

1 A bill to be entitled

2 An act relating to the peril of flood; amending s.
3 627.715, F.S.; authorizing an insurer to issue flood
4 insurance policies on a flexible basis; extending the
5 date by which an insurer may use certain statutory
6 rate standards for establishing and using flood
7 coverage rates; authorizing a surplus lines agent to
8 export a contract or endorsement providing flood
9 coverage to an eligible surplus lines insurer without
10 satisfying specified conditions; extending the date by
11 which a surplus lines agent may export such contract
12 or endorsement; providing an effective date.

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

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16 Section 1. Section 627.715, Florida Statutes, is amended
17 to read:

18 627.715 Flood insurance.—An authorized insurer may issue
19 an insurance policy, contract, or endorsement providing personal
20 lines residential coverage for the peril of flood on any
21 structure or the contents of personal property contained
22 therein, subject to this section. This section does not apply to
23 commercial lines residential or commercial lines nonresidential
24 coverage for the peril of flood. This section also does not
25 apply to coverage for the peril of flood that is excess coverage
26 over any other insurance covering the peril of flood. An insurer

27 | may issue flood insurance policies, contracts, or endorsements
28 | on a standard, preferred, customized, flexible, or supplemental
29 | basis.

30 | (1) (a) 1. Standard flood insurance must cover only losses
31 | from the peril of flood, as defined in paragraph (b), equivalent
32 | to that provided under a standard flood insurance policy under
33 | the National Flood Insurance Program. Standard flood insurance
34 | issued under this section must provide the same coverage,
35 | including deductibles and adjustment of losses, as that provided
36 | under a standard flood insurance policy under the National Flood
37 | Insurance Program.

38 | 2. Preferred flood insurance must include the same
39 | coverage as standard flood insurance but:

40 | a. Include, within the definition of "flood," losses from
41 | water intrusion originating from outside the structure that are
42 | not otherwise covered under the definition of "flood" provided
43 | in paragraph (b).

44 | b. Include coverage for additional living expenses.

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

48 | 3. Customized flood insurance must include coverage that
49 | is broader than the coverage provided under standard flood
50 | insurance.

51 | 4. Flexible flood insurance must cover losses from the
52 | peril of flood, as defined in paragraph (b), and may also

53 include coverage for losses from water intrusion originating
54 from outside the structure which is not otherwise covered by the
55 definition of flood. Flexible flood insurance must include one
56 or more of the following provisions:

57 a. An agreement between the insurer and the insured that
58 the flood coverage is in a specified amount, such as coverage
59 that is limited to the total amount of each outstanding mortgage
60 applicable to the covered property.

61 b. A requirement for a deductible in an amount authorized
62 under s. 627.701, including a deductible in an amount authorized
63 for hurricanes.

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

67 d. A restriction limiting flood coverage to the principal
68 building defined in the policy.

69 e. A provision including or excluding coverage for
70 additional living expenses.

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

73 5. Supplemental flood insurance may provide coverage
74 designed to supplement a flood policy obtained from the National
75 Flood Insurance Program or from an insurer issuing standard or
76 preferred flood insurance pursuant to this section. Supplemental
77 flood insurance may provide, but need not be limited to,
78 coverage for jewelry, art, deductibles, and additional living

79 expenses.

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

- 84 1. Overflow of inland or tidal waters;
- 85 2. Unusual and rapid accumulation or runoff of surface
 86 waters from any source;
- 87 3. Mudflow; or
- 88 4. Collapse or subsidence of land along the shore of a
 89 lake or similar body of water as a result of erosion or
 90 undermining caused by waves or currents of water exceeding
 91 anticipated cyclical levels that result in a flood as defined in
 92 this paragraph.

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

96 (3) (a) An insurer may establish and use flood coverage
 97 rates in accordance with the rate standards provided in s.
 98 627.062.

99 (b) For flood coverage rates filed with the office before
 100 October 1, 2025 ~~2019~~, the insurer may also establish and use
 101 such rates in accordance with the rates, rating schedules, or
 102 rating manuals filed by the insurer with the office which allow
 103 the insurer a reasonable rate of return on flood coverage
 104 written in this state. Flood coverage rates established pursuant

105 to this paragraph are not subject to s. 627.062(2)(a) and (f).
 106 An insurer shall notify the office of any change to such rates
 107 within 30 days after the effective date of the change. The
 108 notice must include the name of the insurer and the average
 109 statewide percentage change in rates. Actuarial data with regard
 110 to such rates for flood coverage must be maintained by the
 111 insurer for 2 years after the effective date of such rate change
 112 and is subject to examination by the office. The office may
 113 require the insurer to incur the costs associated with an
 114 examination. Upon examination, the office, in accordance with
 115 generally accepted and reasonable actuarial techniques, shall
 116 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
 117 the standards in s. 627.062(2)(e), to determine if the rate is
 118 excessive, inadequate, or unfairly discriminatory. If the office
 119 determines that a rate is excessive or unfairly discriminatory,
 120 the office shall require the insurer to provide appropriate
 121 credit to affected insureds or an appropriate refund to affected
 122 insureds who no longer receive coverage from the insurer.

123 (4) A surplus lines agent may export a contract or
 124 endorsement providing flood coverage to an eligible surplus
 125 lines insurer without satisfying the conditions set forth in
 126 ~~making a diligent effort to seek such coverage from three or~~
 127 ~~more authorized insurers under s. 626.916(1) 626.916(1)(a).~~ This
 128 subsection expires July 1, 2020 2017.

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

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

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

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

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

141 (8) An agent must, upon receiving an application for flood
142 coverage from an authorized or surplus lines insurer for a
143 property receiving flood insurance under the National Flood
144 Insurance Program, obtain an acknowledgment signed by the
145 applicant before placing the coverage with the authorized or
146 surplus lines insurer. The acknowledgment must notify the
147 applicant that, if the applicant discontinues coverage under the
148 National Flood Insurance Program which is provided at a
149 subsidized rate, the full risk rate for flood insurance may
150 apply to the property if the applicant later seeks to reinstate
151 coverage under the program.

152 (9) With respect to the regulation of flood coverage
153 written in this state by authorized insurers, this section
154 supersedes any other provision in the Florida Insurance Code in
155 the event of a conflict.

156 (10) If federal law or rule requires a certification by a

157 | state insurance regulatory official as a condition of qualifying
158 | for private flood insurance or disaster assistance, the
159 | Commissioner of Insurance Regulation may provide the
160 | certification, and such certification is not subject to review
161 | under chapter 120.

162 | (11) (a) An authorized insurer offering flood insurance may
163 | request the office to certify that a policy, contract, or
164 | endorsement provides coverage for the peril of flood which
165 | equals or exceeds the flood coverage offered by the National
166 | Flood Insurance Program. To be eligible for certification, such
167 | policy, contract, or endorsement must contain a provision
168 | stating that it meets the private flood insurance requirements
169 | specified in 42 U.S.C. s. 4012a(b) and may not contain any
170 | provision that is not in compliance with 42 U.S.C. s. 4012a(b).

171 | (b) The authorized insurer or its agent may reference or
172 | include a certification under paragraph (a) in advertising or
173 | communications with an agent, a lending institution, an insured,
174 | or a potential insured only for a policy, contract, or
175 | endorsement that is certified under this subsection. The
176 | authorized insurer may include a statement that notifies an
177 | insured of the certification on the declarations page or other
178 | policy documentation related to flood coverage certified under
179 | this subsection.

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

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Section 2. This act shall take effect July 1, 2016.