

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Hooper offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (b) of subsection (2) of section  
6 627.062, Florida Statutes, is amended to read:

7 627.062 Rate standards.—

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

9 (b) Upon receiving a rate filing, the office shall review  
10 the filing to determine if a rate is excessive, inadequate, or  
11 unfairly discriminatory. In making that determination, the  
12 office shall, in accordance with generally accepted and  
13 reasonable actuarial techniques, consider the following factors:

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14 1. Past and prospective loss experience within and without  
15 this state.

16 2. Past and prospective expenses.

17 3. The degree of competition among insurers for the risk  
18 insured.

19 4. Investment income reasonably expected by the insurer,  
20 consistent with the insurer's investment practices, from  
21 investable premiums anticipated in the filing, plus any other  
22 expected income from currently invested assets representing the  
23 amount expected on unearned premium reserves and loss reserves.  
24 The commission may adopt rules using reasonable techniques of  
25 actuarial science and economics to specify the manner in which  
26 insurers calculate investment income attributable to classes of  
27 insurance written in this state and the manner in which  
28 investment income is used to calculate insurance rates. Such  
29 manner must contemplate allowances for an underwriting profit  
30 factor and full consideration of investment income that produces  
31 ~~which produce~~ a reasonable rate of return; however, investment  
32 income from invested surplus may not be considered.

33 5. The reasonableness of the judgment reflected in the  
34 filing.

35 6. Dividends, savings, or unabsorbed premium deposits  
36 allowed or returned to ~~Florida~~ policyholders, members, or  
37 subscribers in this state.

38 7. The adequacy of loss reserves.

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39           8. The cost of reinsurance. The office may not disapprove  
40 a rate as excessive solely due to the insurer having obtained  
41 catastrophic reinsurance to cover the insurer's estimated 250-  
42 year probable maximum loss or any lower level of loss.

43           9. Trend factors, including trends in actual losses per  
44 insured unit for the insurer making the filing.

45           10. Conflagration and catastrophe hazards, if applicable.

46           11. Projected hurricane losses, if applicable, which must  
47 be estimated using a model or method found to be acceptable or  
48 reliable by the Florida Commission on Hurricane Loss Projection  
49 Methodology, and as further provided in s. 627.0628.

50           12. Projected flood losses for personal residential  
51 property insurance, if applicable, which may be estimated using  
52 a model or method, or a straight average of model results or  
53 output ranges, independently found to be acceptable or reliable  
54 by the Florida Commission on Hurricane Loss Projection  
55 Methodology and as further provided in s. 627.0628.

56           ~~13.12.~~ A reasonable margin for underwriting profit and  
57 contingencies.

58           ~~14.13.~~ The cost of medical services, if applicable.

59           ~~15.14.~~ Other relevant factors that affect the frequency or  
60 severity of claims or expenses.

61  
62 The provisions of this subsection do not apply to workers'  
63 compensation, employer's liability insurance, and motor vehicle  
64 insurance.

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65 Section 2. Subsection (3) of section 627.0628, Florida  
66 Statutes, is amended to read:

67 627.0628 Florida Commission on Hurricane Loss Projection  
68 Methodology; public records exemption; public meetings  
69 exemption.—

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

71 (a) The commission shall consider any actuarial methods,  
72 principles, standards, models, or output ranges that have the  
73 potential for improving the accuracy of or reliability of the  
74 hurricane loss projections used in residential property  
75 insurance rate filings and flood loss projections used in rate  
76 filings for personal lines residential flood insurance coverage.

77 The commission shall, from time to time, adopt findings as to  
78 the accuracy or reliability of particular methods, principles,  
79 standards, models, or output ranges.

80 (b) The commission shall consider any actuarial methods,  
81 principles, standards, or models that have the potential for  
82 improving the accuracy of or reliability of projecting probable  
83 maximum loss levels. The commission shall adopt findings as to  
84 the accuracy or reliability of particular methods, principles,  
85 standards, or models related to probable maximum loss  
86 calculations.

87 (c) In establishing reimbursement premiums for the Florida  
88 Hurricane Catastrophe Fund, the State Board of Administration  
89 must, to the extent feasible, employ actuarial methods,

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90 principles, standards, models, or output ranges found by the  
91 commission to be accurate or reliable.

