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1 A bill to be entitled
2 An act relating to flood insurance; amending s.
3 627.062, F.S.; adding projected flood losses to the
4 factors that must be considered by the Office of
5 Insurance Regulation in reviewing certain rate
6 filings; amending s. 627.0628, F.S.; requiring the
7 Florida Commission on Hurricane Loss Projection
8 Methodology to adopt standards and guidelines relating
9 to personal lines residential flood loss by a certain
10 date; creating s. 627.715, F.S.; authorizing certain
11 insurers to offer flood insurance in this state;
12 providing standard, preferred, and customized coverage
13 requirements; authorizing supplemental flood
14 insurance; providing supplemental flood insurance
15 requirements; defining the term "flood"; requiring
16 that certain limitations be noted on the policy
17 declarations or face page; providing the insurer with
18 rate options; authorizing a surplus lines agent to
19 export a contract or endorsement for flood coverage to
20 a surplus lines insurer without meeting certain
21 requirements; requiring the insurer to notify the
22 office before writing flood insurance and to file a
23 plan of operation with the office; prohibiting
24 Citizens Property Insurance Corporation from providing
25 flood insurance; prohibiting the Florida Hurricane
26 Catastrophe Fund from reimbursing losses caused by
27 flooding; requiring certain agents to obtain an
28 acknowledgment of certain disclosures signed by the
29 applicant; providing construction; providing that the

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30 Commissioner of Insurance Regulation may provide
31 certification if required to qualify for flood
32 insurance or disaster assistance; providing that the
33 certification is not subject to review under the
34 Administrative Procedure Act; providing an effective
35 date.

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37 Be It Enacted by the Legislature of the State of Florida:

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39 Section 1. Paragraph (b) of subsection (2) of section
40 627.062, Florida Statutes, is amended to read:

41 627.062 Rate standards.—

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

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

48 1. Past and prospective loss experience within and without
49 this state.

50 2. Past and prospective expenses.

51 3. The degree of competition among insurers for the risk
52 insured.

53 4. Investment income reasonably expected by the insurer,
54 consistent with the insurer's investment practices, from
55 investable premiums anticipated in the filing, plus any other
56 expected income from currently invested assets representing the
57 amount expected on unearned premium reserves and loss reserves.

58 The commission may adopt rules using reasonable techniques of

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59 actuarial science and economics to specify the manner in which
60 insurers calculate investment income attributable to classes of
61 insurance written in this state and the manner in which
62 investment income is used to calculate insurance rates. Such
63 manner must contemplate allowances for an underwriting profit
64 factor and full consideration of investment income that produces
65 ~~which produce~~ a reasonable rate of return; however, investment
66 income from invested surplus may not be considered.

67 5. The reasonableness of the judgment reflected in the
68 filing.

69 6. Dividends, savings, or unabsorbed premium deposits
70 allowed or returned to ~~Florida~~ policyholders, members, or
71 subscribers in this state.

72 7. The adequacy of loss reserves.

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

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

79 10. Conflagration and catastrophe hazards, if applicable.

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

84 12. Projected flood losses for personal residential
85 property insurance, if applicable, which may be estimated using
86 a model or method, or a straight average of model results or
87 output ranges, independently found to be acceptable or reliable

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88 by the Florida Commission on Hurricane Loss Projection
89 Methodology and as further provided in s. 627.0628.

90 ~~13.12.~~ A reasonable margin for underwriting profit and
91 contingencies.

92 ~~14.13.~~ The cost of medical services, if applicable.

93 ~~15.14.~~ Other relevant factors that affect the frequency or
94 severity of claims or expenses.

95

96 The provisions of this subsection do not apply to workers'
97 compensation, employer's liability insurance, and motor vehicle
98 insurance.

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

101 627.0628 Florida Commission on Hurricane Loss Projection
102 Methodology; public records exemption; public meetings
103 exemption.—

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

105 (a) The commission shall consider any actuarial methods,
106 principles, standards, models, or output ranges that have the
107 potential for improving the accuracy of or reliability of the
108 hurricane loss projections used in residential property
109 insurance rate filings and flood loss projections used in rate
110 filings for personal lines residential flood insurance coverage.

111 The commission shall, from time to time, adopt findings as to
112 the accuracy or reliability of particular methods, principles,
113 standards, models, or output ranges.

114 (b) The commission shall consider any actuarial methods,
115 principles, standards, or models that have the potential for
116 improving the accuracy of or reliability of projecting probable

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117 maximum loss levels. The commission shall adopt findings as to
118 the accuracy or reliability of particular methods, principles,
119 standards, or models related to probable maximum loss
120 calculations.

121 (c) In establishing reimbursement premiums for the Florida
122 Hurricane Catastrophe Fund, the State Board of Administration
123 must, to the extent feasible, employ actuarial methods,
124 principles, standards, models, or output ranges found by the
125 commission to be accurate or reliable.

126 (d) With respect to a rate filing under s. 627.062, an
127 insurer shall employ and may not modify or adjust actuarial
128 methods, principles, standards, models, or output ranges found
129 by the commission to be accurate or reliable in determining
130 hurricane loss factors for use in a rate filing under s.
131 627.062. An insurer shall employ and may not modify or adjust
132 models found by the commission to be accurate or reliable in
133 determining probable maximum loss levels pursuant to paragraph
134 (b) with respect to a rate filing under s. 627.062 made more
135 than 60 days after the commission has made such findings. This
136 paragraph does not prohibit an insurer from using a straight
137 average of model results or output ranges for the purposes of a
138 rate filing for personal lines residential flood insurance
139 coverage under s. 627.062.

