

By Senator Brandes

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1                                   A bill to be entitled  
2       An act relating to the peril of flood; creating s.  
3       252.64, F.S.; authorizing the Division of Emergency  
4       Management to administer a matching grant program to  
5       provide up to \$50 million in technical and financial  
6       assistance to local governments to implement certain  
7       flood risk reduction policies and projects; requiring  
8       the division to rank applications for assistance based  
9       on certain criteria; authorizing the division to adopt  
10      rules; capping funds for administration; requiring the  
11      division to establish a system to monitor grants;  
12      amending s. 380.507, F.S.; authorizing the Florida  
13      Communities Trust to undertake, coordinate, or fund  
14      flood mitigation projects and to acquire and dispose  
15      of real and personal property or specified interest  
16      when necessary or appropriate to reduce flood hazards;  
17      amending s. 380.508, F.S.; specifying the purpose of  
18      acceptable flood mitigation projects undertaken,  
19      coordinated, or funded by the trust; amending s.  
20      380.510, F.S.; conforming a cross-reference;  
21      specifying certain required conditions to be included  
22      in trust grant or loan agreements for land  
23      acquisition; amending s. 472.0366, F.S.; authorizing  
24      the division to contract with third parties to store  
25      elevation certificates and maintain a database for  
26      public access to such certificates; amending s.  
27      627.715, F.S.; authorizing an insurer to issue flood  
28      insurance policies on a flexible basis; extending the  
29      date by which an insurer may use certain statutory

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30 rate standards for establishing and using flood  
31 coverage rates; extending the date by which a surplus  
32 lines agent may export a contract or endorsement  
33 providing flood coverage to an eligible surplus lines  
34 insurer without making a diligent effort to seek such  
35 coverage from three or more authorized insurers;  
36 providing an effective date.

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

39  
40 Section 1. Section 252.64, Florida Statutes, is created to  
41 read:

42 252.64 Local government flood hazard risk reduction  
43 assistance.-

44 (1) The Division of Emergency Management is authorized to  
45 administer a matching grant program to provide up to \$50 million  
46 in technical and financial assistance, subject to appropriation,  
47 to local governments to implement flood risk reduction policies  
48 and projects consistent with the coastal management element of a  
49 local government comprehensive plan required under s. 163.3178,  
50 an approved local hazard mitigation plan, or an adaptation  
51 action plan.

52 (2) The division shall rank each received application for  
53 assistance and shall give priority to:

54 (a) Projects that provide the greatest scoring improvement  
55 within the National Flood Insurance Program Community Rating  
56 System;

57 (b) The acquisition of flood-prone property for conversion  
58 to open space in perpetuity, or the development of natural or

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59 grey infrastructure, to reduce the risk of flooding;

60 (c) Applications submitted by local governments that have  
61 encountered a significant increase in National Flood Insurance  
62 premiums during the preceding 5 years;

63 (d) Projects that will protect the greatest number of  
64 structures from frequent flooding;

65 (e) Applications that exceed the dollar-for-dollar matching  
66 funds threshold; and

67 (f) Local governments that participate in the National  
68 Flood Insurance Program Community Rating System.

69 (3) The division may adopt rules to administer this section  
70 and shall consult with the state land planning agency in  
71 developing ranking criteria for project selection.

72 (4) A recipient may not spend more than 8 percent of grant  
73 funds on administration.

74 (5) The division shall establish a system to monitor  
75 grants, including site visits, to ensure proper expenditure of  
76 funds and compliance with the conditions of the recipient's  
77 contract.

78 Section 2. Present paragraphs (c) through (g) of subsection  
79 (2) of section 380.507, Florida Statutes, are redesignated as  
80 paragraphs (d) through (h), respectively, a new paragraph (c) is  
81 added to that subsection, and subsection (4) of that section is  
82 amended, to read:

83 380.507 Powers of the trust.—The trust shall have all the  
84 powers necessary or convenient to carry out the purposes and  
85 provisions of this part, including:

86 (2) To undertake, coordinate, or fund activities and  
87 projects which will help bring local comprehensive plans into

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88 compliance and help implement the goals, objectives, and  
89 policies of the conservation, recreation and open space, and  
90 coastal elements of local comprehensive plans, or which will  
91 otherwise serve to conserve natural resources and resolve land  
92 use conflicts, including, but not limited to:

93 (c) Flood mitigation projects.

