

By the Committee on Community Affairs; and Senator Brandes

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1 A bill to be entitled
2 An act relating to the peril of flood; creating s.
3 252.64, F.S.; authorizing the Division of Emergency
4 Management to administer a matching grant program to
5 provide up to \$50 million annually in technical and
6 financial assistance to local governments to implement
7 certain flood risk reduction policies and projects;
8 limiting certain administrative costs of the division;
9 requiring the division to rank applications for
10 assistance based on certain criteria; authorizing the
11 division to adopt rules; capping funds for
12 administration; requiring the division to establish a
13 system to monitor grants; amending s. 380.507, F.S.;
14 authorizing the Florida Communities Trust to
15 undertake, coordinate, or fund flood mitigation
16 projects and to acquire and dispose of real and
17 personal property or specified interest when necessary
18 or appropriate to reduce flood hazards; amending s.
19 380.508, F.S.; specifying the purpose of acceptable
20 flood mitigation projects undertaken, coordinated, or
21 funded by the trust; amending s. 380.510, F.S.;
22 conforming a cross-reference; specifying certain
23 required conditions to be included in trust grant or
24 loan agreements for land acquisition; amending s.
25 472.0366, F.S.; authorizing the division to contract
26 with third parties to store elevation certificates and
27 maintain a database for public access to such
28 certificates; amending s. 627.715, F.S.; authorizing
29 an insurer to issue flood insurance policies on a

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30 flexible basis; extending the date by which an insurer
31 may use certain statutory rate standards for
32 establishing and using flood coverage rates; extending
33 the date by which a surplus lines agent may export a
34 contract or endorsement providing flood coverage to an
35 eligible surplus lines insurer without making a
36 diligent effort to seek such coverage from three or
37 more authorized insurers; providing an effective date.
38

39 Be It Enacted by the Legislature of the State of Florida:
40

41 Section 1. Section 252.64, Florida Statutes, is created to
42 read:

43 252.64 Local government flood hazard risk reduction
44 assistance.-

45 (1) The Division of Emergency Management is authorized to
46 administer a matching grant program to provide up to \$50 million
47 annually in technical and financial assistance, subject to
48 appropriation, to local governments to implement flood risk
49 reduction policies and projects consistent with the coastal
50 management element of a local government comprehensive plan
51 required under s. 163.3178, an approved local hazard mitigation
52 plan, or an adaptation action plan. To administer the program,
53 the division may not spend more than 8 percent of funds
54 appropriated to it under this section on administration.

55 (2) The division shall rank each received application for
56 assistance and shall give priority to:

57 (a) Projects that provide the greatest scoring improvement
58 within the National Flood Insurance Program Community Rating

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59 System;

60 (b) The acquisition of flood-prone property for conversion
61 to open space in perpetuity, or the development of natural or
62 grey infrastructure, to reduce the risk of flooding;

63 (c) Applications submitted by local governments that have
64 encountered a significant increase in National Flood Insurance
65 premiums during the preceding 5 years;

66 (d) Projects that will protect the greatest number of
67 structures from frequent flooding;

68 (e) Applications that exceed the dollar-for-dollar matching
69 funds threshold; and

70 (f) Local governments that participate in the National
71 Flood Insurance Program Community Rating System.

72 (3) The division may adopt rules to administer this section
73 and shall consult with the state land planning agency in
74 developing ranking criteria for project selection.

75 (4) A recipient may not spend more than 8 percent of grant
76 funds on administration.

77 (5) The division shall establish a system to monitor
78 grants, including site visits, to ensure proper expenditure of
79 funds and compliance with the conditions of the recipient's
80 contract.

