to reference or include the

27 certification in specified advertising,
28 communications, and documentation; providing that
29 misrepresenting the certification of a flood policy,
30 contract, or endorsement is an unfair or deceptive
31 act; providing an effective date.

32

33 Be It Enacted by the Legislature of the State of Florida:

34

35 Section 1. Section 627.715, Florida Statutes, is amended
36 to read:

37 627.715 Flood insurance.—An authorized insurer may issue
38 an insurance policy, contract, or endorsement providing personal
39 lines residential coverage for the peril of flood on any
40 structure or the contents of personal property contained
41 therein, subject to this section. This section does not apply to
42 commercial lines residential or commercial lines nonresidential
43 coverage for the peril of flood. This section also does not
44 apply to coverage for the peril of flood that is excess coverage
45 over any other insurance covering the peril of flood. An insurer
46 may issue flood insurance policies, contracts, or endorsements
47 on a standard, preferred, customized, or supplemental basis.

48 (1)(a)1. Standard flood insurance must cover only losses
49 from the peril of flood, as defined in paragraph (b), equivalent
50 to that provided under a standard flood insurance policy under
51 the National Flood Insurance Program. Standard flood insurance
52 issued under this section must provide the same coverage,

53 including deductibles and adjustment of losses, as that provided
54 under a standard flood insurance policy under the National Flood
55 Insurance Program.

56 2. Preferred flood insurance must include the same
57 coverage as standard flood insurance but:

58 a. Include, within the definition of "flood," losses from
59 water intrusion originating from outside the structure that are
60 not otherwise covered under the definition of "flood" provided
61 in paragraph (b).

62 b. Include coverage for additional living expenses.

63 c. Require that any loss under personal property or
64 contents coverage that is repaired or replaced be adjusted only
65 on the basis of replacement costs up to the policy limits.

66 3. Customized flood insurance must include coverage that
67 is broader than the coverage provided under standard flood
68 insurance

69 4. Flexible flood insurance must cover losses from the
70 peril of flood, as defined in paragraph (b), and may cover
71 losses from water intrusion originating from outside the
72 structure which are not otherwise covered by the definition of
73 flood. Flexible flood insurance must provide at least one of the
74 following:

75 a. A deductible in an amount authorized by and subject to
76 the requirements of s. 627.701, including a deductible in an
77 amount authorized for hurricanes.

78 b. A requirement that flood loss to a dwelling or personal

79 property be adjusted in accordance with s. 627.7011(3).

80 c. A provision limiting flood coverage to the principal
 81 building, as defined in the policy.

82 d. A provision including or excluding coverage for
 83 additional living expenses.

84 e. A provision excluding coverage for personal property or
 85 contents as to the peril of flood.

86
 87 Flexible flood insurance must be acceptable to the mortgage
 88 lender if such policy, contract, or endorsement is intended to
 89 satisfy a mortgage requirement.

90 5.4. Supplemental flood insurance may provide coverage
 91 designed to supplement a flood policy obtained from the National
 92 Flood Insurance Program or from an insurer issuing standard or
 93 preferred flood insurance pursuant to this section. Supplemental
 94 flood insurance may provide, but need not be limited to,
 95 coverage for jewelry, art, deductibles, and additional living
 96 expenses. ~~Supplemental flood insurance does not include coverage~~
 97 ~~for the peril of flood that is excess coverage over any other~~
 98 ~~insurance covering the peril of flood.~~

99 (b) "Flood" means a general and temporary condition of
 100 partial or complete inundation of two or more acres of normally
 101 dry land area or of two or more properties, at least one of
 102 which is the policyholder's property, from:

- 103 1. Overflow of inland or tidal waters;
 104 2. Unusual and rapid accumulation or runoff of surface

105 waters from any source;

106 3. Mudflow; or

107 4. Collapse or subsidence of land along the shore of a
 108 lake or similar body of water as a result of erosion or
 109 undermining caused by waves or currents of water exceeding
 110 anticipated cyclical levels that result in a flood as defined in
 111 this paragraph.

112 (2) ~~Any limitations on Flood coverage~~ deductibles and ~~or~~
 113 policy limits pursuant to this section, ~~including, but not~~
 114 ~~limited to, deductibles,~~ must be prominently noted on the policy
 115 declarations page or face page.

116 (3) (a) An insurer may establish and use flood coverage
 117 rates in accordance with the rate standards provided in s.
 118 627.062.

