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1
2 An act relating to the peril of flood; amending s.
3 163.3178, F.S.; specifying requirements for the
4 coastal management element required for a local
5 government comprehensive plan; creating s. 472.0366,
6 F.S.; defining terms; requiring a surveyor and mapper
7 to submit a copy of each elevation certificate that he
8 or she completes to the Division of Emergency
9 Management within a specified period beginning on a
10 specified date; authorizing the redaction of certain
11 personal information from the copy; amending s.
12 627.715, F.S.; authorizing flexible flood insurance;
13 specifying coverage requirements; deleting a provision
14 that prohibits supplemental flood insurance from
15 including excess coverage over any other insurance
16 covering the peril of flood; revising the information
17 that must be prominently noted on a certain page of a
18 flood insurance policy; requiring the Office of
19 Insurance Regulation to require an insurer to provide
20 an appropriate credit or refund to affected insureds
21 if the office determines that a rate of the insurer is
22 excessive or unfairly discriminatory; revising the
23 notice that must be provided to and acknowledged by an
24 applicant for flood coverage from an authorized or
25 surplus lines insurer if the applicant's property is
26 receiving flood insurance under the National Flood
27 Insurance Program; allowing an authorized insurer to
28 request a certification from the office which
29 indicates that a policy, contract, or endorsement

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30 issued by the insurer provides coverage for the peril
31 of flood which equals or exceeds the flood coverage
32 offered by the National Flood Insurance Program;
33 specifying requirements for such certification;
34 authorizing such insurer or its agent to reference or
35 include the certification in specified advertising,
36 communications, and documentation; providing that
37 misrepresenting that a flood policy, contract, or
38 endorsement is certified is an unfair or deceptive
39 act; providing an effective date.
40

41 Be It Enacted by the Legislature of the State of Florida:
42

43 Section 1. Paragraph (f) of subsection (2) of section
44 163.3178, Florida Statutes, is amended to read:

45 163.3178 Coastal management.—

46 (2) Each coastal management element required by s.
47 163.3177(6)(g) shall be based on studies, surveys, and data; be
48 consistent with coastal resource plans prepared and adopted
49 pursuant to general or special law; and contain:

50 (f) A redevelopment component that ~~which~~ outlines the
51 principles that must ~~which shall~~ be used to eliminate
52 inappropriate and unsafe development in the coastal areas when
53 opportunities arise. The component must:

54 1. Include development and redevelopment principles,
55 strategies, and engineering solutions that reduce the flood risk
56 in coastal areas which results from high-tide events, storm
57 surge, flash floods, stormwater runoff, and the related impacts
58 of sea-level rise.

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59 2. Encourage the use of best practices development and
60 redevelopment principles, strategies, and engineering solutions
61 that will result in the removal of coastal real property from
62 flood zone designations established by the Federal Emergency
63 Management Agency.

64 3. Identify site development techniques and best practices
65 that may reduce losses due to flooding and claims made under
66 flood insurance policies issued in this state.

67 4. Be consistent with, or more stringent than, the flood-
68 resistant construction requirements in the Florida Building Code
69 and applicable flood plain management regulations set forth in
70 44 C.F.R. part 60.

71 5. Require that any construction activities seaward of the
72 coastal construction control lines established pursuant to s.
73 161.053 be consistent with chapter 161.

74 6. Encourage local governments to participate in the
75 National Flood Insurance Program Community Rating System
76 administered by the Federal Emergency Management Agency to
77 achieve flood insurance premium discounts for their residents.

78 Section 2. Section 472.0366, Florida Statutes, is created
79 to read:

80 472.0366 Elevation certificates; requirements for surveyors
81 and mappers.-

82 (1) As used in this section, the term:

83 (a) "Division" means the Division of Emergency Management
84 established within the Executive Office of the Governor under s.
85 14.2016.

86 (b) "Elevation certificate" means the certificate used to
87 demonstrate the elevation of property which has been developed

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88 by the Federal Emergency Management Agency pursuant to federal
89 floodplain management regulation and which is completed by a
90 surveyor and mapper.

91 (2) Beginning January 1, 2017, a surveyor and mapper shall,
92 within 30 days after completion, submit to the division a copy
93 of each elevation certificate that he or she completes. The copy
94 must be unaltered, except that the surveyor and mapper may
95 redact the name of the property owner.

96 Section 3. Section 627.715, Florida Statutes, is amended to
97 read:

98 627.715 Flood insurance.—An authorized insurer may issue an
99 insurance policy, contract, or endorsement providing personal
100 lines residential coverage for the peril of flood on any
101 structure or the contents of personal property contained
102 therein, subject to this section. This section does not apply to
103 commercial lines residential or commercial lines nonresidential
104 coverage for the peril of flood. This section also does not
105 apply to coverage for the peril of flood that is excess coverage
106 over any other insurance covering the peril of flood. An insurer
107 may issue flood insurance policies, contracts, or endorsements
108 on a standard, preferred, customized, or supplemental basis.

109 (1) (a) 1. Standard flood insurance must cover only losses
110 from the peril of flood, as defined in paragraph (b), equivalent
111 to that provided under a standard flood insurance policy under
112 the National Flood Insurance Program. Standard flood insurance
113 issued under this section must provide the same coverage,
114 including deductibles and adjustment of losses, as that provided
115 under a standard flood insurance policy under the National Flood
116 Insurance Program.

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117 2. Preferred flood insurance must include the same coverage
118 as standard flood insurance but:

119 a. Include, within the definition of "flood," losses from
120 water intrusion originating from outside the structure that are
121 not otherwise covered under the definition of "flood" provided
122 in paragraph (b).

123 b. Include coverage for additional living expenses.

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

127 3. Customized flood insurance must include coverage that is
128 broader than the coverage provided under standard flood
129 insurance.

