

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/CS/SB 542 — Flood Insurance

by Banking and Insurance Committee; Appropriations Committee; Banking and Insurance Committee; and Senators Brandes, Simpson, Benacquisto, Galvano, Bradley, Latvala, Bean, Flores, Evers, Stargel, Garcia, Diaz de la Portilla, Hays, Thrasher, Grimsley, Richter, Lee, and Detert

The bill creates s. 627.715, F.S., governing the sale of personal lines, residential flood insurance. Authorized insurers may sell four different types of flood insurance products:

- Standard coverage, which covers only losses from the peril of flood as defined in the bill, which is the definition used by the National Flood Insurance Program (NFIP). The policy must be the same as coverage offered from the NFIP regarding the definition of flood, coverage, deductibles, and loss adjustment.
- Preferred coverage, which includes the same coverage as standard flood insurance and also must cover flood losses caused by water intrusion from outside the structure that are not otherwise covered under the definition of flood in the bill.
- Customized coverage, which is coverage that is broader than standard flood coverage.
- Supplemental coverage, which supplements an NFIP flood policy or a standard or preferred policy from a private market insurer. Supplemental coverage may provide coverage for jewelry, art, deductibles, and additional living expenses. It does not include excess flood coverage over other flood policies.

The bill requires prominent notice on the policy declarations or face page of deductibles and any other limitations on flood coverage or policy limits. Insurance agents that receive a flood insurance application must obtain a signed acknowledgement from the applicant stating that the full risk rate for flood insurance may apply to the property if flood insurance is later obtained under the NFIP.

An insurer may establish flood rates through the standard process in s. 627.062, F.S. Alternatively, rates filed before October 1, 2019, may be established through a rate filing with the Office of Insurance Regulation (OIR) that is not required to be reviewed by the OIR before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review). Specifically, the flood rate is exempt from the “file and use” and “use and file” requirements of s. 627.062(2)(a), F.S. Such filings are also exempt from the requirement to provide information necessary to evaluate the company and the reasonableness of the rate. The OIR may, however, examine a rate filing at its discretion. To enable the office to conduct such examinations, insurers must maintain actuarial data related to flood coverage for 2 years after the effective date of the rate change. Upon examination, the OIR will use actuarial techniques and the standards of the rating law to determine if the rate is excessive, inadequate or unfairly discriminatory.

Insurers that write flood coverage must notify the OIR at least 30 days before doing so in this state and file a plan of operation, financial projections, and any such revisions with the OIR.

The bill allows surplus lines agents to export flood insurance without making a diligent effort to seek coverage from three or more authorized insurers. This provision expires July 1, 2017.

The bill prohibits Citizens Property Insurance Corporation from providing flood insurance. The bill prohibits the Florida Hurricane Catastrophe Fund from reimbursing flood losses.

The bill allows projected flood losses for personal residential property insurance to be a rating factor. Flood losses may be estimated using a model or straight average of models found reliable by the Florida Commission on Hurricane Loss Projection Methodology.

The bill also specifies that the OIR Commissioner may provide a certification required by federal law or rule as a condition of qualifying for private flood insurance or disaster assistance. The certification is not subject to review under ch. 120, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 30-3; House 98-11