

By Senator Brandes

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1 A bill to be entitled
 2 An act relating to flood insurance; amending s.
 3 627.0628, F.S.; revising the intervals at which
 4 specified standards and guidelines for projecting
 5 certain rate filings must be revised by the Florida
 6 Commission on Hurricane Loss Projection Methodology;
 7 amending s. 627.715, F.S.; revising applicability;
 8 authorizing an insurer to issue flood insurance
 9 policies on a flexible basis; extending the last date
 10 of filing with the Office of Insurance Regulation of
 11 certain flood coverage rates that may be established
 12 and used by an insurer; specifying a condition for an
 13 eligible surplus lines insurer before a surplus lines
 14 agent may be excepted from a diligent-effort
 15 requirement when exporting flood insurance contracts
 16 or endorsements to the insurer; extending the
 17 expiration date of the exception; revising provisions
 18 related to an acknowledgment required before the
 19 procurement of a private flood insurance policy for
 20 property currently insured under the National Flood
 21 Insurance Program; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Paragraph (f) of subsection (3) of section
 26 627.0628, Florida Statutes, is amended to read:

27 627.0628 Florida Commission on Hurricane Loss Projection
 28 Methodology; public records exemption; public meetings
 29 exemption.—

30 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

31 (f) The commission shall revise previously adopted
 32 actuarial methods, principles, standards, models, or output

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33 ranges every odd-numbered year for hurricane loss projections.
34 The commission shall revise previously adopted actuarial
35 methods, principles, standards, models, or output ranges no less
36 than every 4 years for flood loss projections.

37 Section 2. Section 627.715, Florida Statutes, is amended to
38 read:

39 627.715 Flood insurance.—An authorized insurer may issue an
40 insurance policy, contract, or endorsement providing personal
41 lines residential coverage for the peril of flood on any
42 structure or the contents of personal property contained
43 therein, subject to this section. Except for subsections (3) and
44 (4), this section does not apply to commercial lines residential
45 or commercial lines nonresidential coverage for the peril of
46 flood. This section also does not apply to coverage for the
47 peril of flood that is excess coverage over any other insurance
48 covering the peril of flood. An insurer may issue flood
49 insurance policies, contracts, or endorsements on a standard,
50 preferred, customized, flexible, or supplemental basis.

51 (1) (a) 1. Standard flood insurance must cover only losses
52 from the peril of flood, as defined in paragraph (b), equivalent
53 to that provided under a standard flood insurance policy under
54 the National Flood Insurance Program. Standard flood insurance
55 issued under this section must provide the same coverage,
56 including deductibles and adjustment of losses, as that provided
57 under a standard flood insurance policy under the National Flood
58 Insurance Program.

59 2. Preferred flood insurance must include the same coverage
60 as standard flood insurance but:

61 a. Include, within the definition of "flood," losses from

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62 water intrusion originating from outside the structure that are
63 not otherwise covered under the definition of "flood" provided
64 in paragraph (b).

65 b. Include coverage for additional living expenses.

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

69 3. Customized flood insurance must include coverage that is
70 broader than the coverage provided under standard flood
71 insurance.

72 4. Flexible flood insurance must cover losses from the
73 peril of flood, as defined in paragraph (b), and may also
74 include coverage for losses from water intrusion originating
75 from outside the structure which is not otherwise covered by the
76 definition of flood. Flexible flood insurance must include one
77 or more of the following provisions:

78 a. An agreement between the insurer and the insured that
79 the flood coverage is in a specified amount, such as coverage
80 that is limited to the total amount of each outstanding mortgage
81 applicable to the covered property.

82 b. A requirement for a deductible in an amount authorized
83 under s. 627.701, including a deductible in an amount authorized
84 for hurricanes.

85 c. A requirement that flood loss to a dwelling be adjusted
86 in accordance with s. 627.701(3) or adjusted only on the basis
87 of the actual cash value of the property.

88 d. A restriction limiting flood coverage to the principal
89 building defined in the policy.

90 e. A provision including or excluding coverage for

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91 additional living expenses.

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

94 5. Supplemental flood insurance may provide coverage
95 designed to supplement a flood policy obtained from the National
96 Flood Insurance Program or from an insurer issuing standard or
97 preferred flood insurance pursuant to this section. Supplemental
98 flood insurance may provide, but need not be limited to,
99 coverage for jewelry, art, deductibles, and additional living
100 expenses.

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

105 1. Overflow of inland or tidal waters;

106 2. Unusual and rapid accumulation or runoff of surface
107 waters from any source;

108 3. Mudflow; or

109 4. Collapse or subsidence of land along the shore of a lake
110 or similar body of water as a result of erosion or undermining
111 caused by waves or currents of water exceeding anticipated
112 cyclical levels that result in a flood as defined in this
113 paragraph.

