

By Senator Brandes

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1 A bill to be entitled
2 An act relating to the peril of flood; amending s.
3 163.3178, F.S.; specifying components that must be
4 contained in the coastal management element required
5 for a local government comprehensive plan; creating s.
6 195.088, F.S.; defining terms; requiring a licensed
7 surveyor and mapper to complete an elevation
8 certificate in accordance with a checklist developed
9 by the Division of Emergency Management and to submit
10 a copy of the elevation certificate to a specified
11 property appraiser within a certain time after its
12 completion; authorizing the redaction of certain
13 personal information from the copy; requiring each
14 property appraiser to submit the copies of elevation
15 certificates to the division on a schedule established
16 by the division; amending s. 627.715, F.S.; revising
17 the required coverage for customized flood insurance;
18 specifying how such coverage may differ from standard
19 and preferred flood insurance; deleting a provision
20 that prohibits supplemental flood insurance from
21 including excess coverage over any other insurance
22 covering the peril of flood; revising the information
23 that must be prominently noted on a certain page of a
24 flood insurance policy; requiring an agent to offer a
25 flood insurance quote when quoting an insurance policy
26 that will cover a residential structure located within
27 a specified area; requiring the agent to maintain a
28 record of an insured's declination of flood insurance
29 coverage for a specified period of time; revising the

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30 notice that must be provided to and acknowledged by an
31 applicant for flood coverage from an authorized or
32 surplus lines insurer if the applicant's property is
33 receiving flood insurance under the National Flood
34 Insurance Program; allowing an authorized insurer to
35 request a certification from the Office of Insurance
36 Regulation which indicates that a policy, contract, or
37 endorsement issued by the insurer provides coverage
38 for the peril of flood which equals or exceeds the
39 flood coverage offered by the National Flood Insurance
40 Program; authorizing such insurer or its agent to
41 reference or include the certification in specified
42 advertising, communications, and documentation;
43 providing an effective date.
44

45 Be It Enacted by the Legislature of the State of Florida:
46

47 Section 1. Paragraph (f) of subsection (2) of section
48 163.3178, Florida Statutes, is amended to read:

49 163.3178 Coastal management.—

50 (2) Each coastal management element required by s.
51 163.3177(6)(g) shall be based on studies, surveys, and data; be
52 consistent with coastal resource plans prepared and adopted
53 pursuant to general or special law; and contain:

54 (f) A redevelopment component that ~~which~~ outlines the
55 principles that must ~~which shall~~ be used to eliminate
56 inappropriate and unsafe development in the coastal areas when
57 opportunities arise. The component must:

58 1. Include development and redevelopment principles,

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59 strategies, and engineering solutions that reduce the flood risk
60 in coastal areas which results from high-tide events, storm
61 surge, flash floods, stormwater runoff, and the related impacts
62 of sea-level rise.

63 2. Encourage the use of best practices development and
64 redevelopment principles, strategies, and engineering solutions
65 that will result in the removal of coastal real property from
66 flood zone designations established by the Federal Emergency
67 Management Agency.

68 3. Identify site development techniques and best practices
69 that may reduce losses due to flooding and claims made under
70 flood insurance policies issued in this state.

71 Section 2. Section 195.088, Florida Statutes, is created to
72 read:

73 195.088 Property appraisers to submit elevation
74 certificates to the Division of Emergency Management.—

75 (1) As used in this section, the term:

76 (a) "Division" means the Division of Emergency Management
77 established within the Executive Office of the Governor under s.
78 14.2016.

79 (b) "Elevation certificate" means the certificate used to
80 demonstrate the elevation of property which has been developed
81 by the Federal Emergency Management Agency pursuant to federal
82 floodplain management regulation or which is completed by a
83 licensed surveyor and mapper.

84 (c) "Licensed surveyor and mapper" has the same meaning as
85 provided in s. 472.005 for "surveyor and mapper."