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

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

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146 (g)~~(f)~~1. A trade secret, as defined in s. 688.002, that is
147 used in designing and constructing a hurricane loss model and
148 that is provided pursuant to this section, by a private company,
149 to the commission, office, or consumer advocate appointed
150 pursuant to s. 627.0613, is confidential and exempt from s.
151 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

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

165 Section 3. Section 627.715, Florida Statutes, is created to
166 read:

167 627.715 Flood insurance.—An authorized insurer may issue an
168 insurance policy, contract, or endorsement providing personal
169 lines residential coverage for the peril of flood on any
170 structure or the contents of personal property contained
171 therein, subject to this section. This section does not apply to
172 commercial lines residential or commercial lines nonresidential
173 coverage for the peril of flood. This section also does not
174 apply to coverage for the peril of flood that is excess coverage

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175 over any other insurance covering the peril of flood. An insurer
176 may issue flood insurance policies, contracts, or endorsements
177 on a standard, preferred, customized, or supplemental basis.

178 (1) (a) 1. Standard flood insurance must cover only losses
179 from the peril of flood, as defined in paragraph (b), equivalent
180 to that provided under a standard flood insurance policy under
181 the National Flood Insurance Program. Standard flood insurance
182 issued under this section must provide the same coverage,
183 including deductibles and adjustment of losses, as that provided
184 under a standard flood insurance policy under the National Flood
185 Insurance Program.

186 2. Preferred flood insurance must include the same coverage
187 as standard flood insurance but:

188 a. Include, within the definition of "flood," losses from
189 water intrusion originating from outside the structure that are
190 not otherwise covered under the definition of "flood" provided
191 in paragraph (b).

192 b. Include coverage for additional living expenses.

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

196 3. Customized flood insurance must include coverage that is
197 broader than the coverage provided under standard flood
198 insurance.

199 4. Supplemental flood insurance may provide coverage
200 designed to supplement a flood policy obtained from the National
201 Flood Insurance Program or from an insurer issuing standard or
202 preferred flood insurance pursuant to this section. Supplemental
203 flood insurance may provide, but need not be limited to,

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204 coverage for jewelry, art, deductibles, and additional living
205 expenses. Supplemental flood insurance does not include coverage
206 for the peril of flood that is excess coverage over any other
207 insurance covering the peril of flood.

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

212 1. Overflow of inland or tidal waters;

213 2. Unusual and rapid accumulation or runoff of surface
214 waters from any source;

215 3. Mudflow; or

216 4. Collapse or subsidence of land along the shore of a lake
217 or similar body of water as a result of erosion or undermining
218 caused by waves or currents of water exceeding anticipated
219 cyclical levels that result in a flood as defined in this
220 paragraph.

221 (2) Any limitations on flood coverage or policy limits
222 pursuant to this section, including, but not limited to,
223 deductibles, must be prominently noted on the policy
224 declarations page or face page.

225 (3) (a) An insurer may establish and use flood coverage
226 rates in accordance with the rate standards provided in s.
227 627.062.

228 (b) For flood coverage rates filed with the office before
229 October 1, 2019, the insurer may also establish and use such
230 rates in accordance with the rates, rating schedules, or rating
231 manuals filed by the insurer with the office which allow the
232 insurer a reasonable rate of return on flood coverage written in

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233 this state. Flood coverage rates established pursuant to this
234 paragraph are not subject to s. 627.062(2)(a) and (f). An
235 insurer shall notify the office of any change to such rates
236 within 30 days after the effective date of the change. The
237 notice must include the name of the insurer and the average
238 statewide percentage change in rates. Actuarial data with regard
239 to such rates for flood coverage must be maintained by the
240 insurer for 2 years after the effective date of such rate change
241 and is subject to examination by the office. The office may
242 require the insurer to incur the costs associated with an
243 examination. Upon examination, the office, in accordance with
244 generally accepted and reasonable actuarial techniques, shall
245 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
246 the standards in s. 627.062(2)(e), to determine if the rate is
247 excessive, inadequate, or unfairly discriminatory.

248 (4) A surplus lines agent may export a contract or
249 endorsement providing flood coverage to an eligible surplus
250 lines insurer without making a diligent effort to seek such
251 coverage from three or more authorized insurers under s.
252 626.916(1)(a). This subsection expires July 1, 2017.

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

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

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

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

261 (7) The Florida Hurricane Catastrophe Fund may not provide

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262 reimbursement for losses proximately caused by the peril of
263 flood, including losses that occur during a covered event as
264 defined in s. 215.555(2) (b).

265 (8) An agent obtaining an application for flood coverage
266 from an authorized or surplus lines insurer for a property
267 receiving flood insurance under the National Flood Insurance
268 Program must obtain an acknowledgment signed by the applicant
269 before placing the coverage with the authorized or surplus lines
270 insurer. The acknowledgment must notify the applicant that the
271 full risk rate for flood insurance may apply to the property if
272 such insurance is later obtained under the National Flood
273 Insurance Program.

274 (9) With respect to the regulation of flood coverage
275 written in this state by authorized insurers, this section
276 supersedes any other provision in the Florida Insurance Code in
277 the event of a conflict.

278 Section 4. If federal law or rule requires a certification
279 by a state insurance regulatory official as a condition of
280 qualifying for private flood insurance or disaster assistance,
281 the Commissioner of Insurance Regulation may provide the
282 certification, and such certification is not subject to review
283 under chapter 120, Florida Statutes.

284 Section 5. This act shall take effect upon becoming a law.