A bill to be entitled
An act relating to flood insurance; amending s. 627.0628, F.S.; revising the intervals at which specified standards and guidelines for projecting certain rate filings must be revised by the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.715, F.S.; authorizing certain insurers to issue insurance policies, contracts, or endorsements providing certain excess coverage for the peril of flood on a flexible basis; revising applicability; exempting certain surplus lines insurers from a diligent-effort requirement under certain circumstances; extending the expiration date of the exemption under certain conditions; revising applicability of certain notification and filing requirements; requiring agents to provide certain written notice to be signed by applicants when procuring private flood insurance policies for properties currently insured under the National Flood Insurance Program; requiring cancellation of private flood insurance policies and renewal of National Flood Insurance Program policies under certain circumstances; providing applicability; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

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, or excess coverage on a standard, preferred, customized, flexible, or supplemental basis.

1. Standard flood insurance, which 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, which 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, which must include coverage
that is broader than the coverage provided under standard flood insurance.

4. Flexible flood insurance, which 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. Supplemental flood insurance, which 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.

(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) Flood coverage deductibles and policy limits pursuant
to this section 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) if the surplus lines insurer maintains a financial
strength rating of "superior" or "excellent" by A.M. Best Rating
Services s. 626.916(1)(a). This subsection expires July 1, 2019,
or the date on which the Commissioner of Insurance Regulation
determines in writing that there is an adequate admitted market
to provide coverage for the peril of flood consistent with this
section, whichever date occurs first. If there are fewer than
three authorized insurers on the date this subsection expires,
the number of declinations necessary to meet the diligent-effort
requirement shall be no fewer than the number of authorized
insurers providing flood coverage 2017.

(5) In addition to any other applicable requirements, an
insurer providing flood coverage that is not excess 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)(a) When procuring a private flood insurance policy from an authorized insurer or a surplus lines insurer for a property currently insured under the National Flood Insurance Program, an agent must, on the date the current policy expires, provide a written notice to be signed by the applicant which informs the applicant of the following conditions, which will apply under the National Flood Insurance Program:

1. The full risk rate to the property if flood insurance is later obtained under the National Flood Insurance Program; or

2. A subsidized rate to the property if flood insurance is later obtained under the National Flood Insurance Program.

(b) The private flood insurance policy must be canceled and the National Flood Insurance Program policy must be renewed unless the agent receives the signed notice from the applicant within the earlier of:

1. Twenty-one days after expiration of the policy under the National Flood Insurance Program; or

2. Seven days before the expiration of any timeframe during which the applicant may return to the National Flood Insurance Program under a subsidized rate.

(c) Paragraphs (a) and (b) do not apply if the National Flood Insurance Program allows the subsidized rate to apply at any time a previous policyholder returns. An agent must, upon
receiving an application for flood coverage from an authorized
or surplus lines insurer for a property receiving flood
insurance under the National Flood Insurance Program, 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 later
seeks to reinstate coverage under the 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 3. This act shall take effect July 1, 2017.