86 (2) An elevation certificate must be completed by a
87 licensed surveyor and mapper in accordance with the checklist

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88 developed by the division. Within 30 days after the completion
89 of an elevation certificate, a licensed surveyor and mapper must
90 submit a copy of the certificate to the property appraiser of
91 the county in which the property that was surveyed or mapped is
92 located. The copy must be unaltered, except that the licensed
93 surveyor and mapper may redact the name of the property owner.

94 (3) Each property appraiser shall submit the copies
95 received under subsection (2) to the division on a regular
96 schedule established by the division.

97 Section 3. Section 627.715, Florida Statutes, is amended to
98 read:

99 627.715 Flood insurance.—An authorized insurer may issue an
100 insurance policy, contract, or endorsement providing personal
101 lines residential coverage for the peril of flood on any
102 structure or the contents of personal property contained
103 therein, subject to this section. This section does not apply to
104 commercial lines residential or commercial lines nonresidential
105 coverage for the peril of flood. This section also does not
106 apply to coverage for the peril of flood that is excess coverage
107 over any other insurance covering the peril of flood. An insurer
108 may issue flood insurance policies, contracts, or endorsements
109 on a standard, preferred, customized, or supplemental basis.

110 (1) (a) 1. Standard flood insurance must cover only losses
111 from the peril of flood, as defined in paragraph (b), equivalent
112 to that provided under a standard flood insurance policy under
113 the National Flood Insurance Program. Standard flood insurance
114 issued under this section must provide the same coverage,
115 including deductibles and adjustment of losses, as that provided
116 under a standard flood insurance policy under the National Flood

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117 Insurance Program.

118 2. Preferred flood insurance must include the same coverage
119 as standard flood insurance but:

120 a. Include, within the definition of "flood," losses from
121 water intrusion originating from outside the structure that are
122 not otherwise covered under the definition of "flood" provided
123 in paragraph (b).

124 b. Include coverage for additional living expenses.

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

128 3. Customized flood insurance must provide ~~include~~ coverage
129 for the peril of flood, and may differ from standard and
130 preferred that is broader than the coverage provided under
131 standard flood insurance by:

132 a. Including coverage that is broader than the coverage
133 provided under standard flood insurance;

134 b. Being in an amount agreed upon by the insurer and
135 insured, such as coverage that is limited to the total amount of
136 each outstanding mortgage applicable to the covered property, if
137 such coverage does not include a provision penalizing the
138 policyholder for not insuring the covered property up to the
139 replacement cost;

140 c. Including a deductible as authorized in s. 627.701;

141 d. Requiring that a loss to a dwelling be adjusted in
142 accordance with s. 627.7011(3) or adjusted only on the basis of
143 the actual cash value of the property;

144 e. Restricting flood coverage to the principal building, as
145 defined in the applicable policy;

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146 f. Including or excluding coverage for additional living
147 expenses; and

148 g. Excluding coverage, as to the peril of flood, for
149 personal property or contents.

150 4. Supplemental flood insurance may provide coverage
151 designed to supplement a flood policy obtained from the National
152 Flood Insurance Program or from an insurer issuing standard or
153 preferred flood insurance pursuant to this section. Supplemental
154 flood insurance may provide, but need not be limited to,
155 coverage for jewelry, art, deductibles, and additional living
156 expenses. ~~Supplemental flood insurance does not include coverage~~
157 ~~for the peril of flood that is excess coverage over any other~~
158 ~~insurance covering the peril of flood.~~

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

- 163 1. Overflow of inland or tidal waters;
164 2. Unusual and rapid accumulation or runoff of surface
165 waters from any source;
166 3. Mudflow; or
167 4. Collapse or subsidence of land along the shore of a lake
168 or similar body of water as a result of erosion or undermining
169 caused by waves or currents of water exceeding anticipated
170 cyclical levels that result in a flood as defined in this
171 paragraph.

