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2023 Legislature

1
 2 An act relating to property insurance; amending s.
 3 627.062, F.S.; requiring residential property
 4 insurance rate filings to account for windstorm
 5 mitigation measures undertaken by policyholders;
 6 amending s. 627.0629, F.S.; requiring wind uplift
 7 prevention to be included in windstorm damage
 8 mitigation techniques for residential property
 9 insurance rate filings; amending s. 627.351, F.S.;
 10 revising rate change limitations for specified
 11 policies written by the Citizens Property Insurance
 12 Corporation; revising the applicability of flood
 13 coverage requirements for personal lines residential
 14 policyholders of the corporation; authorizing the
 15 corporation to adopt policy forms that provide for the
 16 resolution of certain disputes in proceedings before
 17 the Division of Administrative Hearings; providing
 18 that such policies are not subject to mandatory
 19 binding arbitration provisions; specifying applicable
 20 requirements, procedures, and restrictions relating to
 21 such proceedings; creating s. 627.7155, F.S.;
 22 prohibiting a property insurer that requires flood
 23 coverage as a condition for wind coverage from denying
 24 certain claims except under certain circumstances;
 25 specifying a type of acceptable proof of coverage;

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26 providing an appropriation; requiring a wind-loss
 27 mitigation study conducted by the Office of Insurance
 28 Regulation; providing requirements for the study;
 29 providing reporting requirements; providing effective
 30 dates.

31
 32 Be It Enacted by the Legislature of the State of Florida:

33
 34 Section 1. Paragraph (j) of subsection (2) of section
 35 627.062, Florida Statutes, is amended to read:

36 627.062 Rate standards.—

37 (2) As to all such classes of insurance:

38 (j) With respect to residential property insurance rate
 39 filings, the rate filing must account for mitigation measures
 40 undertaken by policyholders to reduce hurricane losses and
 41 windstorm losses.

42
 43 The provisions of this subsection do not apply to workers'
 44 compensation, employer's liability insurance, and motor vehicle
 45 insurance.

46 Section 2. Subsection (1) of section 627.0629, Florida
 47 Statutes, is amended to read:

48 627.0629 Residential property insurance; rate filings.—

49 (1) It is the intent of the Legislature that insurers
 50 provide savings to consumers who install or implement windstorm

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51 damage mitigation techniques, alterations, or solutions to their
52 properties to prevent windstorm losses. A rate filing for
53 residential property insurance must include actuarially
54 reasonable discounts, credits, or other rate differentials, or
55 appropriate reductions in deductibles, for properties on which
56 fixtures or construction techniques demonstrated to reduce the
57 amount of loss in a windstorm have been installed or
58 implemented. The fixtures or construction techniques must
59 include, but are not limited to, fixtures or construction
60 techniques that enhance wind uplift prevention, roof strength,
61 roof covering performance, roof-to-wall strength, wall-to-floor-
62 to-foundation strength, opening protection, and window, door,
63 and skylight strength. Credits, discounts, or other rate
64 differentials, or appropriate reductions in deductibles, for
65 fixtures and construction techniques that meet the minimum
66 requirements of the Florida Building Code must be included in
67 the rate filing. The office shall determine the discounts,
68 credits, other rate differentials, and appropriate reductions in
69 deductibles that reflect the full actuarial value of such
70 revaluation, which may be used by insurers in rate filings.

71 Section 3. Effective upon becoming a law, paragraphs (n)
72 and (aa) of subsection (6) of section 627.351, Florida Statutes,
73 are amended, and paragraph (ll) is added to that subsection, to
74 read:

75 627.351 Insurance risk apportionment plans.—

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76 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

77 (n)1. Rates for coverage provided by the corporation must
 78 be actuarially sound pursuant to s. 627.062 and not competitive
 79 with approved rates charged in the admitted voluntary market so
 80 that the corporation functions as a residual market mechanism to
 81 provide insurance only when insurance cannot be procured in the
 82 voluntary market, except as otherwise provided in this
 83 paragraph. The office shall provide the corporation such
 84 information as would be necessary to determine whether rates are
 85 competitive. The corporation shall file its recommended rates
 86 with the office at least annually. The corporation shall provide
 87 any additional information regarding the rates which the office
 88 requires. The office shall consider the recommendations of the
 89 board and issue a final order establishing the rates for the
 90 corporation within 45 days after the recommended rates are
 91 filed. The corporation may not pursue an administrative
 92 challenge or judicial review of the final order of the office.

93 2. In addition to the rates otherwise determined pursuant
 94 to this paragraph, the corporation shall impose and collect an
 95 amount equal to the premium tax provided in s. 624.509 to
 96 augment the financial resources of the corporation.