94 (4) To acquire and dispose of real and personal property or  
95 any interest therein when necessary or appropriate to protect  
96 the natural environment, provide public access or public  
97 recreational facilities, including the Florida National Scenic  
98 Trail, preserve wildlife habitat areas, provide access for  
99 managing acquired lands, reduce flood hazards, or otherwise  
100 carry out the purposes of this part. If the trust acquires land  
101 for permanent state ownership, title to such land shall be  
102 vested in the Board of Trustees of the Internal Improvement  
103 Trust Fund; otherwise, title to property acquired in partnership  
104 with a county or municipality shall vest in the name of the  
105 local government. Notwithstanding any other provision of law,  
106 the trust may enter into an option agreement to purchase lands  
107 included in projects approved according to this part, when  
108 necessary to reserve lands during the preparation of project  
109 plans and during acquisition proceedings. The consideration for  
110 an option shall not exceed \$100,000.

111 Section 3. Present paragraphs (c) through (f) of subsection  
112 (4) of section 380.508, Florida Statutes, are redesignated as  
113 paragraphs (d) through (g), respectively, and a new paragraph  
114 (c) is added to that subsection, to read:

115 380.508 Projects; development, review, and approval.-

116 (4) Projects or activities which the trust undertakes,

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117 coordinates, or funds in any manner shall comply with the  
118 following guidelines:

119 (c) The purpose of acceptable flood mitigation projects,  
120 which should serve to lower a community's class rating under the  
121 National Flood Insurance Program Community Rating System, shall  
122 be:

123 1. To acquire interests in lands designated as severe  
124 repetitive loss properties within coastal "V," "VE," and "V1-30"  
125 designated flood zones, as designated by the Federal Emergency  
126 Management Agency, which are suitable for enhancing beach and  
127 coastal access for the public, creating public parks, and  
128 providing flood control; or

129 2. To provide technical and financial assistance to local  
130 governments to implement flood risk reduction policies and  
131 projects consistent with the coastal element of the local  
132 government comprehensive plan required under s. 163.3178, an  
133 approved local hazard mitigation plan, or an adaptation action  
134 plan.

135  
136 Project costs may include costs of providing parks, open space,  
137 public access sites, scenic easements, and other areas and  
138 facilities serving the public where such features are part of a  
139 project plan approved according to this part. In undertaking or  
140 coordinating projects or activities authorized by this part, the  
141 trust shall, when appropriate, use and promote the use of  
142 creative land acquisition methods, including the acquisition of  
143 less than fee interest through, among other methods,  
144 conservation easements, transfer of development rights, leases,  
145 and leaseback arrangements. The trust shall assist local

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146 governments in the use of sound alternative methods of financing  
147 for funding projects and activities authorized under this part.  
148 Any funds over and above eligible project costs, which remain  
149 after completion of a project approved according to this part,  
150 shall be transmitted to the state and deposited into the Florida  
151 Forever Trust Fund.

152 Section 4. Paragraph (d) of subsection (3) of section  
153 380.510, Florida Statutes, is amended, and paragraph (f) is  
154 added to that subsection, to read:

155 380.510 Conditions of grants and loans.—

156 (3) In the case of a grant or loan for land acquisition,  
157 agreements shall provide all of the following:

158 (d) If any essential term or condition of a grant or loan  
159 is violated, title to all interest in real property acquired  
160 with state funds shall be conveyed or revert to the Board of  
161 Trustees of the Internal Improvement Trust Fund. The trust shall  
162 treat such property in accordance with s. 380.508(4)(g) ~~s.~~  
163 ~~380.508(4)(f)~~.

164 (f) Land acquired for flood mitigation projects must be  
165 maintained strictly for flood mitigation purposes or  
166 conservation purposes. Conveyance of such lands to private  
167 entities must contain conditions, covenants, restrictions, or  
168 other provisions that ensure that the land will be maintained  
169 for flood mitigation or conservation purposes.

170  
171 Any deed or other instrument of conveyance whereby a nonprofit  
172 organization or local government acquires real property under  
173 this section shall set forth the interest of the state. The  
174 trust shall keep at least one copy of any such instrument and

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175 shall provide at least one copy to the Board of Trustees of the  
176 Internal Improvement Trust Fund.

177 Section 5. Subsection (3) is added to section 472.0366,  
178 Florida Statutes, to read:

179 472.0366 Elevation certificates; requirements for surveyors  
180 and mappers.—

181 (3) The division may contract with a third party to store  
182 elevation certificates received pursuant to this section. The  
183 division may also contract with a third party to maintain a  
184 centralized database allowing the public to access elevation  
185 certificates and the data contained within the certificates.