81 Section 2. Present paragraphs (c) through (g) of subsection
82 (2) of section 380.507, Florida Statutes, are redesignated as
83 paragraphs (d) through (h), respectively, a new paragraph (c) is
84 added to that subsection, and subsection (4) of that section is
85 amended, to read:

86 380.507 Powers of the trust.—The trust shall have all the
87 powers necessary or convenient to carry out the purposes and

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88 provisions of this part, including:

89 (2) To undertake, coordinate, or fund activities and
90 projects which will help bring local comprehensive plans into
91 compliance and help implement the goals, objectives, and
92 policies of the conservation, recreation and open space, and
93 coastal elements of local comprehensive plans, or which will
94 otherwise serve to conserve natural resources and resolve land
95 use conflicts, including, but not limited to:

96 (c) Flood mitigation projects.

97 (4) To acquire and dispose of real and personal property or
98 any interest therein when necessary or appropriate to protect
99 the natural environment, provide public access or public
100 recreational facilities, including the Florida National Scenic
101 Trail, preserve wildlife habitat areas, provide access for
102 managing acquired lands, reduce flood hazards, or otherwise
103 carry out the purposes of this part. If the trust acquires land
104 for permanent state ownership, title to such land shall be
105 vested in the Board of Trustees of the Internal Improvement
106 Trust Fund; otherwise, title to property acquired in partnership
107 with a county or municipality shall vest in the name of the
108 local government. Notwithstanding any other provision of law,
109 the trust may enter into an option agreement to purchase lands
110 included in projects approved according to this part, when
111 necessary to reserve lands during the preparation of project
112 plans and during acquisition proceedings. The consideration for
113 an option shall not exceed \$100,000.

114 Section 3. Present paragraphs (c) through (f) of subsection
115 (4) of section 380.508, Florida Statutes, are redesignated as
116 paragraphs (d) through (g), respectively, and a new paragraph

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117 (c) is added to that subsection, to read:

118 380.508 Projects; development, review, and approval.—

119 (4) Projects or activities which the trust undertakes,
120 coordinates, or funds in any manner shall comply with the
121 following guidelines:

122 (c) The purpose of acceptable flood mitigation projects,
123 which should serve to lower a community's class rating under the
124 National Flood Insurance Program Community Rating System, shall
125 be:

126 1. To acquire interests in lands designated as severe
127 repetitive loss properties within coastal "V," "VE," and "V1-30"
128 designated flood zones, as designated by the Federal Emergency
129 Management Agency, which are suitable for enhancing beach and
130 coastal access for the public, creating public parks, and
131 providing flood control; or

132 2. To provide technical and financial assistance to local
133 governments to implement flood risk reduction policies and
134 projects consistent with the coastal element of the local
135 government comprehensive plan required under s. 163.3178, an
136 approved local hazard mitigation plan, or an adaptation action
137 plan.

138
139 Project costs may include costs of providing parks, open
140 space, public access sites, scenic easements, and other areas
141 and facilities serving the public where such features are part
142 of a project plan approved according to this part. In
143 undertaking or coordinating projects or activities authorized by
144 this part, the trust shall, when appropriate, use and promote
145 the use of creative land acquisition methods, including the

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146 acquisition of less than fee interest through, among other
147 methods, conservation easements, transfer of development rights,
148 leases, and leaseback arrangements. The trust shall assist local
149 governments in the use of sound alternative methods of financing
150 for funding projects and activities authorized under this part.
151 Any funds over and above eligible project costs, which remain
152 after completion of a project approved according to this part,
153 shall be transmitted to the state and deposited into the Florida
154 Forever Trust Fund.

155 Section 4. Paragraph (d) of subsection (3) of section
156 380.510, Florida Statutes, is amended, and paragraph (f) is
157 added to that subsection, to read:

158 380.510 Conditions of grants and loans.—

159 (3) In the case of a grant or loan for land acquisition,
160 agreements shall provide all of the following:

161 (d) If any essential term or condition of a grant or loan
162 is violated, title to all interest in real property acquired
163 with state funds shall be conveyed or revert to the Board of
164 Trustees of the Internal Improvement Trust Fund. The trust shall
165 treat such property in accordance with s. 380.508(4)(g) ~~s.~~
166 ~~380.508(4)(f)~~.

