

By the Committee on Banking and Insurance; and 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.; authorizing certain  
8       insurers to issue insurance policies, contracts, or  
9       endorsements providing certain excess coverage for the  
10      peril of flood; revising applicability; authorizing an  
11      insurer to issue flood insurance policies on a  
12      flexible basis; extending the last date of filing with  
13      the Office of Insurance Regulation of certain flood  
14      coverage rates that may be established and used by an  
15      insurer; specifying a condition for an eligible  
16      surplus lines insurer before a surplus lines agent may  
17      be excepted from a diligent-effort requirement when  
18      exporting flood insurance contracts or endorsements to  
19      the insurer; deleting the expiration date of the  
20      exception; revising applicability of certain  
21      notification and filing requirements; revising  
22      provisions related to an acknowledgment required  
23      before the procurement of a private flood insurance  
24      policy for property currently insured under the  
25      National Flood Insurance Program; providing an  
26      effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Paragraph (f) of subsection (3) of section  
31 627.0628, Florida Statutes, is amended to read:

32 627.0628 Florida Commission on Hurricane Loss Projection  
33 Methodology; public records exemption; public meetings  
34 exemption.—

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

36 (f) The commission shall revise previously adopted  
37 actuarial methods, principles, standards, models, or output  
38 ranges every odd-numbered year for hurricane loss projections.  
39 The commission shall revise previously adopted actuarial  
40 methods, principles, standards, models, or output ranges no less  
41 than every 4 years for flood loss projections.

42 Section 2. Section 627.715, Florida Statutes, is amended to  
43 read:

44 627.715 Flood insurance.—An authorized insurer may issue an  
45 insurance policy, contract, or endorsement providing personal  
46 lines residential coverage for the peril of flood or excess  
47 coverage for the peril of flood on any structure or the contents  
48 of personal property contained therein, subject to this section.  
49 This section does not apply to commercial lines residential or  
50 commercial lines nonresidential coverage for the peril of flood.  
51 ~~This section also does not apply to coverage for the peril of~~  
52 ~~flood that is excess coverage over any other insurance covering~~  
53 ~~the peril of flood.~~ An insurer may issue flood insurance  
54 policies, contracts, or endorsements on a standard, preferred,  
55 customized, flexible, or supplemental basis.

56 (1) (a) Except for excess flood insurance policies, policies  
57 issued under this section include:

58 1. Standard flood insurance, which must cover only losses

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59 from the peril of flood, as defined in paragraph (b), equivalent  
60 to that provided under a standard flood insurance policy under  
61 the National Flood Insurance Program. Standard flood insurance  
62 issued under this section must provide the same coverage,  
63 including deductibles and adjustment of losses, as that provided  
64 under a standard flood insurance policy under the National Flood  
65 Insurance Program.

66 2. Preferred flood insurance, which must include the same  
67 coverage as standard flood insurance but:

68 a. Include, within the definition of "flood," losses from  
69 water intrusion originating from outside the structure that are  
70 not otherwise covered under the definition of "flood" provided  
71 in paragraph (b).

72 b. Include coverage for additional living expenses.

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

76 3. Customized flood insurance, which must include coverage  
77 that is broader than the coverage provided under standard flood  
78 insurance.

79 4. Flexible flood insurance, which must cover losses from  
80 the peril of flood, as defined in paragraph (b), and may also  
81 include coverage for losses from water intrusion originating  
82 from outside the structure which is not otherwise covered by the  
83 definition of flood. Flexible flood insurance must include one  
84 or more of the following provisions:

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

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88 applicable to the covered property.

89 b. A requirement for a deductible in an amount authorized  
90 under s. 627.701, including a deductible in an amount authorized  
91 for hurricanes.

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

95 d. A restriction limiting flood coverage to the principal  
96 building defined in the policy.

97 e. A provision including or excluding coverage for  
98 additional living expenses.

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

101 5. Supplemental flood insurance, which may provide coverage  
102 designed to supplement a flood policy obtained from the National  
103 Flood Insurance Program or from an insurer issuing standard or  
104 preferred flood insurance pursuant to this section. Supplemental  
105 flood insurance may provide, but need not be limited to,  
106 coverage for jewelry, art, deductibles, and additional living  
107 expenses.

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

112 1. Overflow of inland or tidal waters;

113 2. Unusual and rapid accumulation or runoff of surface  
114 waters from any source;

115 3. Mudflow; or

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

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117 or similar body of water as a result of erosion or undermining  
118 caused by waves or currents of water exceeding anticipated  
119 cyclical levels that result in a flood as defined in this  
120 paragraph.

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

124 (3) (a) An insurer may establish and use flood coverage  
125 rates in accordance with the rate standards provided in s.  
126 627.062.

