A bill to be entitled

An act relating to the peril of flood; amending s. 163.3178, F.S.; specifying requirements for the coastal management element required for a local government comprehensive plan; creating s. 472.0366, F.S.; defining terms; requiring a surveyor and mapper to complete an elevation certificate in accordance with a checklist developed by the Division of Emergency Management and to submit a copy of the elevation certificate to the division within a certain time after its completion; authorizing the redaction of certain personal information from the copy; amending s. 627.715, F.S.; authorizing flexible flood insurance; specifying coverage requirements; deleting a provision that prohibits supplemental flood insurance from including excess coverage over any other insurance covering the peril of flood; revising the information that must be prominently noted on a certain page of a flood insurance policy; requiring the Office of Insurance Regulation to require an insurer to provide an appropriate credit or refund to affected insureds if the office determines that a rate of the insurer is excessive or unfairly discriminatory; revising the notice that must be provided to and acknowledged by an applicant for flood coverage from an authorized or surplus lines insurer if the applicant's property is receiving flood insurance under the National Flood Insurance Program; allowing an authorized insurer to request a certification from the office which indicates that a policy, contract, or endorsement issued by the insurer provides coverage for the peril of flood which equals or exceeds the flood coverage offered by the National Flood Insurance Program; specifying requirements for such certification; authorizing such insurer or its agent to reference or include the certification in specified advertising, communications, and documentation; providing that misrepresenting that a flood policy, contract, or endorsement is certified is an unfair or deceptive act; providing an effective date.

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

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

163.3178 Coastal management.—

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

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

1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm

surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.

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

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

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

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

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

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

472.0366 Elevation certificates; requirements for surveyors and mappers.—

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

(a) “Division” means the Division of Emergency Management established within the Executive Office of the Governor under s. 14.2016.

(b) “Elevation certificate” means the certificate used to demonstrate the elevation of property which has been developed by the Federal Emergency Management Agency pursuant to federal floodplain management regulation and which is completed by a surveyor and mapper.

(2) An elevation certificate must be completed by a surveyor and mapper in accordance with the checklist developed by the division. Within 30 days after the completion of an elevation certificate, a surveyor and mapper must submit a copy of the certificate to the division. The copy must be unaltered, except that the surveyor and mapper may redact the name of the property owner.

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

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

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

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

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

b. Include coverage for additional living expenses.

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

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

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

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

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

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

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

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

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

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

(b) “Flood” means a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder’s property, from:

1. Overflow of inland or tidal waters;

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

3. Mudflow; or

4. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining

caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in this paragraph.

(2) ~~Any limitations on~~ Flood coverage deductibles and ~~or~~ policy limits pursuant to this section~~, including, but not limited to, deductibles,~~ must be prominently noted on the policy declarations page or face page.

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

(b) For flood coverage rates filed with the office before October 1, 2019, the insurer may also establish and use such rates in accordance with the rates, rating schedules, or rating manuals filed by the insurer with the office which allow the insurer a reasonable rate of return on flood coverage written in this state. Flood coverage rates established pursuant to this paragraph are not subject to s. 627.062(2)(a) and (f). An insurer shall notify the office of any change to such rates within 30 days after the effective date of the change. The notice must include the name of the insurer and the average statewide percentage change in rates. Actuarial data with regard to such rates for flood coverage must be maintained by the insurer for 2 years after the effective date of such rate change and is subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office, in accordance with generally accepted and reasonable actuarial techniques, shall consider the rate factors in s. 627.062(2)(b), (c), and (d), and the standards in s. 627.062(2)(e), to determine if the rate is excessive, inadequate, or unfairly discriminatory. If the office determines that a rate is excessive or unfairly discriminatory, the office shall require the insurer to provide appropriate credit to affected insureds or an appropriate refund to affected insureds who no longer receive coverage from the insurer.

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

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

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

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

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

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

(8) An agent must, upon receiving ~~obtaining~~ an application for flood coverage from an authorized or surplus lines insurer for a property receiving flood insurance under the National Flood Insurance Program, ~~must~~ obtain an acknowledgment signed by the applicant before placing the coverage with the authorized or surplus lines insurer. The acknowledgment must notify the applicant that, if the applicant discontinues coverage under the

National Flood Insurance Program which is provided at a subsidized rate, the full risk rate for flood insurance may apply to the property if the applicant ~~such insurance is~~ later seeks to reinstate coverage ~~obtained~~ under the ~~National Flood Insurance~~ program.

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

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

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

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

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

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