

**By** the Committees on Community Affairs; and Banking and Insurance; and Senator Brandes

578-03388-17

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1                                   A bill to be entitled  
2       An act relating to flood insurance; amending s.  
3       627.0628, F.S.; revising the intervals at which  
4       specified standards and guidelines for projecting  
5       certain rate filings must be revised by the Florida  
6       Commission on Hurricane Loss Projection Methodology;  
7       amending s. 627.715, F.S.; authorizing certain  
8       insurers to issue insurance policies, contracts, or  
9       endorsements providing certain excess coverage for the  
10      peril of flood; revising applicability; authorizing an  
11      insurer to issue flood insurance policies on a  
12      flexible basis; extending the last date of filing with  
13      the Office of Insurance Regulation of certain flood  
14      coverage rates that may be established and used by an  
15      insurer; specifying a condition for an eligible  
16      surplus lines insurer before a surplus lines agent may  
17      be excepted from a diligent-effort requirement when  
18      exporting flood insurance contracts or endorsements to  
19      the insurer; extending the expiration date of the  
20      exception; revising applicability of certain  
21      notification and filing requirements; revising a  
22      provision relating to a specified notice required  
23      before the procurement of a private flood insurance  
24      policy for property currently insured under the  
25      National Flood Insurance Program; providing an  
26      expiration date for the provision; providing an  
27      effective date.

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

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Section 1. Paragraph (f) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

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

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

(f) The commission shall revise previously adopted actuarial methods, principles, standards, models, or output ranges every odd-numbered year for hurricane loss projections. The commission shall revise previously adopted actuarial methods, principles, standards, models, or output ranges no less than every 4 years for flood loss projections.

Section 2. 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 or excess 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, flexible, or supplemental basis.

(1) (a) Except for excess flood insurance policies, policies issued under this section include:

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

67           2. Preferred flood insurance, which must include the same  
68 coverage as standard flood insurance but:

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

73           b. Include coverage for additional living expenses.

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

77           3. Customized flood insurance, which must include coverage  
78 that is broader than the coverage provided under standard flood  
79 insurance.

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

86           a. An agreement between the insurer and the insured that  
87 the flood coverage is in a specified amount, such as coverage

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88 that is limited to the total amount of each outstanding mortgage  
89 applicable to the covered property.

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

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

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

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

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

102 5. Supplemental flood insurance, which may provide coverage  
103 designed to supplement a flood policy obtained from the National  
104 Flood Insurance Program or from an insurer issuing standard or  
105 preferred flood insurance pursuant to this section. Supplemental  
106 flood insurance may provide, but need not be limited to,  
107 coverage for jewelry, art, deductibles, and additional living  
108 expenses.

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

- 113 1. Overflow of inland or tidal waters;
- 114 2. Unusual and rapid accumulation or runoff of surface  
115 waters from any source;
- 116 3. Mudflow; or

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117 4. Collapse or subsidence of land along the shore of a lake  
118 or similar body of water as a result of erosion or undermining  
119 caused by waves or currents of water exceeding anticipated  
120 cyclical levels that result in a flood as defined in this  
121 paragraph.

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

125 (3) (a) An insurer may establish and use flood coverage  
126 rates in accordance with the rate standards provided in s.  
127 627.062.

128 (b) For flood coverage rates filed with the office before  
129 October 1, 2025 ~~2019~~, the insurer may also establish and use  
130 such rates in accordance with the rates, rating schedules, or  
131 rating manuals filed by the insurer with the office which allow  
132 the insurer a reasonable rate of return on flood coverage  
133 written in this state. Flood coverage rates established pursuant  
134 to this paragraph are not subject to s. 627.062(2)(a) and (f).  
135 An insurer shall notify the office of any change to such rates  
136 within 30 days after the effective date of the change. The  
137 notice must include the name of the insurer and the average  
138 statewide percentage change in rates. Actuarial data with regard  
139 to such rates for flood coverage must be maintained by the  
140 insurer for 2 years after the effective date of such rate change  
141 and is subject to examination by the office. The office may  
142 require the insurer to incur the costs associated with an  
143 examination. Upon examination, the office, in accordance with  
144 generally accepted and reasonable actuarial techniques, shall  
145 consider the rate factors in s. 627.062(2)(b), (c), and (d), and

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146 the standards in s. 627.062(2)(e), to determine if the rate is  
147 excessive, inadequate, or unfairly discriminatory. If the office  
148 determines that a rate is excessive or unfairly discriminatory,  
149 the office shall require the insurer to provide appropriate  
150 credit to affected insureds or an appropriate refund to affected  
151 insureds who no longer receive coverage from the insurer.

152 (4) A surplus lines agent may export a contract or  
153 endorsement providing flood coverage to an eligible surplus  
154 lines insurer without making a diligent effort to seek such  
155 coverage from three or more authorized insurers under s.  
156 626.916(1) if the surplus lines insurer maintains a superior,  
157 excellent, exceptional, or equivalent financial strength rating  
158 by a rating agency acceptable to the office ~~s. 626.916(1)(a).~~  
159 This subsection expires July 1, 2022 ~~2017~~.

160 (5) In addition to any other applicable requirements, an  
161 insurer providing flood coverage that is not excess coverage in  
162 this state must:

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

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

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

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

173 (8) When procuring a private flood insurance policy from an  
174 authorized insurer or a surplus lines insurer for a property

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175 currently insured under the National Flood Insurance Program, an  
176 agent must, at the time of expiration of the current policy,  
177 provide a written notice to be signed by the applicant,  
178 informing the applicant that the National Flood Insurance  
179 Program could apply the full risk rate to the property if flood  
180 insurance is later obtained under the National Flood Insurance  
181 Program. The agent must receive the signed notice from the  
182 applicant within 21 days after expiration of the policy under  
183 the National Flood Insurance Program; otherwise, the private  
184 flood insurance policy must be canceled and the National Flood  
185 Insurance Program policy renewed. This subsection expires  
186 January 1, 2020 ~~An agent must, upon receiving an application for~~  
187 ~~flood coverage from an authorized or surplus lines insurer for a~~  
188 ~~property receiving flood insurance under the National Flood~~  
189 ~~Insurance Program, obtain an acknowledgment signed by the~~  
190 ~~applicant before placing the coverage with the authorized or~~  
191 ~~surplus lines insurer. The acknowledgment must notify the~~  
192 ~~applicant that, if the applicant discontinues coverage under the~~  
193 ~~National Flood Insurance Program which is provided at a~~  
194 ~~subsidized rate, the full risk rate for flood insurance may~~  
195 ~~apply to the property if the applicant later seeks to reinstate~~  
196 ~~coverage under the program.~~

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

201 (10) If federal law or rule requires a certification by a  
202 state insurance regulatory official as a condition of qualifying  
203 for private flood insurance or disaster assistance, the

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204 Commissioner of Insurance Regulation may provide the  
205 certification, and such certification is not subject to review  
206 under chapter 120.

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

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

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

228 Section 3. This act shall take effect July 1, 2017.