

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
 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; revising
 33 conditions under which a surplus lines agent may
 34 export a contract or endorsement providing flood
 35 coverage to an eligible surplus lines insurer without
 36 making a diligent effort to seek such coverage from
 37 three or more authorized insurers; extending the date
 38 by which a surplus lines agent may export such
 39 contract or endorsement; providing an effective date.

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

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 43 Section 1. Section 252.64, Florida Statutes, is created to
 44 read:

45 252.64 Local government flood hazard risk reduction
 46 assistance.-

47 (1) The Division of Emergency Management is authorized to
 48 administer a matching grant program to provide up to \$50 million
 49 annually in technical and financial assistance, subject to
 50 appropriation, to local governments to implement flood risk
 51 reduction policies and projects consistent with the coastal
 52 management element of a local government comprehensive plan

53 required under s. 163.3178, an approved local hazard mitigation
54 plan, or an adaptation action plan. To administer the program,
55 the division may not spend more than 8 percent of funds
56 appropriated to it under this section on administration.

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

59 (a) Projects that provide the greatest scoring improvement
60 within the National Flood Insurance Program Community Rating
61 System;

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

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

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

70 (e) Applications that exceed the dollar-for-dollar
71 matching funds threshold; and

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

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

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

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

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

88 380.507 Powers of the trust.—The trust shall have all the
 89 powers necessary or convenient to carry out the purposes and
 90 provisions of this part, including:

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

98 (c) Flood mitigation projects.

99 (4) To acquire and dispose of real and personal property
 100 or any interest therein when necessary or appropriate to protect
 101 the natural environment, provide public access or public
 102 recreational facilities, including the Florida National Scenic
 103 Trail, preserve wildlife habitat areas, provide access for
 104 managing acquired lands, reduce flood hazards, or otherwise

105 carry out the purposes of this part. If the trust acquires land
 106 for permanent state ownership, title to such land shall be
 107 vested in the Board of Trustees of the Internal Improvement
 108 Trust Fund; otherwise, title to property acquired in partnership
 109 with a county or municipality shall vest in the name of the
 110 local government. Notwithstanding any other provision of law,
 111 the trust may enter into an option agreement to purchase lands
 112 included in projects approved according to this part, when
 113 necessary to reserve lands during the preparation of project
 114 plans and during acquisition proceedings. The consideration for
 115 an option shall not exceed \$100,000.

116 Section 3. Present paragraphs (c) through (f) of
 117 subsection (4) of section 380.508, Florida Statutes, are
 118 redesignated as paragraphs (d) through (g), respectively, and a
 119 new paragraph (c) is added to that subsection, to read:

120 380.508 Projects; development, review, and approval.—

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

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

128 1. To acquire interests in lands designated as severe
 129 repetitive loss properties within coastal "V," "VE," and "V1-30"
 130 designated flood zones, as designated by the Federal Emergency

131 Management Agency, which are suitable for enhancing beach and
132 coastal access for the public, creating public parks, and
133 providing flood control; or

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

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141 Project costs may include costs of providing parks, open
142 space, public access sites, scenic easements, and other areas
143 and facilities serving the public where such features are part
144 of a project plan approved according to this part. In
145 undertaking or coordinating projects or activities authorized by
146 this part, the trust shall, when appropriate, use and promote
147 the use of creative land acquisition methods, including the
148 acquisition of less than fee interest through, among other
149 methods, conservation easements, transfer of development rights,
150 leases, and leaseback arrangements. The trust shall assist local
151 governments in the use of sound alternative methods of financing
152 for funding projects and activities authorized under this part.
153 Any funds over and above eligible project costs, which remain
154 after completion of a project approved according to this part,
155 shall be transmitted to the state and deposited into the Florida
156 Forever Trust Fund.

157 Section 4. Paragraph (d) of subsection (3) of section
 158 380.510, Florida Statutes, is amended, and paragraph (f) is
 159 added to that subsection, to read:

160 380.510 Conditions of grants and loans.—

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

163 (d) If any essential term or condition of a grant or loan
 164 is violated, title to all interest in real property acquired
 165 with state funds shall be conveyed or revert to the Board of
 166 Trustees of the Internal Improvement Trust Fund. The trust shall
 167 treat such property in accordance with s. 380.508(4)(g) ~~s.~~
 168 ~~380.508(4)(f)~~.