119 (b) For flood coverage rates filed with the office before
 120 October 1, 2019, the insurer may also establish and use such
 121 rates in accordance with the rates, rating schedules, or rating
 122 manuals filed by the insurer with the office which allow the
 123 insurer a reasonable rate of return on flood coverage written in
 124 this state. Flood coverage rates established pursuant to this
 125 paragraph are not subject to s. 627.062(2) (a) and (f). An
 126 insurer shall notify the office of any change to such rates
 127 within 30 days after the effective date of the change. The
 128 notice must include the name of the insurer and the average
 129 statewide percentage change in rates. Actuarial data with regard
 130 to such rates for flood coverage must be maintained by the

131 insurer for 2 years after the effective date of such rate change
132 and is subject to examination by the office. The office may
133 require the insurer to incur the costs associated with an
134 examination. Upon examination, the office, in accordance with
135 generally accepted and reasonable actuarial techniques, shall
136 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
137 the standards in s. 627.062(2)(e), to determine if the rate is
138 excessive, inadequate, or unfairly discriminatory. If the office
139 determines that a rate is excessive or unfairly discriminatory,
140 the insurer must provide appropriate return of premium to
141 affected insureds.

142 (4) A surplus lines agent may export a contract or
143 endorsement providing flood coverage to an eligible surplus
144 lines insurer without making a diligent effort to seek such
145 coverage from three or more authorized insurers under s.
146 626.916(1)(a). This subsection expires July 1, 2017.

147 (5) In addition to any other applicable requirements, an
148 insurer providing flood coverage in this state must:

149 (a) Notify the office at least 30 days before writing
150 flood insurance in this state; and

151 (b) File a plan of operation and financial projections or
152 revisions to such plan, as applicable, with the office.

153 (6) Citizens Property Insurance Corporation may not
154 provide insurance for the peril of flood.

155 (7) The Florida Hurricane Catastrophe Fund may not provide
156 reimbursement for losses proximately caused by the peril of

157 flood, including losses that occur during a covered event as
 158 defined in s. 215.555(2) (b).

159 (8) An agent must, upon receiving ~~obtaining~~ an application
 160 for flood coverage from an authorized or surplus lines insurer
 161 for a property receiving flood insurance under the National
 162 Flood Insurance Program, ~~must~~ obtain an acknowledgment signed by
 163 the applicant before placing the coverage with the authorized or
 164 surplus lines insurer. The acknowledgment must notify the
 165 applicant that, if the applicant discontinues coverage under the
 166 National Flood Insurance Program which is provided at a
 167 subsidized rate, the full risk rate for flood insurance may
 168 apply to the property if the applicant ~~such insurance is~~ later
 169 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~
 170 ~~Insurance~~ program.

171 (9) With respect to the regulation of flood coverage
 172 written in this state by authorized insurers, this section
 173 supersedes any other provision in the Florida Insurance Code in
 174 the event of a conflict.

175 (10) If federal law or rule requires a certification by a
 176 state insurance regulatory official as a condition of qualifying
 177 for private flood insurance or disaster assistance, the
 178 Commissioner of Insurance Regulation may provide the
 179 certification, and such certification is not subject to review
 180 under chapter 120.

181 (11) (a) An authorized insurer offering flood insurance may
 182 request the office to certify that a policy, contract, or

183 endorsement provides coverage for the peril of flood which
184 equals or exceeds the flood coverage offered by the National
185 Flood Insurance Program. To be eligible for certification, such
186 policy, contract, or endorsement must state, and the office must
187 confirm, that it meets the private flood insurance requirements
188 specified in 42 U.S.C. s. 4012a(b) and may not contain any
189 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

190 (b) The authorized insurer or its agent may reference or
191 include a certification under paragraph (a) in advertising or
192 communications with an agent, a lending institution, an insured,
193 or a potential insured only for a policy, contract, or
194 endorsement that is certified under this subsection. The
195 authorized insurer may include a statement that notifies an
196 insured of the certification on the declarations page or other
197 policy documentation related to flood coverage certified under
198 this subsection.

199 (c) An insurer or agent who knowingly misrepresents that a
200 flood policy, contract, or endorsement is certified under this
201 subsection commits an unfair or deceptive act under s. 626.9541.

202 Section 2. This act shall take effect July 1, 2015.