92 (d) With respect to a rate filing under s. 627.062, an  
93 insurer shall employ and may not modify or adjust actuarial  
94 methods, principles, standards, models, or output ranges found  
95 by the commission to be accurate or reliable in determining  
96 hurricane loss factors for use in a rate filing under s.  
97 627.062. An insurer shall employ and may not modify or adjust  
98 models found by the commission to be accurate or reliable in  
99 determining probable maximum loss levels pursuant to paragraph  
100 (b) with respect to a rate filing under s. 627.062 made more  
101 than 60 days after the commission has made such findings. This  
102 paragraph does not prohibit an insurer from using a straight  
103 average of model results or output ranges for the purposes of a  
104 rate filing for personal lines residential flood insurance  
105 coverage under s. 627.062.

106 (e) The commission shall adopt actuarial methods,  
107 principles, standards, models, or output ranges for personal  
108 lines residential flood loss no later than July 1, 2017.

109 (f) ~~(e)~~ The commission shall revise ~~adopt revisions to~~  
110 previously adopted actuarial methods, principles, standards,  
111 models, or output ranges every odd-numbered ~~odd~~ year.

112 (g) ~~(f)~~1. A trade secret, as defined in s. 688.002, that is  
113 used in designing and constructing a hurricane loss model and  
114 that is provided pursuant to this section, by a private company,  
115 to the commission, office, or consumer advocate appointed

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116 pursuant to s. 627.0613, is confidential and exempt from s.  
117 119.07(1) and s. 24(a), Art. I of the State Constitution.

118 2.a. That portion of a meeting of the commission or of a  
119 rate proceeding on an insurer's rate filing at which a trade  
120 secret made confidential and exempt by this paragraph is  
121 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the  
122 State Constitution. The closed meeting must be recorded, and no  
123 portion of the closed meeting may be off the record.

124 b. The recording of a closed portion of a meeting is  
125 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
126 Constitution.

127 c. This subparagraph is subject to the Open Government  
128 Sunset Review Act in accordance with s. 119.15 and shall stand  
129 repealed on October 2, 2015, unless reviewed and saved from  
130 repeal through reenactment by the Legislature.

131 Section 3. Section 627.715, Florida Statutes, is created  
132 to read:

133 627.715 Flood insurance.—An authorized insurer may issue  
134 an insurance policy, contract, or endorsement providing personal  
135 lines residential coverage for the peril of flood on any  
136 structure or the contents of personal property contained  
137 therein, subject to this section. This section does not apply to  
138 commercial lines residential or commercial lines nonresidential  
139 coverage for the peril of flood. This section also does not  
140 apply to coverage for the peril of flood that is excess coverage  
141 over any other insurance covering the peril of flood. An insurer

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142 may issue flood insurance policies, contracts, or endorsements  
143 on a standard, preferred, customized, or supplemental basis.

144 (1) (a) 1. Standard flood insurance must cover only losses  
145 from the peril of flood, as defined in paragraph (b), equivalent  
146 to that provided under a standard flood insurance policy under  
147 the National Flood Insurance Program. Standard flood insurance  
148 issued under this section must provide the same coverage,  
149 including deductibles and adjustment of losses, as that provided  
150 under a standard flood insurance policy under the National Flood  
151 Insurance Program.

152 2. Preferred flood insurance must include the same  
153 coverage as standard flood insurance but:

154 a. Include, within the definition of "flood," losses from  
155 water intrusion originating from outside the structure that are  
156 not otherwise covered under the definition of "flood" provided  
157 in paragraph (b).

158 b. Include coverage for additional living expenses.

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

162 3. Customized flood insurance must include coverage that  
163 is broader than the coverage provided under standard flood  
164 insurance.

165 4. Supplemental flood insurance may provide coverage  
166 designed to supplement a flood policy obtained from the National  
167 Flood Insurance Program or from an insurer issuing standard or

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168 preferred flood insurance pursuant to this section. Supplemental  
169 flood insurance may provide, but need not be limited to,  
170 coverage for jewelry, art, deductibles, and additional living  
171 expenses. Supplemental flood insurance does not include coverage  
172 for the peril of flood that is excess coverage over any other  
173 insurance covering the peril of flood.

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

178 1. Overflow of inland or tidal waters;

179 2. Unusual and rapid accumulation or runoff of surface  
180 waters from any source;

181 3. Mudflow; or

182 4. Collapse or subsidence of land along the shore of a  
183 lake or similar body of water as a result of erosion or  
184 undermining caused by waves or currents of water exceeding  
185 anticipated cyclical levels that result in a flood as defined in  
186 this paragraph.