97 3. After the public hurricane loss-projection model under
 98 s. 627.06281 has been found to be accurate and reliable by the
 99 Florida Commission on Hurricane Loss Projection Methodology, the
 100 model shall be considered when establishing the windstorm

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101 | portion of the corporation's rates. The corporation may use the
102 | public model results in combination with the results of private
103 | models to calculate rates for the windstorm portion of the
104 | corporation's rates. This subparagraph does not require or allow
105 | the corporation to adopt rates lower than the rates otherwise
106 | required or allowed by this paragraph.

107 | 4. The corporation must make a recommended actuarially
108 | sound rate filing for each personal and commercial line of
109 | business it writes.

110 | 5. Notwithstanding the board's recommended rates and the
111 | office's final order regarding the corporation's filed rates
112 | under subparagraph 1., the corporation shall annually implement
113 | a rate increase which, except for sinkhole coverage, does not
114 | exceed the following for any single policy issued by the
115 | corporation, excluding coverage changes and surcharges:

- 116 | a. Twelve percent for 2023.
117 | b. Thirteen percent for 2024.
118 | c. Fourteen percent for 2025.
119 | d. Fifteen percent for 2026 and all subsequent years.

120 | 6. The corporation may also implement an increase to
121 | reflect the effect on the corporation of the cash buildup factor
122 | pursuant to s. 215.555(5)(b).

123 | 7. The corporation's implementation of rates as prescribed
124 | in subparagraphs 5. and 8. shall cease for any line of business
125 | written by the corporation upon the corporation's implementation

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126 of actuarially sound rates. Thereafter, the corporation shall
 127 annually make a recommended actuarially sound rate filing that
 128 is not competitive with approved rates in the admitted voluntary
 129 market for each commercial and personal line of business the
 130 corporation writes.

131 8. The following ~~For any~~ new or renewal personal lines
 132 policies ~~policy~~ written on or after November 1, 2023, are ~~which~~
 133 ~~does not cover a primary residence, the rate to be applied in~~
 134 ~~calculating premium is~~ not subject to the rate increase
 135 limitations in subparagraph 5., but ~~However, the policyholder~~
 136 may not be charged more than 50 percent above, nor less than,
 137 the prior year's ~~and may not be charged less than, the~~
 138 established rate for the corporation; ~~which was in effect 1 year~~
 139 ~~before the date of the application~~

140 a. Policies that do not cover a primary residence;

141 b. New policies under which the coverage for the insured
 142 risk, before the date of application with the corporation, was
 143 last provided by an insurer determined by the office to be
 144 unsound or an insurer placed in receivership under chapter 631;
 145 or

146 c. Subsequent renewals of those policies, including the
 147 new policies in sub-subparagraph b., under which the coverage
 148 for the insured risk, before the date of application with the
 149 corporation, was last provided by an insurer determined by the
 150 office to be unsound or an insurer placed in receivership under

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151 chapter 631.

152 9. As used in this paragraph, the term "primary residence"
 153 means the dwelling that is the policyholder's primary home or is
 154 a rental property that is the primary home of the tenant, and
 155 which the policyholder or tenant occupies for more than 9 months
 156 of each year.

157 (aa) Except as otherwise provided in this paragraph, the
 158 corporation shall require the securing and maintaining of flood
 159 insurance as a condition of coverage of a personal lines
 160 residential risk. The insured or applicant must execute a form
 161 approved by the office affirming that flood insurance is not
 162 provided by the corporation and that if flood insurance is not
 163 secured by the applicant or insured from an insurer other than
 164 the corporation and in addition to coverage by the corporation,
 165 the risk will not be eligible for coverage by the corporation.
 166 The corporation may deny coverage of a personal lines
 167 residential risk to an applicant or insured who refuses to
 168 secure and maintain flood insurance. The requirement to purchase
 169 flood insurance shall be implemented as follows:

170 1. Except as provided in subparagraphs 2. and 3., all
 171 personal lines residential policyholders must have flood
 172 coverage in place for policies effective on or after:

173 a. January 1, 2024, for a structure that has a dwelling
 174 replacement cost of ~~property valued at~~ \$600,000 or more.

175 b. January 1, 2025, for a structure that has a dwelling

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176 replacement cost of property ~~valued at~~ \$500,000 or more.

177 c. January 1, 2026, for a structure that has a dwelling
 178 replacement cost of property ~~valued at~~ \$400,000 or more.

179 d. January 1, 2027, for all other personal lines
 180 residential property insured by the corporation.

181 2. All personal lines residential policyholders whose
 182 property insured by the corporation is located within the
 183 special flood hazard area defined by the Federal Emergency
 184 Management Agency must have flood coverage in place:

185 a. At the time of initial policy issuance for all new
 186 personal lines residential policies issued by the corporation on
 187 or after April 1, 2023.

