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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (b) of subsection (2) of section  
627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(b) Upon receiving a rate filing, the office shall review  
the filing to determine if a rate is excessive, inadequate, or



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11 unfairly discriminatory. In making that determination, the  
12 office shall, in accordance with generally accepted and  
13 reasonable actuarial techniques, consider the following factors:

14       1. Past and prospective loss experience within and without  
15 this state.

16       2. Past and prospective expenses.

17       3. The degree of competition among insurers for the risk  
18 insured.

19       4. Investment income reasonably expected by the insurer,  
20 consistent with the insurer's investment practices, from  
21 investable premiums anticipated in the filing, plus any other  
22 expected income from currently invested assets representing the  
23 amount expected on unearned premium reserves and loss reserves.

24 The commission may adopt rules using reasonable techniques of  
25 actuarial science and economics to specify the manner in which  
26 insurers calculate investment income attributable to classes of  
27 insurance written in this state and the manner in which  
28 investment income is used to calculate insurance rates. Such  
29 manner must contemplate allowances for an underwriting profit  
30 factor and full consideration of investment income that produce  
31 ~~which produce~~ a reasonable rate of return; however, investment  
32 income from invested surplus may not be considered.

33       5. The reasonableness of the judgment reflected in the  
34 filing.

35       6. Dividends, savings, or unabsorbed premium deposits  
36 allowed or returned to ~~Florida~~ policyholders, members, or  
37 subscribers in this state.

38       7. The adequacy of loss reserves.

39       8. The cost of reinsurance. The office may not disapprove a



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40 rate as excessive solely due to the insurer having obtained  
41 catastrophic reinsurance to cover the insurer's estimated 250-  
42 year probable maximum loss or any lower level of loss.

43 9. Trend factors, including trends in actual losses per  
44 insured unit for the insurer making the filing.

45 10. Conflagration and catastrophe hazards, if applicable.

46 11. Projected hurricane losses, if applicable, which must  
47 be estimated using a model or method found to be acceptable or  
48 reliable by the Florida Commission on Hurricane Loss Projection  
49 Methodology, and as further provided in s. 627.0628.

50 12. Projected flood losses, if applicable, which may be  
51 estimated using a model, a method, or an average of models or  
52 methods determined to be acceptable or reliable by the Florida  
53 Commission on Hurricane Loss Projection Methodology, and as  
54 further provided in s. 627.0628.

55 ~~13.12.~~ A reasonable margin for underwriting profit and  
56 contingencies.

57 ~~14.13.~~ The cost of medical services, if applicable.

58 ~~15.14.~~ Other relevant factors that affect the frequency or  
59 severity of claims or expenses.

60

61 The provisions of this subsection do not apply to workers'  
62 compensation, employer's liability insurance, and motor vehicle  
63 insurance.

64 Section 2. Subsection (3) of section 627.0628, Florida  
65 Statutes, is amended to read:

66 627.0628 Florida Commission on Hurricane Loss Projection  
67 Methodology; public records exemption; public meetings  
68 exemption.-



69 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

70 (a) The commission shall consider ~~any~~ actuarial methods,  
71 principles, standards, models, or output ranges that have the  
72 potential for improving the accuracy ~~of~~ or reliability of the  
73 hurricane loss projections and flood loss projections used in  
74 residential property insurance rate filings. The commission  
75 shall, ~~from time to time,~~ adopt and update findings, as needed,  
76 as to the accuracy or reliability of particular methods,  
77 principles, standards, models, or output ranges.

78 (b) The commission shall consider ~~any~~ actuarial methods,  
79 principles, standards, or models that have the potential for  
80 improving the accuracy ~~of~~ or reliability of projecting probable  
81 maximum loss levels. The commission shall adopt and update  
82 findings, as needed, as to the accuracy or reliability of  
83 particular methods, principles, standards, or models related to  
84 probable maximum loss calculations.

85 (c) In establishing reimbursement premiums for the Florida  
86 Hurricane Catastrophe Fund, the State Board of Administration  
87 must, to the extent feasible, employ actuarial methods,  
88 principles, standards, models, or output ranges found by the  
89 commission to be accurate or reliable.

90 (d) With respect to a rate filing under s. 627.062, an  
91 insurer shall employ and may not modify or adjust actuarial  
92 methods, principles, standards, models, or output ranges found  
93 by the commission to be accurate or reliable in determining  
94 hurricane loss factors for use in a rate filing under s.  
95 627.062. An insurer shall employ and may not modify or adjust  
96 models found by the commission to be accurate or reliable in  
97 determining probable maximum loss levels pursuant to paragraph



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98 (b) with respect to a rate filing under s. 627.062 made more  
99 than 60 days after the commission has made such findings. This  
100 paragraph does not prohibit an insurer from averaging model  
101 results or output ranges or from using an average for the  
102 purpose of a flood insurance rate filing under s. 627.062.

