

By the Committees on Community Affairs; and Banking and Insurance; and Senator Brandes

578-02720-15

20151094c2

1 A bill to be entitled
2 An act relating to the peril of flood; amending s.
3 163.3178, F.S.; specifying requirements for the
4 coastal management element required for a local
5 government comprehensive plan; creating s. 472.0366,
6 F.S.; defining terms; requiring a surveyor and mapper
7 to complete an elevation certificate in accordance
8 with a checklist developed by the Division of
9 Emergency Management and to submit a copy of the
10 elevation certificate to the division within a certain
11 time after its completion; authorizing the redaction
12 of certain personal information from the copy;
13 amending s. 627.715, F.S.; authorizing flexible flood
14 insurance; specifying coverage requirements; deleting
15 a provision that prohibits supplemental flood
16 insurance from including excess coverage over any
17 other insurance covering the peril of flood; revising
18 the information that must be prominently noted on a
19 certain page of a flood insurance policy; requiring
20 the Office of Insurance Regulation to require an
21 insurer to provide appropriate credit to affected
22 insureds if the office determines that a rate of the
23 insurer is excessive or unfairly discriminatory;
24 revising the notice that must be provided to and
25 acknowledged by an applicant for flood coverage from
26 an authorized or surplus lines insurer if the
27 applicant's property is receiving flood insurance
28 under the National Flood Insurance Program; allowing
29 an authorized insurer to request a certification from

578-02720-15

20151094c2

30 the office which indicates that a policy, contract, or
31 endorsement issued by the insurer provides coverage
32 for the peril of flood which equals or exceeds the
33 flood coverage offered by the National Flood Insurance
34 Program; specifying requirements for such
35 certification; authorizing such insurer or its agent
36 to reference or include the certification in specified
37 advertising, communications, and documentation;
38 providing that misrepresenting that a flood policy,
39 contract, or endorsement is certified is an unfair or
40 deceptive act; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Paragraph (f) of subsection (2) of section
45 163.3178, Florida Statutes, is amended to read:

46 163.3178 Coastal management.—

47 (2) Each coastal management element required by s.
48 163.3177(6)(g) shall be based on studies, surveys, and data; be
49 consistent with coastal resource plans prepared and adopted
50 pursuant to general or special law; and contain:

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

55 1. Include development and redevelopment principles,
56 strategies, and engineering solutions that reduce the flood risk
57 in coastal areas which results from high-tide events, storm
58 surge, flash floods, stormwater runoff, and the related impacts

578-02720-15

20151094c2

59 of sea-level rise.

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

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

68 4. Be consistent with, or more stringent than, the flood-
69 resistant construction requirements in the Florida Building Code
70 and applicable flood plain management regulations set forth in
71 44 C.F.R. part 60.

72 Section 2. Section 472.0366, Florida Statutes, is created
73 to read:

74 472.0366 Elevation certificates; requirements for surveyors
75 and mappers.-

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

77 (a) "Division" means the Division of Emergency Management
78 established within the Executive Office of the Governor under s.
79 14.2016.

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

85 (2) An elevation certificate must be completed by a
86 surveyor and mapper in accordance with the checklist developed
87 by the division. Within 30 days after the completion of an

578-02720-15

20151094c2

88 elevation certificate, a surveyor and mapper must submit a copy
89 of the certificate to the division. The copy must be unaltered,
90 except that the surveyor and mapper may redact the name of the
91 property owner.

92 Section 3. Section 627.715, Florida Statutes, is amended to
93 read:

94 627.715 Flood insurance.—An authorized insurer may issue an
95 insurance policy, contract, or endorsement providing personal
96 lines residential coverage for the peril of flood on any
97 structure or the contents of personal property contained
98 therein, subject to this section. This section does not apply to
99 commercial lines residential or commercial lines nonresidential
100 coverage for the peril of flood. This section also does not
101 apply to coverage for the peril of flood that is excess coverage
102 over any other insurance covering the peril of flood. An insurer
103 may issue flood insurance policies, contracts, or endorsements
104 on a standard, preferred, customized, or supplemental basis.

