

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 and preferred coverage
13 requirements; defining the term "flood"; requiring
14 that certain limitations be noted on the policy
15 declarations or face page; providing the insurer with
16 rate options; authorizing a surplus lines agent to
17 export a contract or endorsement for flood coverage to
18 a surplus lines insurer without meeting certain
19 requirements under certain circumstances; requiring
20 the insurer to notify the office before writing flood
21 insurance and to file a plan of operation with the
22 office; providing an exception; prohibiting Citizens
23 Property Insurance Corporation from providing flood
24 insurance; prohibiting the Florida Hurricane
25 Catastrophe Fund from reimbursing losses caused by
26 flooding; requiring certain agents to obtain an

27 acknowledgment of certain disclosures signed by the
 28 applicant; providing construction; providing an
 29 effective date.

30
 31 Be It Enacted by the Legislature of the State of Florida:

32
 33 Section 1. Paragraph (b) of subsection (2) of section
 34 627.062, Florida Statutes, is amended to read:

35 627.062 Rate standards.—

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

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

42 1. Past and prospective loss experience within and without
 43 this state.

44 2. Past and prospective expenses.

45 3. The degree of competition among insurers for the risk
 46 insured.

47 4. Investment income reasonably expected by the insurer,
 48 consistent with the insurer's investment practices, from
 49 investable premiums anticipated in the filing, plus any other
 50 expected income from currently invested assets representing the
 51 amount expected on unearned premium reserves and loss reserves.

52 The commission may adopt rules using reasonable techniques of

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

61 5. The reasonableness of the judgment reflected in the
62 filing.

63 6. Dividends, savings, or unabsorbed premium deposits
64 allowed or returned to ~~Florida~~ policyholders, members, or
65 subscribers in this state.

66 7. The adequacy of loss reserves.

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

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

73 10. Conflagration and catastrophe hazards, if applicable.

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

78 12. Projected flood losses for personal residential

79 property insurance, if applicable, which may be estimated using
 80 a model or method, or a straight average of model results or
 81 output ranges, independently found to be acceptable or reliable
 82 by the Florida Commission on Hurricane Loss Projection
 83 Methodology and as further provided in s. 627.0628.

84 ~~13.12.~~ A reasonable margin for underwriting profit and
 85 contingencies.

86 ~~14.13.~~ The cost of medical services, if applicable.

87 ~~15.14.~~ Other relevant factors that affect the frequency or
 88 severity of claims or expenses.

89
 90 The provisions of this subsection do not apply to workers'
 91 compensation, employer's liability insurance, and motor vehicle
 92 insurance.

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

95 627.0628 Florida Commission on Hurricane Loss Projection
 96 Methodology; public records exemption; public meetings
 97 exemption.—

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

99 (a) The commission shall consider any actuarial methods,
 100 principles, standards, models, or output ranges that have the
 101 potential for improving the accuracy of or reliability of the
 102 hurricane loss projections used in residential property
 103 insurance rate filings and flood loss projections used in rate
 104 filings for personal lines residential flood insurance coverage.

105 The commission shall, from time to time, adopt findings as to
 106 the accuracy or reliability of particular methods, principles,
 107 standards, models, or output ranges.

108 (b) The commission shall consider any actuarial methods,
 109 principles, standards, or models that have the potential for
 110 improving the accuracy of or reliability of projecting probable
 111 maximum loss levels. The commission shall adopt findings as to
 112 the accuracy or reliability of particular methods, principles,
 113 standards, or models related to probable maximum loss
 114 calculations.

115 (c) In establishing reimbursement premiums for the Florida
 116 Hurricane Catastrophe Fund, the State Board of Administration
 117 must, to the extent feasible, employ actuarial methods,
 118 principles, standards, models, or output ranges found by the
 119 commission to be accurate or reliable.

120 (d) With respect to a rate filing under s. 627.062, an
 121 insurer shall employ and may not modify or adjust actuarial
 122 methods, principles, standards, models, or output ranges found
 123 by the commission to be accurate or reliable in determining
 124 hurricane loss factors for use in a rate filing under s.

125 627.062. An insurer shall employ and may not modify or adjust
 126 models found by the commission to be accurate or reliable in
 127 determining probable maximum loss levels pursuant to paragraph

128 (b) with respect to a rate filing under s. 627.062 made more
 129 than 60 days after the commission has made such findings. This
 130 paragraph does not prohibit an insurer from using a straight

131 average of model results or output ranges for the purposes of a
 132 rate filing for personal lines residential flood insurance
 133 coverage under s. 627.062.

134 (e) The commission shall adopt actuarial methods,
 135 principles, standards, models, or output ranges for personal
 136 lines residential flood loss no later than July 1, 2016.

