

By the Committee on Banking and Insurance; and 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.
6 472.0366, F.S.; defining terms; requiring a surveyor
7 and mapper to complete an elevation certificate in
8 accordance with a checklist developed by the Division
9 of 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; requiring
15 such insurance to be acceptable to the mortgage lender
16 if intended to satisfy a mortgage requirement;
17 deleting a provision that prohibits supplemental flood
18 insurance from including excess coverage over any
19 other insurance covering the peril of flood; revising
20 the information that must be prominently noted on a
21 certain page of a flood insurance policy; requiring
22 the Office of Insurance Regulation to require an
23 insurer to provide appropriate credit to affected
24 insureds if the office determines that a rate of the
25 insurer is excessive or unfairly discriminatory;
26 revising the notice that must be provided to and
27 acknowledged by an applicant for flood coverage from
28 an authorized or surplus lines insurer if the
29 applicant's property is receiving flood insurance

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

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

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

48 163.3178 Coastal management.—

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

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

57 1. Include development and redevelopment principles,
58 strategies, and engineering solutions that reduce the flood risk

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59 in coastal areas which results from high-tide events, storm
60 surge, flash floods, stormwater runoff, and the related impacts
61 of sea-level rise.

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

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

70 Section 2. Section 472.0366, Florida Statutes, is created
71 to read:

72 472.0366 Elevation certificates; requirements for surveyors
73 and mappers.-

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

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

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

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

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88 except that the surveyor and mapper may redact the name of the
89 property owner.

90 Section 3. Section 627.715, Florida Statutes, is amended to
91 read:

92 627.715 Flood insurance.—An authorized insurer may issue an
93 insurance policy, contract, or endorsement providing personal
94 lines residential coverage for the peril of flood on any
95 structure or the contents of personal property contained
96 therein, subject to this section. This section does not apply to
97 commercial lines residential or commercial lines nonresidential
98 coverage for the peril of flood. This section also does not
99 apply to coverage for the peril of flood that is excess coverage
100 over any other insurance covering the peril of flood. An insurer
101 may issue flood insurance policies, contracts, or endorsements
102 on a standard, preferred, customized, or supplemental basis.

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

111 2. Preferred flood insurance must include the same coverage
112 as standard flood insurance but:

113 a. Include, within the definition of "flood," losses from
114 water intrusion originating from outside the structure that are
115 not otherwise covered under the definition of "flood" provided
116 in paragraph (b).

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117 b. Include coverage for additional living expenses.

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

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

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

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

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

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

140 d. A restriction limiting flood coverage to the principal
141 building defined in the policy.

142 e. A provision including or excluding coverage for
143 additional living expenses.

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

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147 Flexible flood insurance must be acceptable to the mortgage
148 lender if such policy, contract, or endorsement is intended to
149 satisfy a mortgage requirement.

150 ~~5.4.~~ 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. If the office
199 determines that a rate is excessive or unfairly discriminatory,
200 the office shall require the insurer to provide appropriate
201 credit to affected insureds.

202 (4) A surplus lines agent may export a contract or
203 endorsement providing flood coverage to an eligible surplus

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204 lines insurer without making a diligent effort to seek such
205 coverage from three or more authorized insurers under s.
206 626.916(1) (a). This subsection expires July 1, 2017.

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

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

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

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

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

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

231 (9) With respect to the regulation of flood coverage
232 written in this state by authorized insurers, this section

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233 supersedes any other provision in the Florida Insurance Code in
234 the event of a conflict.

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

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

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

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

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