167 (f) Land acquired for flood mitigation projects must be
168 maintained strictly for flood mitigation purposes or
169 conservation purposes. Conveyance of such lands to private
170 entities must contain conditions, covenants, restrictions, or
171 other provisions that ensure that the land will be maintained
172 for flood mitigation or conservation purposes.

173
174 Any deed or other instrument of conveyance whereby a

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175 nonprofit organization or local government acquires real
176 property under this section shall set forth the interest of the
177 state. The trust shall keep at least one copy of any such
178 instrument and shall provide at least one copy to the Board of
179 Trustees of the Internal Improvement Trust Fund.

180 Section 5. Subsection (3) is added to section 472.0366,
181 Florida Statutes, to read:

182 472.0366 Elevation certificates; requirements for surveyors
183 and mappers.—

184 (3) The division may contract with a third party to store
185 elevation certificates received pursuant to this section. The
186 division may also contract with a third party to maintain a
187 centralized database allowing the public to access elevation
188 certificates and the data contained within the certificates.

189 Section 6. Section 627.715, Florida Statutes, is amended to
190 read:

191 627.715 Flood insurance.—An authorized insurer may issue an
192 insurance policy, contract, or endorsement providing personal
193 lines residential coverage for the peril of flood on any
194 structure or the contents of personal property contained
195 therein, subject to this section. This section does not apply to
196 commercial lines residential or commercial lines nonresidential
197 coverage for the peril of flood. This section also does not
198 apply to coverage for the peril of flood that is excess coverage
199 over any other insurance covering the peril of flood. An insurer
200 may issue flood insurance policies, contracts, or endorsements
201 on a standard, preferred, customized, flexible, or supplemental
202 basis.

203 (1) (a) 1. Standard flood insurance must cover only losses

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204 from the peril of flood, as defined in paragraph (b), equivalent
205 to that provided under a standard flood insurance policy under
206 the National Flood Insurance Program. Standard flood insurance
207 issued under this section must provide the same coverage,
208 including deductibles and adjustment of losses, as that provided
209 under a standard flood insurance policy under the National Flood
210 Insurance Program.

211 2. Preferred flood insurance must include the same coverage
212 as standard flood insurance but:

213 a. Include, within the definition of "flood," losses from
214 water intrusion originating from outside the structure that are
215 not otherwise covered under the definition of "flood" provided
216 in paragraph (b).

217 b. Include coverage for additional living expenses.

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

221 3. Customized flood insurance must include coverage that is
222 broader than the coverage provided under standard flood
223 insurance.

224 4. Flexible flood insurance must cover losses from the
225 peril of flood, as defined in paragraph (b), and may also
226 include coverage for losses from water intrusion originating
227 from outside the structure which is not otherwise covered by the
228 definition of flood. Flexible flood insurance must include one
229 or more of the following provisions:

230 a. An agreement between the insurer and the insured that
231 the flood coverage is in a specified amount, such as coverage
232 that is limited to the total amount of each outstanding mortgage

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233 applicable to the covered property.

234 b. A requirement for a deductible in an amount authorized
235 under s. 627.701, including a deductible in an amount authorized
236 for hurricanes.

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

240 d. A restriction limiting flood coverage to the principal
241 building defined in the policy.

242 e. A provision including or excluding coverage for
243 additional living expenses.

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

246 5. Supplemental flood insurance may provide coverage
247 designed to supplement a flood policy obtained from the National
248 Flood Insurance Program or from an insurer issuing standard or
249 preferred flood insurance pursuant to this section. Supplemental
250 flood insurance may provide, but need not be limited to,
251 coverage for jewelry, art, deductibles, and additional living
252 expenses.

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

257 1. Overflow of inland or tidal waters;

258 2. Unusual and rapid accumulation or runoff of surface
259 waters from any source;

260 3. Mudflow; or

261 4. Collapse or subsidence of land along the shore of a lake

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262 or similar body of water as a result of erosion or undermining
263 caused by waves or currents of water exceeding anticipated
264 cyclical levels that result in a flood as defined in this
265 paragraph.