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

140 (g)~~(f)~~1. A trade secret, as defined in s. 688.002, that is
 141 used in designing and constructing a hurricane loss model and
 142 that is provided pursuant to this section, by a private company,
 143 to the commission, office, or consumer advocate appointed
 144 pursuant to s. 627.0613, is confidential and exempt from s.
 145 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

155 c. This subparagraph is subject to the Open Government
 156 Sunset Review Act in accordance with s. 119.15 and shall stand

157 repealed on October 2, 2015, unless reviewed and saved from
 158 repeal through reenactment by the Legislature.

159 Section 3. Section 627.715, Florida Statutes, is created
 160 to read:

161 627.715 Flood insurance.—An authorized insurer may issue
 162 an insurance policy, contract, or endorsement providing personal
 163 lines residential coverage for the peril of flood on any
 164 structure or the contents of personal property contained
 165 therein, subject to this section. This section does not apply to
 166 commercial lines residential or commercial lines nonresidential
 167 coverage for the peril of flood. This section also does not
 168 apply to coverage for the peril of flood that is excess coverage
 169 over any other insurance covering the peril of flood. An insurer
 170 may issue flood insurance policies, contracts, or endorsements
 171 on a standard or preferred basis.

172 (1)(a)1. Standard flood insurance must cover only losses
 173 from the peril of flood, as defined in paragraph (b), equivalent
 174 to that provided under a standard flood insurance policy under
 175 the National Flood Insurance Program. Standard flood insurance
 176 issued under this section must provide the same coverage,
 177 including deductibles and adjustment of losses, as that provided
 178 under a standard flood insurance policy under the National Flood
 179 Insurance Program.

180 2. Preferred flood insurance must include the same
 181 coverage as standard flood insurance but:

182 a. Include, within the definition of "flood," losses from

183 water intrusion originating from outside the structure that are
 184 not otherwise covered under the definition of "flood" provided
 185 in paragraph (b).

186 b. Include coverage for additional living expenses.

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

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

194 1. Overflow of inland or tidal waters;

195 2. Unusual and rapid accumulation or runoff of surface
 196 waters from any source;

197 3. Mudflow; or

198 4. Collapse or subsidence of land along the shore of a
 199 lake or similar body of water as a result of erosion or
 200 undermining caused by waves or currents of water exceeding
 201 anticipated cyclical levels that result in a flood as defined in
 202 this paragraph.

203 (2) Any limitations on flood coverage or policy limits
 204 pursuant to this section, including, but not limited to,
 205 deductibles, must be prominently noted on the policy
 206 declarations page or face page.

207 (3) (a) An insurer may establish and use flood coverage
 208 rates in accordance with the rate standards provided in s.

209 627.062.

210 (b) For flood coverage rates filed with the office before
211 October 1, 2019, the insurer may also establish and use such
212 rates in accordance with the rates, rating schedules, or rating
213 manuals filed by the insurer with the office which allow the
214 insurer a reasonable rate of return on flood coverage written in
215 this state. Flood coverage rates established pursuant to this
216 paragraph are not subject to s. 627.062(2)(a) and (f). An
217 insurer shall notify the office of any change to such rates
218 within 30 days after the effective date of the change. The
219 notice must include the name of the insurer and the average
220 statewide percentage change in rates. Actuarial data with regard
221 to such rates for flood coverage must be maintained by the
222 insurer for 2 years after the effective date of such rate change
223 and is subject to examination by the office. The office may
224 require the insurer to incur the costs associated with an
225 examination. Upon examination, the office, in accordance with
226 generally accepted and reasonable actuarial techniques, shall
227 consider the rate factors in s. 627.062(2)(b), (c), and (d), and
228 the standards in s. 627.062(2)(e), to determine if the rate is
229 excessive, inadequate, or unfairly discriminatory.

230 (4) A surplus lines agent may export a contract or
231 endorsement providing flood coverage to an eligible surplus
232 lines insurer without making a diligent effort to seek such
233 coverage from three or more authorized insurers under s.
234 626.916(1)(a) only if the premium for the coverage from the

235 surplus lines insurer is at least 10 percent less than the
 236 premium for comparable coverage from an authorized insurer.

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

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

241 (b) File a plan of operation and financial projections or
 242 revisions to such plan, as applicable, with the office unless
 243 the insurer maintains at least \$35 million in surplus. For
 244 purposes of this paragraph, an insurer may demonstrate such
 245 surplus if the insurer group surplus is used to support covered
 246 flood insurance risks through a pooling arrangement or
 247 intercompany reinsurance.

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

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

254 (8) An agent obtaining an application for flood coverage
 255 from an authorized or surplus lines insurer for a property
 256 receiving flood insurance under the National Flood Insurance
 257 Program must obtain an acknowledgment signed by the applicant
 258 before placing the coverage with the authorized or surplus lines
 259 insurer. The acknowledgment must notify the applicant that the
 260 full risk rate for flood insurance may apply to the property if

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261 such insurance is later obtained under the National Flood
262 Insurance Program.

263 (9) With respect to the regulation of flood coverage
264 written in this state by private insurers, this section
265 supersedes any other provision in the Florida Insurance Code in
266 the event of a conflict.

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