The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 420

INTRODUCER: Senator Brandes

SUBJECT: Flood Insurance

DATE: February 20, 2017 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	**Pre-meeting**
2.			CA	
3.			RC	

I. Summary:

SB 420 extends to October 1, 2025, existing law that allows insurers offering private market flood insurance under s. 627.715, F.S., to make rate filings that are not required to be reviewed by the Office of Insurance Regulation (OIR) before implementation of the rate ("file and use" review) or shortly after implementation of the rate ("use and file" review). Until July 1, 2025, the bill allows surplus lines insurers with $300 million in surplus to offer private flood insurance without receiving three declinations from admitted insurers. The bill applies the foregoing to commercial and commercial residential flood insurance, but retains existing law exempting those lines of insurance from the other provisions of s. 627.715, F.S. The bill increases the interval for the Florida Commission on Hurricane Loss Projection Methodology to revise the criteria used in calculating flood loss projection models to 4 years. Lastly, the bill requires an insured currently covered under the National Flood Insurance Program to sign an acknowledgement regarding the risk of being charged a higher rate should they choose to return at a later date.

II. Present Situation:

In 2014, the Legislature passed CS/CS/CS/SB 542, allowing an expedited process for insurers to offer a variety of private flood insurance policies. The bill created s. 627.715, F.S., governing the sale of personal lines, residential flood insurance. The statute does not apply to commercial lines residential, commercial lines nonresidential, or excess flood insurance. Under this new section, authorized insurers can sell five different types of flood insurance products:

- Standard coverage, which covers only losses from the peril of flood as defined by the National Flood Insurance Program (NFIP). The policy must be the same as coverage offered from the NFIP regarding the definition of flood, coverage, deductibles, and loss adjustment.[1]
- Preferred coverage, which includes the same coverage as standard flood insurance and also must cover flood losses caused by water intrusion from outside the structure that are not

[1] s. 627.715(1)(a)1., F.S.

otherwise covered under the definition of flood, coverage for additional living expenses, and replacement cost coverage for personal property or contents coverage.[2]

- Customized coverage, which is coverage that is broader than standard flood coverage.[3]
- Flexible coverage, which has coverage limits at an agreed upon amount, deductibles ranging from $500 to 10 percent of policy dwelling limits, adjusts dwelling losses on the basis of actual cash value or pursuant to s. 627.7011(3), F.S., restricts coverage to the principal building defined in the policy, excludes additional living expenses coverage, or excludes personal property or contents coverage.[4]
- Supplemental coverage, which supplements an NFIP flood policy or a standard or preferred policy from a private market insurer. Supplemental coverage may provide coverage for jewelry, art, deductibles, and additional living expenses.[5]

The law requires prominent notice on the policy declarations or face page of deductibles and any other limitations on flood coverage or policy limits. Insurance agents that receive a flood insurance application must obtain a signed acknowledgement from the applicant stating that the full risk rate for flood insurance may apply to the property if flood insurance is later obtained under the National Flood Insurance Program.[6]

Under the law an insurer may establish flood rates through the standard process in s. 627.062, F.S. Alternatively, rates filed before October 1, 2019,[7] may be established through a rate filing with the Office of Insurance Regulation (OIR) that is not required to be reviewed by the OIR before implementation of the rate ("file and use" review) or shortly after implementation of the rate ("use and file" review). Specifically, the flood rate is exempt from the "file and use" and "use and file" requirements of s. 627.062(2)(a), F.S. Such filings are also exempt from the requirement to provide information necessary to evaluate the company and the reasonableness of the rate. The OIR may, however, examine a rate filing at its discretion. To enable the OIR to conduct such examinations, insurers must maintain actuarial data related to flood coverage for 2 years after the effective date of the rate change. Upon examination, the OIR will use actuarial techniques and the standards of the rating law to determine if the rate is excessive, inadequate or unfairly discriminatory.