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

117 (3) (a) An insurer may establish and use flood coverage
118 rates in accordance with the rate standards provided in s.
119 627.062.

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120 (b) For flood coverage rates filed with the office before
121 October 1, 2025 ~~2019~~, the insurer may also establish and use
122 such rates in accordance with the rates, rating schedules, or
123 rating manuals filed by the insurer with the office which allow
124 the insurer a reasonable rate of return on flood coverage
125 written in this state. Flood coverage rates established pursuant
126 to this paragraph are not subject to s. 627.062(2)(a) and (f).
127 An insurer shall notify the office of any change to such rates
128 within 30 days after the effective date of the change. The
129 notice must include the name of the insurer and the average
130 statewide percentage change in rates. Actuarial data with regard
131 to such rates for flood coverage must be maintained by the
132 insurer for 2 years after the effective date of such rate change
133 and is subject to examination by the office. The office may
134 require the insurer to incur the costs associated with an
135 examination. Upon examination, the office, in accordance with
136 generally accepted and reasonable actuarial techniques, shall
137 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
138 the standards in s. 627.062(2)(e), to determine if the rate is
139 excessive, inadequate, or unfairly discriminatory. If the office
140 determines that a rate is excessive or unfairly discriminatory,
141 the office shall require the insurer to provide appropriate
142 credit to affected insureds or an appropriate refund to affected
143 insureds who no longer receive coverage from the insurer.

144 (4) A surplus lines agent may export a contract or
145 endorsement providing flood coverage to an eligible surplus
146 lines insurer without making a diligent effort to seek such
147 coverage from three or more authorized insurers under s.
148 626.916(1) if the surplus lines insurer maintains a minimum of

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149 \$300 million in capital and surplus ~~s. 626.916(1)(a)~~. This
150 subsection expires July 1, 2025 ~~2017~~.

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

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

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

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

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

163 (8) When procuring a private flood insurance policy from an
164 authorized insurer or a surplus lines insurer for a property
165 that is currently insured under the National Flood Insurance
166 Program, an agent must receive an acknowledgment signed by the
167 applicant within 20 days before the expiration date of the
168 current coverage. The acknowledgment must notify the applicant
169 that the full risk rate for flood insurance may apply to the
170 property if such insurance is later obtained under the National
171 Flood Insurance Program. If the agent does not receive the
172 acknowledgment, the private flood insurance policy must be
173 canceled and the premium must be remitted to a participant in
174 the National Flood Insurance Program ~~An agent must, upon~~
175 ~~receiving an application for flood coverage from an authorized~~
176 ~~or surplus lines insurer for a property receiving flood~~
177 ~~insurance under the National Flood Insurance Program, obtain an~~

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178 ~~acknowledgment signed by the applicant before placing the~~
179 ~~coverage with the authorized or surplus lines insurer. The~~
180 ~~acknowledgment must notify the applicant that, if the applicant~~
181 ~~discontinues coverage under the National Flood Insurance Program~~
182 ~~which is provided at a subsidized rate, the full risk rate for~~
183 ~~flood insurance may apply to the property if the applicant later~~
184 ~~seeks to reinstate coverage under the program.~~

185 (9) With respect to the regulation of flood coverage
186 written in this state by authorized insurers, this section
187 supersedes any other provision in the Florida Insurance Code in
188 the event of a conflict.

189 (10) If federal law or rule requires a certification by a
190 state insurance regulatory official as a condition of qualifying
191 for private flood insurance or disaster assistance, the
192 Commissioner of Insurance Regulation may provide the
193 certification, and such certification is not subject to review
194 under chapter 120.

195 (11) (a) An authorized insurer offering flood insurance may
196 request the office to certify that a policy, contract, or
197 endorsement provides coverage for the peril of flood which
198 equals or exceeds the flood coverage offered by the National
199 Flood Insurance Program. To be eligible for certification, such
200 policy, contract, or endorsement must contain a provision
201 stating that it meets the private flood insurance requirements
202 specified in 42 U.S.C. s. 4012a(b) and may not contain any
203 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

204 (b) The authorized insurer or its agent may reference or
205 include a certification under paragraph (a) in advertising or
206 communications with an agent, a lending institution, an insured,

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207 or a potential insured only for a policy, contract, or
208 endorsement that is certified under this subsection. The
209 authorized insurer may include a statement that notifies an
210 insured of the certification on the declarations page or other
211 policy documentation related to flood coverage certified under
212 this subsection.

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

216 Section 3. This act shall take effect July 1, 2017.