188 b. By the time of the policy renewal for all personal
 189 lines residential policies renewing on or after July 1, 2023.

190 3. Policyholders ~~whose policies issued by the corporation~~
 191 ~~do not provide coverage for the peril of wind~~ are not required
 192 to purchase flood insurance as a condition for maintaining the
 193 following their policies issued by ~~with~~ the corporation:

194 a. Policies that do not provide coverage for the peril of
 195 wind.

196 b. Policies that provide coverage under a condominium unit
 197 owners form.

198
 199 The flood insurance required under this paragraph must meet, at
 200 a minimum, the coverage available from the National Flood

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201 Insurance Program or the requirements of subparagraphs s.
 202 627.715(1) (a)1., 2., and 3.

203 (11) In addition to any other method of alternative
 204 dispute resolution authorized by state law, the corporation may
 205 adopt policy forms that provide for the resolution of disputes
 206 regarding its claim determinations, including disputes regarding
 207 coverage for, or the scope and value of, a claim, in a
 208 proceeding before the Division of Administrative Hearings. Any
 209 such policies are not subject to s. 627.70154. All proceedings
 210 in the Division of Administrative Hearings pursuant to such
 211 policies are subject to ss. 57.105 and 768.79 as if filed in the
 212 courts of this state and are not considered chapter 120
 213 administrative proceedings. Rule 1.442, Florida Rules of Civil
 214 Procedure, applies to any offer served pursuant to s. 768.79,
 215 except that, notwithstanding any provision in Rule 1.442,
 216 Florida Rules of Civil Procedure, to the contrary, an offer
 217 shall not be served earlier than 10 days after filing the
 218 request for hearing with the Division of Administrative Hearings
 219 and shall not be served later than 10 days before the date set
 220 for the final hearing. The administrative law judge in such
 221 proceedings shall award attorney fees and other relief pursuant
 222 to ss. 57.105 and 768.79. The corporation may not seek, and the
 223 office may not approve, a maximum hourly rate for attorney fees.

224 Section 4. Effective October 1, 2023, section 627.7155,
 225 Florida Statutes, is created to read:

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226 627.7155 Wind and flood coverage in residential and
 227 commercial property insurance policies.—For residential and
 228 commercial property insurance policies issued or renewed on or
 229 after October 1, 2023:

230 (1) If a residential or commercial property insurer
 231 requires that an insured or applicant have coverage for the
 232 peril of flood when the insurer issues a policy covering the
 233 peril of wind, unless the insurer verifies that the insured or
 234 applicant has coverage for the peril of flood at the time the
 235 policy was issued or renewed, the insurer may not deny a claim
 236 for wind solely because the insured does not have coverage for
 237 the peril of flood, unless flood coverage that was verified at
 238 the time of application or renewal, or equivalent coverage, is
 239 not in force at the time of the loss.

240 (2) In addition to coverage for the peril of flood
 241 directly secured by the insured or applicant, a master flood
 242 policy that is issued to someone other than the insured or
 243 applicant and that includes the insured or applicant as an
 244 intended or third-party beneficiary under the master flood
 245 policy is acceptable proof of coverage for the peril of flood
 246 for the purposes of this section.

247 Section 5. For the 2023-2024 fiscal year, the nonrecurring
 248 sum of \$750,000 from the Insurance Regulatory Trust Fund is
 249 appropriated to the Office of Insurance Regulation to
 250 competitively procure a wind-loss mitigation study. The office,

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251 in consultation with the Department of Business and Professional
252 Regulation and the Florida Building Commission, shall conduct a
253 residential wind-loss mitigation study to evaluate the windstorm
254 loss relativities for construction features, including, but not
255 limited to, wind uplift prevention, methods and devices to
256 prevent water intrusion through the tracks of sliding glass
257 doors, and those that enhance roof strength; roof covering
258 performance; roof-to-wall strength; wall-to-floor-to-foundation
259 strength; opening protections; and window, door, and skylight
260 strength. The study must include single-family and multifamily
261 homes, mobile homes, and manufactured housing. In addition, the
262 study must include, but need not be limited to, an analysis of
263 developed hurricane loss data for hurricanes since June 1, 2018.
264 The office may use a portion of the funds appropriated to
265 contract separately with building code experts in order to
266 implement this act and adopt rules. The findings of the study
267 shall be reported to the Governor, the President of the Senate,
268 the Speaker of the House of Representatives, the Chief Financial
269 Officer, and the Commissioner of Insurance Regulation no later
270 than July 1, 2024.

271 Section 6. Except as otherwise expressly provided in this
272 act and except for this section, which shall take effect upon
273 this act becoming a law, this act shall take effect July 1,
274 2023.