103 (e) The commission shall adopt actuarial methods,  
104 principles, standards, models, or output ranges for flood loss  
105 by July 1, 2016.

106 (f)~~(e)~~ The commission shall revise ~~adopt revisions to~~  
107 previously adopted actuarial methods, principles, standards,  
108 models, or output ranges every odd-numbered ~~odd~~ year.

109 (g)~~(f)~~ 1. A trade secret, as defined in s. 688.002, which  
110 ~~that~~ is used in designing and constructing a hurricane loss  
111 model and which ~~that~~ is provided pursuant to this section, by a  
112 private company, to the commission, office, or consumer advocate  
113 appointed pursuant to s. 627.0613, is confidential and exempt  
114 from s. 119.07(1) and s. 24(a), Art. I of the State  
115 Constitution.

116 2.a. That portion of a meeting of the commission or of a  
117 rate proceeding on an insurer's rate filing at which a trade  
118 secret made confidential and exempt by this paragraph is  
119 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the  
120 State Constitution. The closed meeting must be recorded, and no  
121 portion of the closed meeting may be off the record.

122 b. The recording of a closed portion of a meeting is exempt  
123 from s. 119.07(1) and s. 24(a), Art. I of the State  
124 Constitution.

125 c. This subparagraph is subject to the Open Government  
126 Sunset Review Act in accordance with s. 119.15 and shall stand



127 repealed on October 2, 2015, unless reviewed and saved from  
128 repeal through reenactment by the Legislature.

129 Section 3. Section 627.715, Florida Statutes, is created to  
130 read:

131 627.715 Flood insurance.—Subject to the requirements of  
132 this section, an insurer may issue an insurance policy,  
133 contract, or endorsement providing coverage for the peril of  
134 flood on any residential structure or its contents in this  
135 state. Such insurer must also offer coverage equivalent to that  
136 provided under a standard flood insurance policy issued under  
137 the National Flood Insurance Program (NFIP)

138 (1) As used in this section, the term “flood” means a  
139 general and temporary condition of partial or complete  
140 inundation of 2 acres or more of normally dry land area or of  
141 two or more properties, at least one of which is the  
142 policyholder’s property, from:

143 (a) Overflow of inland or tidal waters;

144 (b) Unusual and rapid accumulation or runoff of surface  
145 waters from any source;

146 (c) Mudflow; or

147 (d) Collapse or subsidence of land along the shore of a  
148 lake or similar body of water as a result of erosion or  
149 undermining caused by waves or currents of water exceeding  
150 anticipated cyclical levels.

151 (2) At a minimum, coverage for the peril of flood must  
152 cover a flood as defined in subsection (1). Coverage for the  
153 peril of flood may also include water intrusion, as defined by  
154 the policy, which originates from outside the structure and is  
155 not otherwise covered under the definition of flood.



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156 (3) An insurer may offer a flood coverage policy, contract,  
157 or endorsement that:

158 (a) Has a flood deductible based on a stated dollar amount  
159 or a percentage of the coverage amount. The deductible amount  
160 must be acceptable to federal mortgage and banking regulators if  
161 such policy, contract, or endorsement is intended to satisfy a  
162 mortgage requirement;

163 (b) Provides that any flood loss will be adjusted on the  
164 basis of:

165 1. The actual cash value of the property; or

166 2. Replacement costs up to the policy limits as provided  
167 under s. 627.7011(3);

168 (c) Restricts flood coverage to the principal building, as  
169 defined in the applicable policy;

170 (d) Is in an agreed-upon amount, including coverage limited  
171 to the amount of all outstanding mortgages applicable to the  
172 covered property. However, if a policy, contract, or endorsement  
173 does not limit flood coverage to the replacement cost of the  
174 covered property, the policy, contract, or endorsement may not  
175 include a provision penalizing the policyholder for not insuring  
176 the covered property up to replacement cost; or

177 (e) As to the peril of flood, does not cover:

178 1. Additional living expenses;

179 2. Personal property or contents; or

180 3. Law and ordinance coverage. However, an insurer must  
181 offer law and ordinance coverage that is comparable to the law  
182 and ordinance coverage offered in the standard NFIP policy.

183 (4) The deductibles and policy limits as to the peril of  
184 flood, and any other limitations on coverage required to be



185 included by the office, must be prominently disclosed on the  
186 declarations page or face page of the policy in at least 12-  
187 point uppercase and boldfaced type and be accompanied by a  
188 statement encouraging the policyholder to review the entire  
189 policy carefully because it contains coverage limitations.