187 (2) Any limitations on flood coverage or policy limits  
188 pursuant to this section, including, but not limited to,  
189 deductibles, must be prominently noted on the policy  
190 declarations page or face page.

191 (3) (a) An insurer may establish and use flood coverage  
192 rates in accordance with the rate standards provided in s.  
193 627.062.

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194 (b) For flood coverage rates filed with the office before  
195 October 1, 2019, the insurer may also establish and use such  
196 rates in accordance with the rates, rating schedules, or rating  
197 manuals filed by the insurer with the office which allow the  
198 insurer a reasonable rate of return on flood coverage written in  
199 this state. Flood coverage rates established pursuant to this  
200 paragraph are not subject to s. 627.062(2) (a) and (f). An  
201 insurer shall notify the office of any change to such rates  
202 within 30 days after the effective date of the change. The  
203 notice must include the name of the insurer and the average  
204 statewide percentage change in rates. Actuarial data with regard  
205 to such rates for flood coverage must be maintained by the  
206 insurer for 2 years after the effective date of such rate change  
207 and is subject to examination by the office. The office may  
208 require the insurer to incur the costs associated with an  
209 examination. Upon examination, the office, in accordance with  
210 generally accepted and reasonable actuarial techniques, shall  
211 consider the rate factors in s. 627.062(2) (b), (c), and (d), and  
212 the standards in s. 627.062(2) (e), to determine if the rate is  
213 excessive, inadequate, or unfairly discriminatory.

214 (4) A surplus lines agent may export a contract or  
215 endorsement providing flood coverage to an eligible surplus  
216 lines insurer without making a diligent effort to seek such  
217 coverage from three or more authorized insurers under s.  
218 626.916(1) (a). This subsection expires July 1, 2017.

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

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

223 (b) File a plan of operation and financial projections or  
224 revisions to such plan, as applicable, with the office unless  
225 the insurer maintains at least \$35 million in surplus. For  
226 purposes of this paragraph, an insurer may demonstrate such  
227 surplus if the insurer group surplus is used to support covered  
228 flood insurance risks through a pooling arrangement or  
229 intercompany reinsurance.

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

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

236 (8) An agent obtaining an application for flood coverage  
237 from an authorized or surplus lines insurer for a property  
238 receiving flood insurance under the National Flood Insurance  
239 Program must obtain an acknowledgment signed by the applicant  
240 before placing the coverage with the authorized or surplus lines  
241 insurer. The acknowledgment must notify the applicant that the  
242 full risk rate for flood insurance may apply to the property if  
243 such insurance is later obtained under the National Flood  
244 Insurance Program.

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245       (9) With respect to the regulation of flood coverage  
 246 written in this state by authorized insurers, this section  
 247 supersedes any other provision in the Florida Insurance Code in  
 248 the event of a conflict.

249       Section 4. This act shall take effect upon becoming a law.

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252                               **T I T L E   A M E N D M E N T**

253       Remove everything before the enacting clause and insert:

254                               A bill to be entitled

255       An act relating to flood insurance; amending s.  
 256       627.062, F.S.; adding projected flood losses to the  
 257       factors that must be considered by the Office of  
 258       Insurance Regulation in reviewing certain rate  
 259       filings; amending s. 627.0628, F.S.; requiring the  
 260       Florida Commission on Hurricane Loss Projection  
 261       Methodology to adopt standards and guidelines relating  
 262       to personal lines residential flood loss by a certain  
 263       date; creating s. 627.715, F.S.; authorizing certain  
 264       insurers to offer flood insurance in this state;  
 265       providing standard, preferred, and customized coverage  
 266       requirements; authorizing supplemental flood  
 267       insurance; providing supplemental flood insurance  
 268       requirements; defining the term "flood"; requiring  
 269       that certain limitations be noted on the policy  
 270       declarations or face page; providing the insurer with

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271 rate options; authorizing a surplus lines agent to  
272 export a contract or endorsement for flood coverage to  
273 a surplus lines insurer without meeting certain  
274 requirements; requiring the insurer to notify the  
275 office before writing flood insurance and to file a  
276 plan of operation with the office; providing an  
277 exception; prohibiting Citizens Property Insurance  
278 Corporation from providing flood insurance;  
279 prohibiting the Florida Hurricane Catastrophe Fund  
280 from reimbursing losses caused by flooding; requiring  
281 certain agents to obtain an acknowledgment of certain  
282 disclosures signed by the applicant; providing  
283 construction; providing an effective date.

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