

By the Committees on Rules; Community Affairs; and 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 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

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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

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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 5. Require that any construction activities seaward of the
73 coastal construction control lines established pursuant to s.
74 161.053 be consistent with chapter 161.

75 6. Encourage local governments to participate in the
76 National Flood Insurance Program Community Rating System
77 administered by the Federal Emergency Management Agency to
78 achieve flood insurance premium discounts for their residents.

79 Section 2. Section 472.0366, Florida Statutes, is created
80 to read:

81 472.0366 Elevation certificates; requirements for surveyors
82 and mappers.—

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

84 (a) "Division" means the Division of Emergency Management
85 established within the Executive Office of the Governor under s.
86 14.2016.

87 (b) "Elevation certificate" means the certificate used to

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88 demonstrate the elevation of property which has been developed
89 by the Federal Emergency Management Agency pursuant to federal
90 floodplain management regulation and which is completed by a
91 surveyor and mapper.

92 (2) An elevation certificate must be completed by a
93 surveyor and mapper in accordance with the checklist developed
94 by the division. Within 30 days after the completion of an
95 elevation certificate, a surveyor and mapper must submit a copy
96 of the certificate to the division. The copy must be unaltered,
97 except that the surveyor and mapper may redact the name of the
98 property owner.

99 Section 3. Section 627.715, Florida Statutes, is amended to
100 read:

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

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

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117 including deductibles and adjustment of losses, as that provided
118 under a standard flood insurance policy under the National Flood
119 Insurance Program.

120 2. Preferred flood insurance must include the same coverage
121 as standard flood insurance but:

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

126 b. Include coverage for additional living expenses.

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

130 3. Customized flood insurance must include coverage that is
131 broader than the coverage provided under standard flood
132 insurance.

133 4. Flexible flood insurance must cover losses from the
134 peril of flood, as defined in paragraph (b), and may also
135 include coverage for losses from water intrusion originating
136 from outside the structure which is not otherwise covered by the
137 definition of flood. Flexible flood insurance must include one
138 or more of the following provisions:

139 a. An agreement between the insurer and the insured that
140 the flood coverage is in a specified amount, such as coverage
141 that is limited to the total amount of each outstanding mortgage
142 applicable to the covered property.

143 b. A requirement for a deductible in an amount authorized
144 under s. 627.701, including a deductible in an amount authorized
145 for hurricanes.

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

149 d. A restriction limiting flood coverage to the principal
150 building defined in the policy.

151 e. A provision including or excluding coverage for
152 additional living expenses.

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

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

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

- 168 1. Overflow of inland or tidal waters;
- 169 2. Unusual and rapid accumulation or runoff of surface
170 waters from any source;
- 171 3. Mudflow; or
- 172 4. Collapse or subsidence of land along the shore of a lake
173 or similar body of water as a result of erosion or undermining
174 caused by waves or currents of water exceeding anticipated

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175 cyclical levels that result in a flood as defined in this
176 paragraph.

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

181 (3) (a) An insurer may establish and use flood coverage
182 rates in accordance with the rate standards provided in s.
183 627.062.

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

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204 determines that a rate is excessive or unfairly discriminatory,
205 the office shall require the insurer to provide appropriate
206 credit to affected insureds.

207 (4) A surplus lines agent may export a contract or
208 endorsement providing flood coverage to an eligible surplus
209 lines insurer without making a diligent effort to seek such
210 coverage from three or more authorized insurers under s.
211 626.916(1) (a). This subsection expires July 1, 2017.

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

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

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

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

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

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

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233 apply to the property if the applicant ~~such insurance is~~ later
234 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~
235 ~~Insurance~~ program.

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

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

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

255 (b) The authorized insurer or its agent may reference or
256 include a certification under paragraph (a) in advertising or
257 communications with an agent, a lending institution, an insured,
258 or a potential insured only for a policy, contract, or
259 endorsement that is certified under this subsection. The
260 authorized insurer may include a statement that notifies an
261 insured of the certification on the declarations page or other

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262 policy documentation related to flood coverage certified under
263 this subsection.

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

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