190 (5) Before issuing a flood insurance policy, contract, or  
191 endorsement under this section, the insurance agent must obtain  
192 from an applicant an acknowledgement signed by the applicant  
193 that includes the following statement in at least 12-point bold,  
194 uppercase type: "BY ACCEPTING THIS FLOOD INSURANCE POLICY I HAVE  
195 READ AND UNDERSTAND THE LIMITATIONS THAT MAY APPLY TO MY  
196 POLICY." The signed acknowledgment must also include, in at  
197 least 12-point bold, uppercase type, for a policy, contract, or  
198 endorsement:

199 (a) That limits flood coverage to an amount less than the  
200 full replacement cost of the property, the following statement:  
201 "THIS POLICY LIMITS FLOOD COVERAGE TO LESS THAN THE FULL COST OF  
202 REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT IN HIGH OUT-OF-  
203 POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN THIS PROPERTY  
204 AT RISK."

205 (b) That insures a dwelling on the basis of actual cash  
206 value, the following statement: "THIS POLICY PAYS YOU THE  
207 DEPRECIATED VALUE OF YOUR PROPERTY THAT IS DAMAGED BY FLOOD,  
208 WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU IF YOUR  
209 PROPERTY NEEDS TO BE REPAIRED OR REPLACED."

210 (c) The following disclosure: "FLOOD INSURANCE COVERAGE IS  
211 AVAILABLE FROM THE NATIONAL FLOOD INSURANCE PROGRAM. YOU SHOULD  
212 CONSULT YOUR AGENT IF YOU HAVE QUESTIONS ABOUT NATIONAL FLOOD  
213 INSURANCE PROGRAM COVERAGE."





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214 (d) On a structure that was previously insured through the  
215 NFIP at a subsidized rate, the following statement: "BY  
216 ACCEPTING A PRIVATE FLOOD INSURANCE POLICY, YOU MAY LOSE YOUR  
217 SUBSIDIZED RATE IN THE NATIONAL FLOOD INSURANCE PROGRAM IF YOU  
218 RETURN TO THE NATIONAL FLOOD INSURANCE PROGRAM AT A LATER TIME."

219 (e) That includes the law and ordinance coverage that must  
220 be offered under subparagraph (3)(e)3., the following  
221 disclosure: "LAW AND ORDINANCE COVERAGE UNDER THIS POLICY MIGHT  
222 HAVE LIMITATIONS ON WHAT IS COVERED IN THE EVENT OF A LOSS. YOU  
223 SHOULD CONSULT YOUR AGENT IF YOU HAVE QUESTIONS ABOUT THE  
224 COVERAGE OFFERED UNDER THIS POLICY."

225  
226 If this form is signed, it is conclusively presumed that the  
227 applicant understood and selected on behalf of all insureds the  
228 limitations of coverage in the policy as compared to a flood  
229 insurance policy offered by the NFIP.

230 (6) In addition to any other method authorized under the  
231 Florida Insurance Code, an insurer or rating organization may  
232 establish and use flood coverage rates, rating schedules, or  
233 rating manuals, filed by the insurer with the office, which  
234 allow the insurer a reasonable rate of return on flood coverage  
235 written in this state. Flood coverage rates established under  
236 this subsection are not subject to s. 627.062(2)(a) and (f).

237 (a) An insurer shall notify the office of any change to  
238 rates within 30 days after the effective date of the change. The  
239 notice must include the name of the insurer and the average  
240 statewide percentage change in rates.

241 (b) Actuarial data with regard to rates for flood coverage  
242 shall be maintained by the insurer for 2 years after the



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243 effective date of such rate change and may be examined by the  
244 office pursuant to s. 624.319. The office may require the  
245 insurer to incur the costs associated with an examination. Upon  
246 examination, the office, in accordance with generally accepted  
247 and reasonable actuarial techniques, shall consider the rate  
248 factors specified in s. 627.062(2)(b), (c), and (d), and  
249 standards specified in s. 627.062(2)(e) to determine if the rate  
250 is excessive, inadequate, or unfairly discriminatory. If the  
251 office finds that the rate is excessive, inadequate, or unfairly  
252 discriminatory, the office shall order the insurer to make a  
253 full and complete rate filing under s. 627.062. Upon issuance of  
254 the order, the insurer may not write additional flood insurance  
255 coverage until the office has approved the rate.

256 (c) This subsection applies to the establishment and use of  
257 flood coverage rates filed with the office before July 1, 2024.