127 (b) For flood coverage rates filed with the office before  
128 October 1, 2025 ~~2019~~, the insurer may also establish and use  
129 such rates in accordance with the rates, rating schedules, or  
130 rating manuals filed by the insurer with the office which allow  
131 the insurer a reasonable rate of return on flood coverage  
132 written in this state. Flood coverage rates established pursuant  
133 to this paragraph are not subject to s. 627.062(2) (a) and (f).  
134 An insurer shall notify the office of any change to such rates  
135 within 30 days after the effective date of the change. The  
136 notice must include the name of the insurer and the average  
137 statewide percentage change in rates. Actuarial data with regard  
138 to such rates for flood coverage must be maintained by the  
139 insurer for 2 years after the effective date of such rate change  
140 and is subject to examination by the office. The office may  
141 require the insurer to incur the costs associated with an  
142 examination. Upon examination, the office, in accordance with  
143 generally accepted and reasonable actuarial techniques, shall  
144 consider the rate factors in s. 627.062(2) (b), (c), and (d), and  
145 the standards in s. 627.062(2) (e), to determine if the rate is

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146 excessive, inadequate, or unfairly discriminatory. If the office  
147 determines that a rate is excessive or unfairly discriminatory,  
148 the office shall require the insurer to provide appropriate  
149 credit to affected insureds or an appropriate refund to affected  
150 insureds who no longer receive coverage from the insurer.

151 (4) A surplus lines agent may export a contract or endorsement  
152 providing flood coverage to an eligible surplus lines insurer  
153 without making a diligent effort to seek such coverage from  
154 three or more authorized insurers under s. 626.916(1) if the  
155 surplus lines insurer maintains a superior, excellent,  
156 exceptional, or equivalent financial strength rating by a rating  
157 agency acceptable to the office ~~s. 626.916(1)(a). This~~  
158 ~~subsection expires July 1, 2017.~~

159 (5) In addition to any other applicable requirements, an  
160 insurer providing flood coverage that is not excess coverage in  
161 this state must:

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

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

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

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

172 (8) When procuring a private flood insurance policy from an  
173 authorized insurer or a surplus lines insurer for a property  
174 that is currently insured under the National Flood Insurance

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175 Program, an agent must receive an acknowledgment signed by the  
176 applicant within 20 days before the expiration date of the  
177 current coverage. The acknowledgment must notify the applicant  
178 that the full risk rate for flood insurance may apply to the  
179 property if such insurance is later obtained under the National  
180 Flood Insurance Program. If the agent does not receive the  
181 acknowledgment, the private flood insurance policy must be  
182 canceled and the premium must be remitted to a participant in  
183 the National Flood Insurance Program ~~An agent must, upon~~  
184 ~~receiving an application for flood coverage from an authorized~~  
185 ~~or surplus lines insurer for a property receiving flood~~  
186 ~~insurance under the National Flood Insurance Program, obtain an~~  
187 ~~acknowledgment signed by the applicant before placing the~~  
188 ~~coverage with the authorized or surplus lines insurer. The~~  
189 ~~acknowledgment must notify the applicant that, if the applicant~~  
190 ~~discontinues coverage under the National Flood Insurance Program~~  
191 ~~which is provided at a subsidized rate, the full risk rate for~~  
192 ~~flood insurance may apply to the property if the applicant later~~  
193 ~~seeks to reinstate coverage under the program.~~

194 (9) With respect to the regulation of flood coverage  
195 written in this state by authorized insurers, this section  
196 supersedes any other provision in the Florida Insurance Code in  
197 the event of a conflict.

198 (10) If federal law or rule requires a certification by a  
199 state insurance regulatory official as a condition of qualifying  
200 for private flood insurance or disaster assistance, the  
201 Commissioner of Insurance Regulation may provide the  
202 certification, and such certification is not subject to review  
203 under chapter 120.

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204 (11) (a) An authorized insurer offering flood insurance may  
205 request the office to certify that a policy, contract, or  
206 endorsement provides coverage for the peril of flood which  
207 equals or exceeds the flood coverage offered by the National  
208 Flood Insurance Program. To be eligible for certification, such  
209 policy, contract, or endorsement must contain a provision  
210 stating that it meets the private flood insurance requirements  
211 specified in 42 U.S.C. s. 4012a(b) and may not contain any  
212 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

213 (b) The authorized insurer or its agent may reference or  
214 include a certification under paragraph (a) in advertising or  
215 communications with an agent, a lending institution, an insured,  
216 or a potential insured only for a policy, contract, or  
217 endorsement that is certified under this subsection. The  
218 authorized insurer may include a statement that notifies an  
219 insured of the certification on the declarations page or other  
220 policy documentation related to flood coverage certified under  
221 this subsection.

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

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