

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 617 Homeowners' Insurance Policy Disclosures
SPONSOR(S): Insurance & Banking Subcommittee; Newton
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 380, SB 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Lloyd	Luczynski
2) Government Operations & Technology Appropriations Subcommittee	9 Y, 0 N	Helpling	Topp
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Insurance Code requires that insurance policies, depending on the type of coverage, include specific content to provide consumers with important information or ensure consistency and readability of insurance contracts from different insurers. Such provisions may establish requirements regarding content, print type or size, and appearance (e.g., bold type or all capitalized text).

As of January 1, 2019, the notice for homeowner's property insurance policies was changed to clarify the information concerning flood insurance, as follows:

"LAW AND ORDINANCE: LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

Some insurers now offer homeowner's policies that include flood coverage; consequently, the current version of the notice is inaccurate and confusing because it states that the policy does not cover flood losses. Since the current statute requires all homeowner's policies to include the flood insurance portion of the notice, the Office of Insurance Regulation is without authority to approve a homeowner's policy form without the flood insurance portion of the notice.

The bill requires the flood insurance portion of the notice only when the policy does not include flood coverage.

The bill has no effect on state or local government revenues or expenditures. The bill has indeterminate impacts on the private sector.

The bill is effective July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Florida Insurance Code¹ requires that insurance policies, depending on the type of coverage, include specific content to provide consumers with important information or ensure consistency and readability of insurance contracts from different insurers. Such provisions may establish requirements regarding content, print type or size, and appearance (e.g., bold type or all capitalized text). Examples include the following:

- Structured settlement transfers must include a disclosure statement in no less than 14-point type with specified elements;²
- Life insurance policies and health insurance policies must be in a light faced type of a style in general use in a uniform size of at least 10-point type with a lowercase alphabet spacing of not less than 120 points.³
- Property insurance policies that exclude sinkhole coverage must include the following statement in bold 14-point type:

“YOUR POLICY PROVIDES COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE, YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN ADDITIONAL PREMIUM.”⁴

- Motor vehicle policies must include the following statement in bold 12-point type, depending on whether or how much uninsured motorist coverage is purchased:

“You are electing not to purchase certain valuable coverage which protects you and your family or you are purchasing uninsured motorist limits less than your bodily injury liability limits when you sign this form. Please read carefully.”⁵

- Premium finance agreements must include the following in bold 10-point type:

“PREMIUM FINANCE AGREEMENT”

in addition, the following in bold 8-point type:

“NOTICE:

1. Do not sign this agreement before you read it or if it contains any blank space.
2. You are entitled to a completely filled-in copy of this agreement.
3. Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge.”⁶

¹ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the “Florida Insurance Code.” S. 624.01, F.S.

² S. 626.99296(3)(a)2., F.S.

³ Ss. 627.452(4) and 627.602(1)(d), F.S.

⁴ S. 627.706(3), F.S.

⁵ S. 627.727(1), F.S.

⁶ S. 627.839(2)(b), F.S. Also, premium finance agreements that include coverage required by the Financial Responsibility Law of 1955, ch. 324, F.S., must include the following statement in 12-point type: “proof of financial responsibility is required to be maintained continuously for a period of 3 years, pursuant to chapter 324, and the operation of a vehicle without such financial responsibility is unlawful.” S. 627.848(1)(b), F.S.

- Homeowner’s property insurance policies must include the following statement in bold 18-point type:

"LAW AND ORDINANCE: LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."⁷

If the policy includes a separate hurricane deductible, it must include the following in bold 18-point type:

"THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."⁸

If the policy contains a hurricane coinsurance provision, it must include the following in bold 18-point type:

"THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."⁹

Prior to 2019, the law required a shorter version of the notice language related to flood insurance.¹⁰ Effective January 1, 2019, the Legislature amended the law to require the flood insurance notice described above.¹¹ The former version of the notice was brief and referenced the National Flood Insurance Program¹² as the source of available flood coverage. Recent legislative efforts have encouraged the development of a Florida flood insurance market.¹³ Subsequently, the Florida flood insurance market has grown.¹⁴ The revised notice was meant to provide a more complete and understandable statement regarding flood insurance issues and help consumers understand the options they need to consider when purchasing a homeowner’s policy.

⁷ S. 627.7011(4), F.S.

⁸ S. 627.701(4)(a), F.S.

⁹ *Id.*

¹⁰ Prior to 2018, s. 627.7011(4), F.S., required the following notice on all homeowner’s policies:

"LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

¹¹ Ch. 2018-63, Laws of Fla.

¹² The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968 to offer federally-subsidized flood insurance to property owners and to promote land-use controls in floodplains. The NFIP is administered by the Federal Emergency Management Agency (FEMA). The federal government will make flood insurance available within a community, if that community adopts and enforces a floodplain management ordinance to reduce future flood risk to new construction in floodplains. FEMA, National Flood Insurance Program, Program Description, (Aug. 1, 2002), <https://www.fema.gov/media-library/assets/documents/1150?id=1480> (last visited Feb. 15, 2019). The NFIP charges less than actuarially sound rates and has been the subject of multiple federal acts to address the solvency of the NFIP and bring the rates to an actuarially sound level over time. FEMA, National Flood Insurance Program: Laws & Regulations, <https://www.fema.gov/national-flood-insurance-program-laws-regulations> (last visited Feb. 15, 2019). Nationally, the NFIP insured about \$1.3 trillion in assets, as of Sept. 30, 2018, and had 1,770,452 Florida policies in force associated with \$974,338,089 in written premium. FEMA, Policy Statistics, <https://bsa.nfipstat.fema.gov/reports/1011.htm> (last visited Feb. 15, 2019).

¹³ Chs. 2014-80, 2015-69, 2017-63, and 2017-142, Laws of Fla.

¹⁴ The Office of Insurance Regulation reports that, as of September 1, 2018, 29 insurers are eligible to write primary private flood insurance in Florida, which is a 45 percent increase since June 2017, and additional flood insurer admissions are pending. As of June 30, 2017, Florida insurers had 26,585 policies in force, as of September 1, 2018, the number of policies increased to 50,438 policies with \$59,065,769 in total premium. Email from Caitlin Murray, Director of Legislative Affairs, Florida Office of Insurance Regulation, RE: Status of the Florida Flood Insurance Market (Jan. 10, 2019).

The revised notice has created a conflict. Currently, a homeowner's policy must state that it does not include flood; however, some insurers now offer homeowner's policies that include flood coverage. Since statute requires the notice, the Office of Insurance Regulation is without authority to approve a homeowner's policy form without the notice.

Effect of the Bill

The bill addresses the conflict of requiring a notice that states the homeowner's policy does not include flood coverage, when the policy does cover flood. The bill requires the notice only when the policy does not include flood coverage.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.7011, F.S., relating to homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.

Section 2. Providing an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill requires insurance companies to file new forms in certain circumstances. Insurers and consumers will benefit from forms that do not include notices that contradict the actual coverage issued.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2019, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment changed the bill title from "homeowners' insurance policies" to "homeowners' insurance policy disclosures" to narrow the title of the bill and make it identical to the Senate companion bill.

The staff analysis has been updated to reflect the committee substitute.