258 (7) A surplus lines agent may export a contract or  
259 endorsement to an eligible surplus lines insurer without making  
260 a diligent effort to seek such coverage from three or more  
261 authorized insurers under s. 626.916(1)(a). This subsection  
262 expires July 1, 2017.

263 (8) The insurer shall notify the insured and any regulated  
264 lending institution or federal agency mortgagee, in writing, at  
265 least 60 days before the cancellation or nonrenewal of the  
266 policy, contract, or endorsement providing flood coverage. An  
267 insurer or insured may cancel the policy, contract, or  
268 endorsement while in force or upon renewal if the cancellation  
269 would be permitted under the NFIP.

270 (9) In addition to any other applicable requirements, an  
271 insurer providing flood coverage under this section shall:



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272 (a) Notify the office at least 30 days before writing flood  
273 insurance in this state;

274 (b) File a plan of operation and financial projections or  
275 revisions to such plan, as applicable, with the office;

276 (c) Offer flood insurance on a form that has been filed  
277 with and approved by the office pursuant to s. 627.410. The  
278 filed form may be substantially similar to the form used by the  
279 NFIP; and

280 (d) File all reinsurance contracts with the office on or  
281 before June 30 of each year.

282 (10) Citizens Property Insurance Corporation may not  
283 provide insurance for the peril of flood.

284 (11) The Florida Hurricane Catastrophe Fund may not  
285 reimburse losses proximately caused by the peril of flood,  
286 including losses that occur during a covered event as defined  
287 under s. 215.555(2).

288 (12) This section does not apply to:

289 (a) Policies, contracts, and endorsements that provide  
290 flood coverage for commercial nonresidential properties or  
291 policies that provide excess flood coverage over the amount  
292 recoverable under any other policy covering the same property.

293 (b) A flood insurance policy issued by or on behalf of the  
294 NFIP.

295 (13) With respect to the regulation of flood insurance  
296 coverage written in this state by admitted insurers, this  
297 section supersedes any other provision in the Florida Insurance  
298 Code in the event of a conflict.

299 Section 4. If federal law or rule requires a certification  
300 by a state insurance regulatory official as a condition of



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301 qualifying for private flood insurance or disaster assistance,  
302 the Commissioner of the Office of Insurance Regulation may  
303 provide the certification. The certification is not subject to  
304 review under chapter 120.

305 Section 5. This act shall take effect upon becoming a law.

306  
307 ===== T I T L E A M E N D M E N T =====

308 And the title is amended as follows:

309 Delete everything before the enacting clause  
310 and insert:

311 A bill to be entitled  
312 An act relating to flood insurance; amending s.  
313 627.062, F.S.; adding projected flood losses to the  
314 factors that must be considered by the Office of  
315 Insurance Regulation in reviewing certain rate  
316 filings; amending s. 627.0628, F.S.; requiring the  
317 commission to adopt standards and guidelines relating  
318 to flood loss by a certain date; creating s. 627.715,  
319 F.S.; authorizing insurers to offer flood insurance on  
320 residential property in this state; requiring the  
321 insurer to also offer coverage equivalent to that  
322 provided by the National Flood Insurance Program  
323 (NFIP); defining the term "flood"; establishing the  
324 minimum coverage requirements for a flood insurance  
325 policy; providing coverage limitations that an insurer  
326 may include in such policies; requiring that certain  
327 limitations and notices be noted on the policy  
328 declarations or face page; requiring the insurer to  
329 obtain a signed acknowledgement from the applicant



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330 which provides certain specified information;  
331 providing the insurer with rate options; authorizing  
332 the office to conduct an examination with respect to  
333 any rate change; authorizing an insurer to export a  
334 contract or endorsement to a surplus lines insurer  
335 without meeting certain requirements; requiring prior  
336 notice for cancellation or nonrenewal of a policy;  
337 providing additional requirements with respect to  
338 notifying the Office of Insurance Regulation before  
339 writing flood insurance, filing a plan of operation  
340 with the office, using forms that have been approved  
341 by the office, and filing reinsurance contracts before  
342 a certain date; prohibiting Citizens Property  
343 Insurance Corporation from writing flood insurance;  
344 prohibiting the Florida Hurricane Catastrophe Fund  
345 from reimbursing losses caused by flooding; providing  
346 certain exemptions; preempting any conflicts with  
347 other provisions of the Florida Insurance Code;  
348 providing that the Commissioner of the Office of  
349 Insurance Regulation may provide certification that a  
350 condition qualifies for flood insurance or disaster  
351 assistance; providing that such certification is not  
352 subject to ch. 120, F.S.; providing an effective date.