Insurers that write flood coverage must notify the OIR at least 30 days before doing so in this state and file a plan of operation, financial projections, and any such revisions with the OIR.[8] The law allows surplus lines agents to export flood insurance without making a diligent effort to seek coverage from three or more authorized insurers until July 1, 2017.[9] The law prohibits Citizens Property Insurance Corporation from providing flood insurance.[10] The law prohibits the Florida Hurricane Catastrophe Fund from reimbursing flood losses.[11]

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[2] s. 627.715(1)(a)2., F.S.
[3] s. 627.715(1)(a)3., F.S.
[4] s. 627.715(1)(a)4., F.S.
[5] s. 627.715(1)(a)5., F.S.
[6] s. 627.715(8), F.S.
[7] s. 627.715(3)(b), F.S.
[8] s. 627.715(5), F.S.
[9] s. 627.715(4), F.S.
[10] s. 627.715(6), F.S.
[11] s. 627.715(7), F.S.

The law allows projected flood losses for personal residential property insurance to be a rating factor. Flood losses may be estimated using a model or straight average of models found reliable by the Florida Commission on Hurricane Loss Projection Methodology.[12]

The law also specifies that the OIR Commissioner may provide a certification required by federal law or rule as a condition of qualifying for private flood insurance or disaster assistance. The certification is not subject to review under ch. 120, F.S.[13]

The National Flood Insurance Program (NFIP)

The NFIP was created by the passage of the National Flood Insurance Act of 1968.[14] The NFIP is administered by Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.[15]

Florida Commission on Hurricane Loss Projection Methodology (Commission)

In 1995 the Legislature established the Commission to serve as an independent body within the State Board of Administration.[16] Section 627.0628, F.S., lists the 12 members who are to make up the commission. The Commission is to adopt findings on the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane and flood losses. The Commission sets standards for loss projection methodology and examines the methods employed in proprietary loss models used by private insurers in setting rates to determine whether they meet the Commission's standards. The law requires the Commission to revise previously adopted actuarial methods, principles, standards, models, or output ranges every odd numbered year.[17]

III. Effect of Proposed Changes:

The bill requires the Florida Commission on Hurricane Loss Projection Methodology to revise previously adopted actuarial methods, principles, standards, models, or output ranges no less than every 4 years for flood loss projections. Existing law requires revisions no less than every 2 years.

The bill extends from October 1, 2019, to October 1, 2025, the time period during which personal lines residential flood insurance rates may be established through a rate filing with the Office of Insurance Regulation (OIR) that is not required to be reviewed by the OIR before implementation of the rate ("file and use" review) or shortly after implementation of the rate ("use and file" review). The expedited filing also applies to commercial and commercial

[12] s. 627.062(2)(b)12, F.S.
[13] s. 627.715(10), F.S.
[14] http://www.fema.gov/media-library/assets/documents/7277?id=2216 (Last accessed February 17, 2017).
[15] https://www.fema.gov/media-library-data/20130726-1545-20490-9247/frm_acts.pdf (Last accessed February 17, 2017).
[16] s. 627.0628, F.S.
[17] s. 627.0628(3)(f), F.S.

residential policies. After 2025, insurers offering private flood insurance will be required to make a complete rate filing with the OIR as required under s. 627.062, F.S.

The bill extends from July 1, 2017, to July 1, 2025, allowing surplus lines insurers with $300 million in reserve to issue private flood insurance policies without obtaining three declinations from admitted insurers. The bill expands this provision by including commercial and commercial residential flood insurance,

The bill prohibits a policy from being removed from the NFIP if the policyholder does not sign an acknowledgment within 20 days of their current policy expiring. The acknowledgment provides a warning of the potential rate increase should they choose to return to the NFIP at a later date. A policy must be returned to the NFIP if the assigned agent does not receive this signed acknowledgment from the policyholder.

The bill makes a technical correction that clarifies insurers can offer a flexible flood insurance policy as defined in s. 627.715(1)(a)4., F.S.

The effective date of the bill is July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires surplus lines insurers must maintain a surplus of $300 million before issuing a private flood insurance policy without obtaining three declinations from admitted insurers.

C. None. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.0628, 627.715.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.