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

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

182 Section 5. Subsection (3) is added to section 472.0366,

183 Florida Statutes, to read:

184 472.0366 Elevation certificates; requirements for
185 surveyors and mappers.—

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

191 Section 6. Section 627.715, Florida Statutes, is amended
192 to read:

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

205 (1)(a)1. Standard flood insurance must cover only losses
206 from the peril of flood, as defined in paragraph (b), equivalent
207 to that provided under a standard flood insurance policy under
208 the National Flood Insurance Program. Standard flood insurance

209 | issued under this section must provide the same coverage,
210 | including deductibles and adjustment of losses, as that provided
211 | under a standard flood insurance policy under the National Flood
212 | Insurance Program.

213 | 2. Preferred flood insurance must include the same
214 | coverage as standard flood insurance but:

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

219 | b. Include coverage for additional living expenses.

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

223 | 3. Customized flood insurance must include coverage that
224 | is broader than the coverage provided under standard flood
225 | insurance.

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

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

235 applicable to the covered property.

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

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

242 d. A restriction limiting flood coverage to the principal
243 building defined in the policy.

244 e. A provision including or excluding coverage for
245 additional living expenses.

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

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

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

- 259 1. Overflow of inland or tidal waters;
260 2. Unusual and rapid accumulation or runoff of surface

261 waters from any source;

262 3. Mudflow; or

263 4. Collapse or subsidence of land along the shore of a
 264 lake or similar body of water as a result of erosion or
 265 undermining caused by waves or currents of water exceeding
 266 anticipated cyclical levels that result in a flood as defined in
 267 this paragraph.

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

271 (3) (a) An insurer may establish and use flood coverage
 272 rates in accordance with the rate standards provided in s.
 273 627.062.

274 (b) For flood coverage rates filed with the office before
 275 October 1, 2025 ~~2019~~, the insurer may also establish and use
 276 such rates in accordance with the rates, rating schedules, or
 277 rating manuals filed by the insurer with the office which allow
 278 the insurer a reasonable rate of return on flood coverage
 279 written in this state. Flood coverage rates established pursuant
 280 to this paragraph are not subject to s. 627.062 (2) (a) and (f).
 281 An insurer shall notify the office of any change to such rates
 282 within 30 days after the effective date of the change. The
 283 notice must include the name of the insurer and the average
 284 statewide percentage change in rates. Actuarial data with regard
 285 to such rates for flood coverage must be maintained by the
 286 insurer for 2 years after the effective date of such rate change

287 and is subject to examination by the office. The office may
288 require the insurer to incur the costs associated with an
289 examination. Upon examination, the office, in accordance with
290 generally accepted and reasonable actuarial techniques, shall
291 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
292 the standards in s. 627.062(2)(e), to determine if the rate is
293 excessive, inadequate, or unfairly discriminatory. If the office
294 determines that a rate is excessive or unfairly discriminatory,
295 the office shall require the insurer to provide appropriate
296 credit to affected insureds or an appropriate refund to affected
297 insureds who no longer receive coverage from the insurer.

298 (4) A surplus lines agent may export a contract or
299 endorsement providing flood coverage to an eligible surplus
300 lines insurer without making a diligent effort to seek such
301 coverage from three or more authorized insurers under s.
302 626.916(1) ~~626.916(1)(a)~~. This subsection expires July 1, 2025
303 ~~2017~~.

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

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

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

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

312 (7) The Florida Hurricane Catastrophe Fund may not provide

313 reimbursement for losses proximately caused by the peril of
314 flood, including losses that occur during a covered event as
315 defined in s. 215.555(2) (b) .

316 (8) An agent must, upon receiving an application for flood
317 coverage from an authorized or surplus lines insurer for a
318 property receiving flood insurance under the National Flood
319 Insurance Program, obtain an acknowledgment signed by the
320 applicant before placing the coverage with the authorized or
321 surplus lines insurer. The acknowledgment must notify the
322 applicant that, if the applicant discontinues coverage under the
323 National Flood Insurance Program which is provided at a
324 subsidized rate, the full risk rate for flood insurance may
325 apply to the property if the applicant later seeks to reinstate
326 coverage under the program.

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

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

337 (11) (a) An authorized insurer offering flood insurance may
338 request the office to certify that a policy, contract, or

339 endorsement provides coverage for the peril of flood which
340 equals or exceeds the flood coverage offered by the National
341 Flood Insurance Program. To be eligible for certification, such
342 policy, contract, or endorsement must contain a provision
343 stating that it meets the private flood insurance requirements
344 specified in 42 U.S.C. s. 4012a(b) and may not contain any
345 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

346 (b) The authorized insurer or its agent may reference or
347 include a certification under paragraph (a) in advertising or
348 communications with an agent, a lending institution, an insured,
349 or a potential insured only for a policy, contract, or
350 endorsement that is certified under this subsection. The
351 authorized insurer may include a statement that notifies an
352 insured of the certification on the declarations page or other
353 policy documentation related to flood coverage certified under
354 this subsection.

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

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