186 Section 6. Section 627.715, Florida Statutes, is amended to  
187 read:

188 627.715 Flood insurance.—An authorized insurer may issue an  
189 insurance policy, contract, or endorsement providing personal  
190 lines residential coverage for the peril of flood on any  
191 structure or the contents of personal property contained  
192 therein, subject to this section. This section does not apply to  
193 commercial lines residential or commercial lines nonresidential  
194 coverage for the peril of flood. This section also does not  
195 apply to coverage for the peril of flood that is excess coverage  
196 over any other insurance covering the peril of flood. An insurer  
197 may issue flood insurance policies, contracts, or endorsements  
198 on a standard, preferred, customized, flexible, or supplemental  
199 basis.

200 (1) (a) 1. Standard flood insurance must cover only losses  
201 from the peril of flood, as defined in paragraph (b), equivalent  
202 to that provided under a standard flood insurance policy under  
203 the National Flood Insurance Program. Standard flood insurance

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204 issued under this section must provide the same coverage,  
205 including deductibles and adjustment of losses, as that provided  
206 under a standard flood insurance policy under the National Flood  
207 Insurance Program.

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

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

214 b. Include coverage for additional living expenses.

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

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

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

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

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

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233 for hurricanes.

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

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

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

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

243 5. Supplemental flood insurance may provide coverage  
244 designed to supplement a flood policy obtained from the National  
245 Flood Insurance Program or from an insurer issuing standard or  
246 preferred flood insurance pursuant to this section. Supplemental  
247 flood insurance may provide, but need not be limited to,  
248 coverage for jewelry, art, deductibles, and additional living  
249 expenses.

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

254 1. Overflow of inland or tidal waters;

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

257 3. Mudflow; or

258 4. Collapse or subsidence of land along the shore of a lake  
259 or similar body of water as a result of erosion or undermining  
260 caused by waves or currents of water exceeding anticipated  
261 cyclical levels that result in a flood as defined in this

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262 paragraph.

263 (2) Flood coverage deductibles and policy limits pursuant  
264 to this section must be prominently noted on the policy  
265 declarations page or face page.

266 (3) (a) An insurer may establish and use flood coverage  
267 rates in accordance with the rate standards provided in s.  
268 627.062.

269 (b) For flood coverage rates filed with the office before  
270 October 1, 2025 ~~2019~~, the insurer may also establish and use  
271 such rates in accordance with the rates, rating schedules, or  
272 rating manuals filed by the insurer with the office which allow  
273 the insurer a reasonable rate of return on flood coverage  
274 written in this state. Flood coverage rates established pursuant  
275 to this paragraph are not subject to s. 627.062(2) (a) and (f).  
276 An insurer shall notify the office of any change to such rates  
277 within 30 days after the effective date of the change. The  
278 notice must include the name of the insurer and the average  
279 statewide percentage change in rates. Actuarial data with regard  
280 to such rates for flood coverage must be maintained by the  
281 insurer for 2 years after the effective date of such rate change  
282 and is subject to examination by the office. The office may  
283 require the insurer to incur the costs associated with an  
284 examination. Upon examination, the office, in accordance with  
285 generally accepted and reasonable actuarial techniques, shall  
286 consider the rate factors in s. 627.062(2) (b), (c), and (d), and  
287 the standards in s. 627.062(2) (e), to determine if the rate is  
288 excessive, inadequate, or unfairly discriminatory. If the office  
289 determines that a rate is excessive or unfairly discriminatory,  
290 the office shall require the insurer to provide appropriate

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291 credit to affected insureds or an appropriate refund to affected  
292 insureds who no longer receive coverage from the insurer.

293 (4) A surplus lines agent may export a contract or  
294 endorsement providing flood coverage to an eligible surplus  
295 lines insurer without making a diligent effort to seek such  
296 coverage from three or more authorized insurers under s.  
297 626.916(1) (a). This subsection expires July 1, 2025 2017.

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

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

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

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

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

310 (8) An agent must, upon receiving an application for flood  
311 coverage from an authorized or surplus lines insurer for a  
312 property receiving flood insurance under the National Flood  
313 Insurance Program, obtain an acknowledgment signed by the  
314 applicant before placing the coverage with the authorized or  
315 surplus lines insurer. The acknowledgment must notify the  
316 applicant that, if the applicant discontinues coverage under the  
317 National Flood Insurance Program which is provided at a  
318 subsidized rate, the full risk rate for flood insurance may  
319 apply to the property if the applicant later seeks to reinstate

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320 coverage under the program.

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

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

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

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

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

352 Section 7. This act shall take effect July 1, 2016.