

PCS for HB 895

ORIGINAL

2015

1                                   A bill to be entitled  
 2           An act relating to flood insurance; amending s.  
 3           627.715, F.S.; authorizing flexible flood insurance;  
 4           specifying coverage requirements; requiring such  
 5           insurance to be acceptable to the mortgage lender if  
 6           intended to satisfy a mortgage requirement; deleting a  
 7           provision that prohibits supplemental flood insurance  
 8           from including excess coverage over any other  
 9           insurance covering the peril of flood; revising the  
 10          information that must be prominently noted on a  
 11          certain page of a flood insurance policy; requiring  
 12          the Office of Insurance Regulation to require an  
 13          insurer to provide appropriate return of premium to  
 14          affected insureds if the office determines that a rate  
 15          of the insurer is excessive or unfairly  
 16          discriminatory; revising the notice that must be  
 17          provided to and acknowledged by an applicant for flood  
 18          coverage from an authorized or surplus lines insurer  
 19          if the applicant's property is receiving flood  
 20          insurance under the National Flood Insurance Program;  
 21          allowing an authorized insurer to request a  
 22          certification from the office which indicates that a  
 23          policy, contract, or endorsement issued by the insurer  
 24          provides coverage for the peril of flood which equals  
 25          or exceeds the flood coverage offered by the National  
 26          Flood Insurance Program; specifying requirements for

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27 such certification; authorizing such insurer or its  
 28 agent to reference or include the certification in  
 29 specified advertising, communications, and  
 30 documentation; providing that misrepresenting that a  
 31 flood policy, contract, or endorsement is certified is  
 32 an unfair or deceptive act; providing an effective  
 33 date.

34

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

36

37 Section 1. Section 627.715, Florida Statutes, is amended  
 38 to read:

39 627.715 Flood insurance.—An authorized insurer may issue  
 40 an insurance policy, contract, or endorsement providing personal  
 41 lines residential coverage for the peril of flood on any  
 42 structure or the contents of personal property contained  
 43 therein, subject to this section. This section does not apply to  
 44 commercial lines residential or commercial lines nonresidential  
 45 coverage for the peril of flood. This section also does not  
 46 apply to coverage for the peril of flood that is excess coverage  
 47 over any other insurance covering the peril of flood. An insurer  
 48 may issue flood insurance policies, contracts, or endorsements  
 49 on a standard, preferred, customized, or supplemental basis.

50 (1)(a)1. Standard flood insurance must cover only losses  
 51 from the peril of flood, as defined in paragraph (b), equivalent  
 52 to that provided under a standard flood insurance policy under

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53 the National Flood Insurance Program. Standard flood insurance  
 54 issued under this section must provide the same coverage,  
 55 including deductibles and adjustment of losses, as that provided  
 56 under a standard flood insurance policy under the National Flood  
 57 Insurance Program.

58 2. Preferred flood insurance must include the same  
 59 coverage as standard flood insurance but:

60 a. Include, within the definition of "flood," losses from  
 61 water intrusion originating from outside the structure that are  
 62 not otherwise covered under the definition of "flood" provided  
 63 in paragraph (b).

64 b. Include coverage for additional living expenses.

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

68 3. Customized flood insurance must include coverage that  
 69 is broader than the coverage provided under standard flood  
 70 insurance.

71 4. Flexible flood insurance must cover losses from the  
 72 peril of flood, as defined in paragraph (b), and may also  
 73 include coverage for losses from water intrusion originating  
 74 from outside the structure which is not otherwise covered by the  
 75 definition of flood. Flexible flood insurance must include one  
 76 or more of the following provisions:

77 a. A deductible in an amount authorized and subject to the  
 78 requirements of s. 627.701, including a deductible in an amount

79 authorized for hurricanes.

80 b. A requirement that flood loss to a dwelling or personal  
 81 property be adjusted in accordance with s. 627.7011(3).

82 c. A restriction limiting flood coverage to the principal  
 83 building defined in the policy.

84 d. A provision including or excluding coverage for  
 85 additional living expenses.

86 e. A provision excluding coverage for personal property or  
 87 contents as to the peril of flood.

88  
 89 Flexible flood insurance must be acceptable to the mortgage  
 90 lender if such policy, contract, or endorsement is intended to  
 91 satisfy a mortgage requirement.

