

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 1011	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Homeowners' Insurance Policy Disclosures	115	Y's 0	N's
SPONSOR(S):	Commerce Committee; Insurance & Banking Subcommittee; Cruz and others	GOVERNOR'S ACTION:		Approved
COMPANION BILLS:	CS/SB 1282			

SUMMARY ANALYSIS

CS/CS/HB 1011 passed the House on February 14, 2018, and subsequently passed the Senate on March 2, 2018.

The Insurance Code requires that insurance policies, depending on the type of coverage, include specific content to provide consumers with important information or ensure consistency and readability of insurance contracts from different insurers. Such provisions may establish requirements regarding content, print type or size, and appearance (e.g., bold type or all capitalized text). Homeowner's property insurance policies must include the following statement in bold 18-point type:

"LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

Flood insurance is a separate line of insurance from homeowner's property insurance and is not included in such a policy. The windstorm portion of the homeowner's property insurance policy, which many think of as "hurricane insurance," does not cover the flood damage from rising or accumulating surface water. If the homeowner does not separately purchase flood insurance through the National Flood Insurance Program, or from an authorized Florida flood insurer, then their flood damages will not be covered.

The bill revises the current notice to require the following statement on an initial policy and every renewal:

"LAW AND ORDINANCE: LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

The bill has no fiscal impact on state or local government revenues and expenses. The bill has indeterminate impacts on the private sector.

The bill was approved by the Governor on March 21, 2018, ch. 2018-63, L.O.F., and will become effective on January 1, 2019.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Insurance Policy Form and Content Requirements

The Insurance Code¹ requires that insurance policies, depending on the type of coverage, include specific content to provide consumers with important information or ensure consistency and readability of insurance contracts from different insurers. Such provisions may establish requirements regarding content, print type or size, and appearance (e.g., bold type or all capitalized text). Examples include the following:

- Structured settlement transfers must include a disclosure statement in no less than 14-point type with specified elements;²
- Life insurance policies and health insurance policies must be in a light faced type of a style in general use in a uniform size of at least 10-point type with a lowercase alphabet spacing of not less than 120 points.³
- Sinkhole policies must include the following statement in bold 14-point type:

“YOUR POLICY PROVIDES COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE, YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN ADDITIONAL PREMIUM.”⁴

- Homeowner’s property insurance policies must include the following statement in bold 18-point type:

“LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT.”⁵

If the policy includes a separate hurricane deductible, it must include the following in bold 18-point type:

“THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU.”⁶

If the policy contains a hurricane coinsurance provision, it must include the following in bold 18-point type:

“THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU.”⁷

¹ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the “Florida Insurance Code.” s. 624.01, F.S.

² s. 626.99296(3)(a)2., F.S.

³ ss. 627.452(4) and 627.602(1)(d), F.S.

⁴ s. 627.706(3), F.S.

⁵ s. 627.7011(4), F.S.

⁶ s. 627.701(4)(a), F.S.

⁷ *Id.*

- Motor vehicle policies must include the following statement in bold 12-point type, depending on whether or how much uninsured motorist coverage is purchased:

“You are electing not to purchase certain valuable coverage which protects you and your family or you are purchasing uninsured motorist limits less than your bodily injury liability limits when you sign this form. Please read carefully.”⁸

- Premium finance agreements must include the following in bold 10-point type:

“PREMIUM FINANCE AGREEMENT”

In addition, such agreements must also include the following in bold 8-point type:

“NOTICE:

1. Do not sign this agreement before you read it or if it contains any blank space.
2. You are entitled to a completely filled-in copy of this agreement.
3. Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge.”⁹

Flood Insurance

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968 to offer federally subsidized flood insurance to property owners and to promote land-use controls in floodplains. The Federal Emergency Management Agency (FEMA) administers the NFIP. The federal government makes flood insurance available within a community, if that community adopts and enforces a floodplain management ordinance to reduce future flood risk related to new construction in floodplains.¹⁰

Nationally, the NFIP insured almost \$1.29 trillion in assets in 2014 and \$1.27 trillion in assets in 2015. Total earned premium for NFIP coverage for 2014 was \$3.56 billion and for 2015 was \$3.45 billion.¹¹

Private Market Flood Insurance in Florida

In response to changes to the NFIP, the 2014 Legislature created a law governing the sale of personal lines residential flood insurance.¹² For the purposes of Florida law, “flood” is defined as 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 from:

- Overflow of inland or tidal waters;
- Unusual and rapid accumulation or runoff of surface waters from any source;
- Mudflow; or
- 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 above.¹³

⁸ s. 627.727(1), F.S.

⁹ s. 627.839(2)(b), F.S. Also, premium finance agreements that include coverage required by the Financial Responsibility Law of 1955, ch. 324, F.S., must include the following statement in 12-point type: “proof of financial responsibility is required to be maintained continuously for a period of 3 years, pursuant to chapter 324, and the operation of a vehicle without such financial responsibility is unlawful.” s. 627.848(1)(b), F.S.

¹⁰ FEMA, *National Flood Insurance Program, Program Description*, (Aug. 1, 2002), <https://www.fema.gov/media-library/assets/documents/1150?id=1480> (last visited Jan. 7, 2018).

¹¹ FEMA, *Total Coverage by Calendar Year*, <http://www.fema.gov/statistics-calendar-year> (last visited Jan. 7, 2018).

¹² s. 627.715, F.S., and Ch. 2014-80, Laws of Fla.

¹³ s. 627.715(1)(b), F.S.

The Legislature amended the law in 2015¹⁴ and 2017.¹⁵ Flood insurance is a separate line of insurance from homeowner's property insurance and is not included in the base coverage of such a policy, though it may be added through an addendum.¹⁶ In the case of flood damage occurring during the course of a hurricane, the windstorm portion of the homeowner's property insurance policy does not cover the flood damage.¹⁷ If the homeowner does not specifically purchase flood insurance through the NFIP or an authorized Florida flood insurer, such losses will be uninsured.

Effect of the Bill

The bill revises the current notice applicable to homeowner's property insurance policies to require the following statement on initial policies and every renewal issued after January 1, 2019:

"LAW AND ORDINANCE: LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Insurers will incur form-filing costs. Flood insurers may see more consumers purchasing flood insurance coverage. Consumers may seek flood insurance coverage, thus avoiding related losses in case of covered flood damage during their policy period.

¹⁴ Ch. 2015-69, Laws of Fla.

¹⁵ Ch. 2017-142, Laws of Fla.

¹⁶ part X, ch. 627, F.S.

¹⁷ Flood insurance covers rising water that sits or flows on the ground and damages property by inundation and flow. Windstorm insurance covers water falling or driven by wind that damages property by infiltration of the structure from above or laterally while carried by the wind. In short, flood insurance covers damage related to rising water and windstorm insurance covers damage related to airborne water.

D. FISCAL COMMENTS:

None.