

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 380

INTRODUCER: Banking and Insurance Committee and Senator Brandes

SUBJECT: Homeowners' Insurance Policy Disclosures

DATE: April 16, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Peacock</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	<u>Matiyow</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 380 requires when an insurer issues homeowners policies that excludes coverage for the peril of flood they must provide to their policyholders a disclosure informing them of the benefits of flood insurance.

The new requirements will apply to policies issued or renewed on or after July 1, 2019.

II. Present Situation:

The National Flood Insurance Program (NFIP)

The NFIP was created by the passage of the National Flood Insurance Act of 1968.¹ The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government.

¹ FEMA, National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, *available at* <http://www.fema.gov/media-library/assets/documents/7277?id=2216> (Last accessed January 29, 2019).

Private Market Flood Insurance in Florida

In 2014, the Legislature created s. 627.715, F.S., governing the sale of personal lines residential flood insurance.² “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.³

The Legislature amended the law in 2015⁴ and 2017.⁵ Flood insurance is a separate line of insurance from homeowner’s property insurance and is not included in such a policy.⁶ 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.⁷ If the homeowner does not separately purchase flood insurance through the NFIP or an admitted Florida flood insurer, such losses will be uninsured.

The Office of Insurance Regulation reports there are 29 admitted insurance companies currently writing private flood insurance in the state.⁸

Insurance Policy Notice Requirements

The Florida Insurance Code⁹ requires that various insurance policies include specific notices to provide consumers with important information or ensure consistency and readability of insurance contracts from different insurers. The content of the notice depends on the type of coverage provided. Statutory provisions requiring notices often establish requirements regarding their content, print type or size, and appearance (e.g., bold type or all capitalized text).

In 2018, the Legislature passed a requirement that all insurers issuing homeowners policies must provide to their policyholders a disclosure in bold, 18 point font that must read:

“FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER’S INSURANCE POLICY DOES

² Ch. 2014-80, Laws of Fla.

³ Section 627.715(1)(b), F.S.

⁴ Ch. 2015-69, Laws of Fla.

⁵ Ch. 2017-142, Laws of Fla.

⁶ See Ch. 627, Part X, F.S.

⁷ 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.

⁸ Presentation by OIR “Flood Facts & Florida’s Flood Insurance Market” January 2019. (On file with the Senate Committee on Banking and Insurance)

⁹ Section 624.01, F.S., provides that Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the “Florida Insurance Code.”

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.”¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 627.7011, F.S., to require when an insurer issues homeowners policies that excludes the coverage for the peril of flood they must provide to their policyholders a disclosure as to the benefit of flood insurance. When an insurer issues a homeowners policy that includes flood coverage they will no longer be required to provide such disclosure to their policyholders.

Section 2 provides the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁰ Ch. 2018-63 Laws of Fla. (amending s. 627.7011, F.S.).

B. Private Sector Impact:

When an insurer issues homeowners policies that include coverage for the peril of flood, the insurer will no longer have to print and provide to their policyholders a disclosure as to the benefits of flood insurance.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.7011 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on February 19, 2019:

The committee substitute adds “Disclosures” to the title of the bill.

B. Amendments:

None.