92 ~~5.4. Supplemental flood insurance may provide coverage~~  
 93 ~~designed to supplement a flood policy obtained from the National~~  
 94 ~~Flood Insurance Program or from an insurer issuing standard or~~  
 95 ~~preferred flood insurance pursuant to this section. Supplemental~~  
 96 ~~flood insurance may provide, but need not be limited to,~~  
 97 ~~coverage for jewelry, art, deductibles, and additional living~~  
 98 ~~expenses. Supplemental flood insurance does not include coverage~~  
 99 ~~for the peril of flood that is excess coverage over any other~~  
 100 ~~insurance covering the peril of flood.~~

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

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- 105           1. Overflow of inland or tidal waters;
- 106           2. Unusual and rapid accumulation or runoff of surface
- 107 waters from any source;
- 108           3. Mudflow; or
- 109           4. Collapse or subsidence of land along the shore of a
- 110 lake or similar body of water as a result of erosion or
- 111 undermining caused by waves or currents of water exceeding
- 112 anticipated cyclical levels that result in a flood as defined in
- 113 this paragraph.

114           (2) Any limitations on Flood coverage or policy limits

115 pursuant to this section, including, but not limited to,

116 deductibles, must be prominently noted on the policy

117 declarations page or face page.

118           (3) (a) An insurer may establish and use flood coverage

119 rates in accordance with the rate standards provided in s.

120 627.062.

121           (b) For flood coverage rates filed with the office before

122 October 1, 2019, the insurer may also establish and use such

123 rates in accordance with the rates, rating schedules, or rating

124 manuals filed by the insurer with the office which allow the

125 insurer a reasonable rate of return on flood coverage written in

126 this state. Flood coverage rates established pursuant to this

127 paragraph are not subject to s. 627.062(2) (a) and (f). An

128 insurer shall notify the office of any change to such rates

129 within 30 days after the effective date of the change. The

130 notice must include the name of the insurer and the average

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131 statewide percentage change in rates. Actuarial data with regard  
 132 to such rates for flood coverage must be maintained by the  
 133 insurer for 2 years after the effective date of such rate change  
 134 and is subject to examination by the office. The office may  
 135 require the insurer to incur the costs associated with an  
 136 examination. Upon examination, the office, in accordance with  
 137 generally accepted and reasonable actuarial techniques, shall  
 138 consider the rate factors in s. 627.062(2)(b), (c), and (d), and  
 139 the standards in s. 627.062(2)(e), to determine if the rate is  
 140 excessive, inadequate, or unfairly discriminatory. If the office  
 141 determines that a rate is excessive or unfairly discriminatory,  
 142 the office shall require the insurer to provide appropriate  
 143 return of premium to affected insureds.

144 (4) A surplus lines agent may export a contract or  
 145 endorsement providing flood coverage to an eligible surplus  
 146 lines insurer without making a diligent effort to seek such  
 147 coverage from three or more authorized insurers under s.  
 148 626.916(1)(a). This subsection expires July 1, 2017.

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

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

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

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

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

161 (8) An agent must, upon receiving ~~obtaining~~ an application  
 162 for flood coverage from an authorized or surplus lines insurer  
 163 for a property receiving flood insurance under the National  
 164 Flood Insurance Program, ~~must~~ obtain an acknowledgment signed by  
 165 the applicant before placing the coverage with the authorized or  
 166 surplus lines insurer. The acknowledgment must notify the  
 167 applicant that, if the applicant discontinues coverage under the  
 168 National Flood Insurance Program which is provided at a  
 169 subsidized rate, the full risk rate for flood insurance may  
 170 apply to the property if the applicant ~~such insurance is~~ later  
 171 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~  
 172 ~~Insurance~~ program.

173 (9) With respect to the regulation of flood coverage  
 174 written in this state by authorized insurers, this section  
 175 supersedes any other provision in the Florida Insurance Code in  
 176 the event of a conflict.

177 (10) If federal law or rule requires a certification by a  
 178 state insurance regulatory official as a condition of qualifying  
 179 for private flood insurance or disaster assistance, the  
 180 Commissioner of Insurance Regulation may provide the  
 181 certification, and such certification is not subject to review  
 182 under chapter 120.

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183       (11) (a) An authorized insurer offering flood insurance may  
 184 request the office to certify that a policy, contract, or  
 185 endorsement provides coverage for the peril of flood which  
 186 equals or exceeds the flood coverage offered by the National  
 187 Flood Insurance Program. To be eligible for certification, such  
 188 policy, contract, or endorsement must state, and the office must  
 189 confirm, that it meets the private flood insurance requirements  
 190 specified in 42 U.S.C. s. 4012a(b) and may not contain any  
 191 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

192       (b) The authorized insurer or its agent may reference or  
 193 include a certification under paragraph (a) in advertising or  
 194 communications with an agent, a lending institution, an insured,  
 195 or a potential insured only for a policy, contract, or  
 196 endorsement that is certified under this subsection. The  
 197 authorized insurer may include a statement that notifies an  
 198 insured of the certification on the declarations page or other  
 199 policy documentation related to flood coverage certified under  
 200 this subsection.

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

204       Section 2. This act shall take effect July 1, 2015.

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