172 (2) ~~Any limitations on~~ Flood coverage deductibles and or
173 policy limits pursuant to this section, ~~including, but not~~
174 ~~limited to, deductibles,~~ must be prominently noted on the policy

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175 declarations page or face page.

176 (3) (a) An insurer may establish and use flood coverage
177 rates in accordance with the rate standards provided in s.
178 627.062.

179 (b) For flood coverage rates filed with the office before
180 October 1, 2019, the insurer may also establish and use such
181 rates in accordance with the rates, rating schedules, or rating
182 manuals filed by the insurer with the office which allow the
183 insurer a reasonable rate of return on flood coverage written in
184 this state. Flood coverage rates established pursuant to this
185 paragraph are not subject to s. 627.062(2) (a) and (f). An
186 insurer shall notify the office of any change to such rates
187 within 30 days after the effective date of the change. The
188 notice must include the name of the insurer and the average
189 statewide percentage change in rates. Actuarial data with regard
190 to such rates for flood coverage must be maintained by the
191 insurer for 2 years after the effective date of such rate change
192 and is subject to examination by the office. The office may
193 require the insurer to incur the costs associated with an
194 examination. Upon examination, the office, in accordance with
195 generally accepted and reasonable actuarial techniques, shall
196 consider the rate factors in s. 627.062(2) (b), (c), and (d), and
197 the standards in s. 627.062(2) (e), to determine if the rate is
198 excessive, inadequate, or unfairly discriminatory.

199 (4) A surplus lines agent may export a contract or
200 endorsement providing flood coverage to an eligible surplus
201 lines insurer without making a diligent effort to seek such
202 coverage from three or more authorized insurers under s.
203 626.916(1) (a). This subsection expires July 1, 2017.

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

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

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

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

212 (7) The Florida Hurricane Catastrophe Fund may not provide
213 reimbursement for losses proximately caused by the peril of
214 flood, including losses that occur during a covered event as
215 defined in s. 215.555(2) (b).

216 (8) An agent must:

217 (a) Offer a flood insurance quote when quoting an insurance
218 policy that will cover a residential structure located within a
219 Special Flood Hazard Area designated by the Federal Emergency
220 Management Agency. If the insured declines to obtain flood
221 insurance coverage, the agent must maintain a record of that
222 declination for 36 months.

223 (b) Upon receiving ~~obtaining~~ an application for flood
224 coverage from an authorized or surplus lines insurer for a
225 property receiving flood insurance under the National Flood
226 Insurance Program, ~~must~~ obtain an acknowledgment signed by the
227 applicant before placing the coverage with the authorized or
228 surplus lines insurer. The acknowledgment must notify the
229 applicant that, if the applicant discontinues coverage under the
230 National Flood Insurance Program which is provided at a
231 subsidized rate, the full risk rate for flood insurance may
232 apply to the property if the applicant ~~such insurance is~~ later

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233 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~
234 ~~Insurance~~ program.

235 (9) With respect to the regulation of flood coverage
236 written in this state by authorized insurers, this section
237 supersedes any other provision in the Florida Insurance Code in
238 the event of a conflict.

239 (10) If federal law or rule requires a certification by a
240 state insurance regulatory official as a condition of qualifying
241 for private flood insurance or disaster assistance, the
242 Commissioner of Insurance Regulation may provide the
243 certification, and such certification is not subject to review
244 under chapter 120.

245 (11) An authorized insurer offering flood insurance in this
246 state may request a certification by the office which indicates
247 that a policy, contract, or endorsement issued by the insurer
248 under this section provides coverage for the peril of flood
249 which equals or exceeds the flood coverage offered by the
250 National Flood Insurance Program. The authorized insurer or its
251 agent may reference or include the certification in advertising
252 and communications with an agent, a lending institution, an
253 insured, and a potential insured. The authorized insurer may
254 include a statement that notifies an insured of the
255 certification on the declarations page or other policy
256 documentation related to flood coverage.

257 Section 4. This act shall take effect July 1, 2015.

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