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

113 2. Preferred flood insurance must include the same coverage
114 as standard flood insurance but:

115 a. Include, within the definition of "flood," losses from
116 water intrusion originating from outside the structure that are

578-02720-15

20151094c2

117 not otherwise covered under the definition of "flood" provided
118 in paragraph (b).

119 b. Include coverage for additional living expenses.

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

123 3. Customized flood insurance must include coverage that is
124 broader than the coverage provided under standard flood
125 insurance.

126 4. Flexible flood insurance must cover losses from the
127 peril of flood, as defined in paragraph (b), and may also
128 include coverage for losses from water intrusion originating
129 from outside the structure which is not otherwise covered by the
130 definition of flood. Flexible flood insurance must include one
131 or more of the following provisions:

132 a. An agreement between the insurer and the insured that
133 the flood coverage is in a specified amount, such as coverage
134 that is limited to the total amount of each outstanding mortgage
135 applicable to the covered property.

136 b. A requirement for a deductible in an amount authorized
137 under s. 627.701, including a deductible in an amount authorized
138 for hurricanes.

139 c. A requirement that flood loss to a dwelling be adjusted
140 in accordance with s. 627.7011(3) or adjusted only on the basis
141 of the actual cash value of the property.

142 d. A restriction limiting flood coverage to the principal
143 building defined in the policy.

144 e. A provision including or excluding coverage for
145 additional living expenses.

578-02720-15

20151094c2

146 f. A provision excluding coverage for personal property or
147 contents as to the peril of flood.

148 ~~5.4.~~ Supplemental flood insurance may provide coverage
149 designed to supplement a flood policy obtained from the National
150 Flood Insurance Program or from an insurer issuing standard or
151 preferred flood insurance pursuant to this section. Supplemental
152 flood insurance may provide, but need not be limited to,
153 coverage for jewelry, art, deductibles, and additional living
154 expenses. ~~Supplemental flood insurance does not include coverage~~
155 ~~for the peril of flood that is excess coverage over any other~~
156 ~~insurance covering the peril of flood.~~

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

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

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

174 (3) (a) An insurer may establish and use flood coverage

578-02720-15

20151094c2

175 rates in accordance with the rate standards provided in s.
176 627.062.

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

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

578-02720-15

20151094c2

204 626.916(1)(a). This subsection expires July 1, 2017.

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

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

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

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

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

217 (8) An agent must, upon receiving ~~obtaining~~ an application
218 for flood coverage from an authorized or surplus lines insurer
219 for a property receiving flood insurance under the National
220 Flood Insurance Program, ~~must~~ must obtain an acknowledgment signed by
221 the applicant before placing the coverage with the authorized or
222 surplus lines insurer. The acknowledgment must notify the
223 applicant that, if the applicant discontinues coverage under the
224 National Flood Insurance Program which is provided at a
225 subsidized rate, the full risk rate for flood insurance may
226 apply to the property if the applicant ~~such insurance is~~ later
227 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~
228 ~~Insurance~~ program.

229 (9) With respect to the regulation of flood coverage
230 written in this state by authorized insurers, this section
231 supersedes any other provision in the Florida Insurance Code in
232 the event of a conflict.

578-02720-15

20151094c2

233 (10) If federal law or rule requires a certification by a
234 state insurance regulatory official as a condition of qualifying
235 for private flood insurance or disaster assistance, the
236 Commissioner of Insurance Regulation may provide the
237 certification, and such certification is not subject to review
238 under chapter 120.

239 (11) (a) An authorized insurer offering flood insurance may
240 request the office to certify that a policy, contract, or
241 endorsement provides coverage for the peril of flood which
242 equals or exceeds the flood coverage offered by the National
243 Flood Insurance Program. To be eligible for certification, such
244 policy, contract, or endorsement must contain a provision
245 stating that it meets the private flood insurance requirements
246 specified in 42 U.S.C. s. 4012a(b) and may not contain any
247 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

248 (b) The authorized insurer or its agent may reference or
249 include a certification under paragraph (a) in advertising or
250 communications with an agent, a lending institution, an insured,
251 or a potential insured only for a policy, contract, or
252 endorsement that is certified under this subsection. The
253 authorized insurer may include a statement that notifies an
254 insured of the certification on the declarations page or other
255 policy documentation related to flood coverage certified under
256 this subsection.

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

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