130 4. Flexible flood insurance must cover losses from the
131 peril of flood, as defined in paragraph (b), and may also
132 include coverage for losses from water intrusion originating
133 from outside the structure which is not otherwise covered by the
134 definition of flood. Flexible flood insurance must include one
135 or more of the following provisions:

136 a. An agreement between the insurer and the insured that
137 the flood coverage is in a specified amount, such as coverage
138 that is limited to the total amount of each outstanding mortgage
139 applicable to the covered property.

140 b. A requirement for a deductible in an amount authorized
141 under s. 627.701, including a deductible in an amount authorized
142 for hurricanes.

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

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146 d. A restriction limiting flood coverage to the principal
147 building defined in the policy.

148 e. A provision including or excluding coverage for
149 additional living expenses.

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

152 ~~5.4.~~ Supplemental flood insurance may provide coverage
153 designed to supplement a flood policy obtained from the National
154 Flood Insurance Program or from an insurer issuing standard or
155 preferred flood insurance pursuant to this section. Supplemental
156 flood insurance may provide, but need not be limited to,
157 coverage for jewelry, art, deductibles, and additional living
158 expenses. ~~Supplemental flood insurance does not include coverage~~
159 ~~for the peril of flood that is excess coverage over any other~~
160 ~~insurance covering the peril of flood.~~

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

- 165 1. Overflow of inland or tidal waters;
- 166 2. Unusual and rapid accumulation or runoff of surface
167 waters from any source;
- 168 3. Mudflow; or
- 169 4. Collapse or subsidence of land along the shore of a lake
170 or similar body of water as a result of erosion or undermining
171 caused by waves or currents of water exceeding anticipated
172 cyclical levels that result in a flood as defined in this
173 paragraph.

174 (2) ~~Any limitations on~~ Flood coverage deductibles and or

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175 policy limits pursuant to this section, ~~including, but not~~
176 ~~limited to, deductibles,~~ must be prominently noted on the policy
177 declarations page or face page.

178 (3) (a) An insurer may establish and use flood coverage
179 rates in accordance with the rate standards provided in s.
180 627.062.

181 (b) For flood coverage rates filed with the office before
182 October 1, 2019, the insurer may also establish and use such
183 rates in accordance with the rates, rating schedules, or rating
184 manuals filed by the insurer with the office which allow the
185 insurer a reasonable rate of return on flood coverage written in
186 this state. Flood coverage rates established pursuant to this
187 paragraph are not subject to s. 627.062(2) (a) and (f). An
188 insurer shall notify the office of any change to such rates
189 within 30 days after the effective date of the change. The
190 notice must include the name of the insurer and the average
191 statewide percentage change in rates. Actuarial data with regard
192 to such rates for flood coverage must be maintained by the
193 insurer for 2 years after the effective date of such rate change
194 and is subject to examination by the office. The office may
195 require the insurer to incur the costs associated with an
196 examination. Upon examination, the office, in accordance with
197 generally accepted and reasonable actuarial techniques, shall
198 consider the rate factors in s. 627.062(2) (b), (c), and (d), and
199 the standards in s. 627.062(2) (e), to determine if the rate is
200 excessive, inadequate, or unfairly discriminatory. If the office
201 determines that a rate is excessive or unfairly discriminatory,
202 the office shall require the insurer to provide appropriate
203 credit to affected insureds or an appropriate refund to affected

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204 insureds who no longer receive coverage from the insurer.

205 (4) A surplus lines agent may export a contract or
206 endorsement providing flood coverage to an eligible surplus
207 lines insurer without making a diligent effort to seek such
208 coverage from three or more authorized insurers under s.
209 626.916(1) (a). This subsection expires July 1, 2017.

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

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

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

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

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

222 (8) An agent must, upon receiving ~~obtaining~~ an application
223 for flood coverage from an authorized or surplus lines insurer
224 for a property receiving flood insurance under the National
225 Flood Insurance Program, ~~must~~ must obtain an acknowledgment signed by
226 the applicant before placing the coverage with the authorized or
227 surplus lines insurer. The acknowledgment must notify the
228 applicant that, if the applicant discontinues coverage under the
229 National Flood Insurance Program which is provided at a
230 subsidized rate, the full risk rate for flood insurance may
231 apply to the property if the applicant ~~such insurance is~~ later
232 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~

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233 ~~Insurance~~ program.

234 (9) With respect to the regulation of flood coverage
235 written in this state by authorized insurers, this section
236 supersedes any other provision in the Florida Insurance Code in
237 the event of a conflict.

238 (10) If federal law or rule requires a certification by a
239 state insurance regulatory official as a condition of qualifying
240 for private flood insurance or disaster assistance, the
241 Commissioner of Insurance Regulation may provide the
242 certification, and such certification is not subject to review
243 under chapter 120.

244 (11) (a) An authorized insurer offering flood insurance may
245 request the office to certify that a policy, contract, or
246 endorsement provides coverage for the peril of flood which
247 equals or exceeds the flood coverage offered by the National
248 Flood Insurance Program. To be eligible for certification, such
249 policy, contract, or endorsement must contain a provision
250 stating that it meets the private flood insurance requirements
251 specified in 42 U.S.C. s. 4012a(b) and may not contain any
252 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

253 (b) The authorized insurer or its agent may reference or
254 include a certification under paragraph (a) in advertising or
255 communications with an agent, a lending institution, an insured,
256 or a potential insured only for a policy, contract, or
257 endorsement that is certified under this subsection. The
258 authorized insurer may include a statement that notifies an
259 insured of the certification on the declarations page or other
260 policy documentation related to flood coverage certified under
261 this subsection.

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

265 Section 4. This act shall take effect July 1, 2015.