

CHAPTER 2017-142

Committee Substitute for Committee Substitute for House Bill No. 813

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; extending the last date of filing with the Office of Insurance Regulation of certain flood coverage rates that may be established and used by an insurer; specifying a condition for the expiration of a certain diligent-effort requirement exemption for surplus lines agents, relating to the export of certain contracts or endorsements to eligible surplus lines insurers; revising applicability of certain notification and filing requirements; revising a notice requirement for agents before they place flood insurance coverage with an admitted or surplus lines insurer for properties receiving flood insurance under the National Flood Insurance Program; 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)(a) Except for excess flood insurance policies, policies issued under this section include:

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, 2025 ~~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)(a). This subsection expires July 1, 2019, or on 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 admitted 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) An agent must provide a written notice to be signed by the applicant before the agent places, upon receiving an application for flood insurance coverage with from an admitted 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 notice 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.

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.