266 (2) Flood coverage deductibles and policy limits pursuant
267 to this section must be prominently noted on the policy
268 declarations page or face page.

269 (3) (a) An insurer may establish and use flood coverage
270 rates in accordance with the rate standards provided in s.
271 627.062.

272 (b) For flood coverage rates filed with the office before
273 October 1, 2025 ~~2019~~, the insurer may also establish and use
274 such rates in accordance with the rates, rating schedules, or
275 rating manuals filed by the insurer with the office which allow
276 the insurer a reasonable rate of return on flood coverage
277 written in this state. Flood coverage rates established pursuant
278 to this paragraph are not subject to s. 627.062(2) (a) and (f).
279 An insurer shall notify the office of any change to such rates
280 within 30 days after the effective date of the change. The
281 notice must include the name of the insurer and the average
282 statewide percentage change in rates. Actuarial data with regard
283 to such rates for flood coverage must be maintained by the
284 insurer for 2 years after the effective date of such rate change
285 and is subject to examination by the office. The office may
286 require the insurer to incur the costs associated with an
287 examination. Upon examination, the office, in accordance with
288 generally accepted and reasonable actuarial techniques, shall
289 consider the rate factors in s. 627.062(2) (b), (c), and (d), and
290 the standards in s. 627.062(2) (e), to determine if the rate is

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291 excessive, inadequate, or unfairly discriminatory. If the office
292 determines that a rate is excessive or unfairly discriminatory,
293 the office shall require the insurer to provide appropriate
294 credit to affected insureds or an appropriate refund to affected
295 insureds who no longer receive coverage from the insurer.

296 (4) A surplus lines agent may export a contract or
297 endorsement providing flood coverage to an eligible surplus
298 lines insurer without making a diligent effort to seek such
299 coverage from three or more authorized insurers under s.
300 626.916(1) (a). This subsection expires July 1, 2025 ~~2017~~.

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

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

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

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

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

313 (8) An agent must, upon receiving an application for flood
314 coverage from an authorized or surplus lines insurer for a
315 property receiving flood insurance under the National Flood
316 Insurance Program, obtain an acknowledgment signed by the
317 applicant before placing the coverage with the authorized or
318 surplus lines insurer. The acknowledgment must notify the
319 applicant that, if the applicant discontinues coverage under the

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320 National Flood Insurance Program which is provided at a
321 subsidized rate, the full risk rate for flood insurance may
322 apply to the property if the applicant later seeks to reinstate
323 coverage under the program.

324 (9) With respect to the regulation of flood coverage
325 written in this state by authorized insurers, this section
326 supersedes any other provision in the Florida Insurance Code in
327 the event of a conflict.

328 (10) If federal law or rule requires a certification by a
329 state insurance regulatory official as a condition of qualifying
330 for private flood insurance or disaster assistance, the
331 Commissioner of Insurance Regulation may provide the
332 certification, and such certification is not subject to review
333 under chapter 120.

334 (11) (a) An authorized insurer offering flood insurance may
335 request the office to certify that a policy, contract, or
336 endorsement provides coverage for the peril of flood which
337 equals or exceeds the flood coverage offered by the National
338 Flood Insurance Program. To be eligible for certification, such
339 policy, contract, or endorsement must contain a provision
340 stating that it meets the private flood insurance requirements
341 specified in 42 U.S.C. s. 4012a(b) and may not contain any
342 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

343 (b) The authorized insurer or its agent may reference or
344 include a certification under paragraph (a) in advertising or
345 communications with an agent, a lending institution, an insured,
346 or a potential insured only for a policy, contract, or
347 endorsement that is certified under this subsection. The
348 authorized insurer may include a statement that notifies an

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349 insured of the certification on the declarations page or other
350 policy documentation related to flood coverage certified under
351 this subsection.

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

355 Section 7. This act shall take effect July 1, 2016.