

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

26 National Flood Insurance Program; providing an
 27 effective date.

28

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

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31 Section 1. Paragraph (f) of subsection (3) of section
 32 627.0628, Florida Statutes, is amended to read:

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

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

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

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

45 627.715 Flood insurance.—An authorized insurer may issue
 46 an insurance policy, contract, or endorsement providing personal
 47 lines residential coverage for the peril of flood or excess
 48 coverage for the peril of flood on any structure or the contents
 49 of personal property contained therein, subject to this section.
 50 This section does not apply to commercial lines residential or

51 commercial lines nonresidential coverage for the peril of flood.
52 ~~This section also does not apply to coverage for the peril of~~
53 ~~flood that is excess coverage over any other insurance covering~~
54 ~~the peril of flood.~~ An insurer may issue flood insurance
55 policies, contracts, ~~or~~ endorsements, or excess coverage on a
56 standard, preferred, customized, flexible, or supplemental
57 basis.

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

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

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

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

74 b. Include coverage for additional living expenses.

75 c. Require that any loss under personal property or

76 contents coverage that is repaired or replaced be adjusted only
77 on the basis of replacement costs up to the policy limits.

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

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

87 a. An agreement between the insurer and the insured that
88 the flood coverage is in a specified amount, such as coverage
89 that is limited to the total amount of each outstanding mortgage
90 applicable to the covered property.

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

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

97 d. A restriction limiting flood coverage to the principal
98 building defined in the policy.

99 e. A provision including or excluding coverage for
100 additional living expenses.

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

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

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

- 114 1. Overflow of inland or tidal waters;
- 115 2. Unusual and rapid accumulation or runoff of surface
116 waters from any source;
- 117 3. Mudflow; or
- 118 4. Collapse or subsidence of land along the shore of a
119 lake or similar body of water as a result of erosion or
120 undermining caused by waves or currents of water exceeding
121 anticipated cyclical levels that result in a flood as defined in
122 this paragraph.

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

126 (3) (a) An insurer may establish and use flood coverage
127 rates in accordance with the rate standards provided in s.
128 627.062.

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

151 credit to affected insureds or an appropriate refund to affected
 152 insureds who no longer receive coverage from the insurer.

153 (4) A surplus lines agent may export a contract or
 154 endorsement providing flood coverage to an eligible surplus
 155 lines insurer without making a diligent effort to seek such
 156 coverage from three or more authorized insurers under s.
 157 626.916(1) if the surplus lines insurer maintains a financial
 158 strength rating of "superior" or "excellent" by A.M. Best Rating
 159 Services s. ~~626.916(1)(a)~~. This subsection expires July 1, 2025
 160 2017.

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

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

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

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

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

174 (8) When procuring a private flood insurance policy from
 175 an authorized insurer or a surplus lines insurer for a property

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

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

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

201 state insurance regulatory official as a condition of qualifying
202 for private flood insurance or disaster assistance, the
203 Commissioner of Insurance Regulation may provide the
204 certification, and such certification is not subject to review
205 under chapter 120.

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

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

224 (c) An insurer or agent who knowingly misrepresents that a
225 flood policy, contract, or endorsement is certified under this

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226 | subsection commits an unfair or deceptive act under s. 626.9541.
227 | Section 3. This act shall take effect July 1, 2017.