

CHAPTER 2023-175

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 799

An act relating to property insurance; amending s. 627.062, F.S.; requiring residential property insurance rate filings to account for windstorm mitigation measures undertaken by policyholders; amending s. 627.0629, F.S.; requiring wind uplift prevention to be included in windstorm damage mitigation techniques for residential property insurance rate filings; amending s. 627.351, F.S.; revising rate change limitations for specified policies written by the Citizens Property Insurance Corporation; revising the applicability of flood coverage requirements for personal lines residential policyholders of the corporation; authorizing the corporation to adopt policy forms that provide for the resolution of certain disputes in proceedings before the Division of Administrative Hearings; providing that such policies are not subject to mandatory binding arbitration provisions; specifying applicable requirements, procedures, and restrictions relating to such proceedings; creating s. 627.7155, F.S.; prohibiting a property insurer that requires flood coverage as a condition for wind coverage from denying certain claims except under certain circumstances; specifying a type of acceptable proof of coverage; providing an appropriation; requiring a wind-loss mitigation study conducted by the Office of Insurance Regulation; providing requirements for the study; providing reporting requirements; providing effective dates.

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

Section 1. Paragraph (j) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(j) With respect to residential property insurance rate filings, the rate filing must account for mitigation measures undertaken by policyholders to reduce hurricane losses and windstorm losses.

The provisions of this subsection do not apply to workers' compensation, employer's liability insurance, and motor vehicle insurance.

Section 2. Subsection (1) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1) It is the intent of the Legislature that insurers provide savings to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm

losses. A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques must include, but are not limited to, fixtures or construction techniques that enhance wind uplift prevention, roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials, or appropriate reductions in deductibles, for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code must be included in the rate filing. The office shall determine the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation, which may be used by insurers in rate filings.

Section 3. Effective upon becoming a law, paragraphs (n) and (aa) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ll) is added to that subsection, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(n)1. Rates for coverage provided by the corporation must be actuarially sound pursuant to s. 627.062 and not competitive with approved rates charged in the admitted voluntary market so that the corporation functions as a residual market mechanism to provide insurance only when insurance cannot be procured in the voluntary market, except as otherwise provided in this paragraph. The office shall provide the corporation such information as would be necessary to determine whether rates are competitive. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation's rates. The corporation may use the public model results in combination with the results of

private models to calculate rates for the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes.

5. Notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage, does not exceed the following for any single policy issued by the corporation, excluding coverage changes and surcharges:

- a. Twelve percent for 2023.
- b. Thirteen percent for 2024.
- c. Fourteen percent for 2025.
- d. Fifteen percent for 2026 and all subsequent years.

6. The corporation may also implement an increase to reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5)(b).

7. The corporation's implementation of rates as prescribed in subparagraphs 5. and 8. shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing that is not competitive with approved rates in the admitted voluntary market for each commercial and personal line of business the corporation writes.

8. The following ~~For any new or renewal personal lines policies policy~~ written on or after November 1, 2023, are which does not cover a primary residence, the rate to be applied in calculating premium is not subject to the rate increase limitations in subparagraph 5., but ~~However, the policyholder may not be charged more than 50 percent above, nor less than, the prior year's and may not be charged less than, the established rate for the corporation; which was in effect 1 year before the date of the application~~

- a. Policies that do not cover a primary residence;
- b. New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or
- c. Subsequent renewals of those policies, including the new policies in sub-subparagraph b., under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer

determined by the office to be unsound or an insurer placed in receivership under chapter 631.

9. As used in this paragraph, the term “primary residence” means the dwelling that is the policyholder’s primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months of each year.

(aa) Except as otherwise provided in this paragraph, the corporation shall require the securing and maintaining of flood insurance as a condition of coverage of a personal lines residential risk. The insured or applicant must execute a form approved by the office affirming that flood insurance is not provided by the corporation and that if flood insurance is not secured by the applicant or insured from an insurer other than the corporation and in addition to coverage by the corporation, the risk will not be eligible for coverage by the corporation. The corporation may deny coverage of a personal lines residential risk to an applicant or insured who refuses to secure and maintain flood insurance. The requirement to purchase flood insurance shall be implemented as follows:

1. Except as provided in subparagraphs 2. and 3., all personal lines residential policyholders must have flood coverage in place for policies effective on or after:

a. January 1, 2024, for a structure that has a dwelling replacement cost of property valued at \$600,000 or more.

b. January 1, 2025, for a structure that has a dwelling replacement cost of property valued at \$500,000 or more.

c. January 1, 2026, for a structure that has a dwelling replacement cost of property valued at \$400,000 or more.

d. January 1, 2027, for all other personal lines residential property insured by the corporation.

2. All personal lines residential policyholders whose property insured by the corporation is located within the special flood hazard area defined by the Federal Emergency Management Agency must have flood coverage in place:

a. At the time of initial policy issuance for all new personal lines residential policies issued by the corporation on or after April 1, 2023.

b. By the time of the policy renewal for all personal lines residential policies renewing on or after July 1, 2023.

3. ~~Policyholders whose policies issued by the corporation do not provide coverage for the peril of wind~~ are not required to purchase flood insurance as a condition for maintaining the following their policies issued by with the corporation;

- a. Policies that do not provide coverage for the peril of wind.
- b. Policies that provide coverage under a condominium unit owners form.

The flood insurance required under this paragraph must meet, at a minimum, the coverage available from the National Flood Insurance Program or the requirements of subparagraphs s. 627.715(1)(a)1., 2., and 3.

(ll) In addition to any other method of alternative dispute resolution authorized by state law, the corporation may adopt policy forms that provide for the resolution of disputes regarding its claim determinations, including disputes regarding coverage for, or the scope and value of, a claim, in a proceeding before the Division of Administrative Hearings. Any such policies are not subject to s. 627.70154. All proceedings in the Division of Administrative Hearings pursuant to such policies are subject to ss. 57.105 and 768.79 as if filed in the courts of this state and are not considered chapter 120 administrative proceedings. Rule 1.442, Florida Rules of Civil Procedure, applies to any offer served pursuant to s. 768.79, except that, notwithstanding any provision in Rule 1.442, Florida Rules of Civil Procedure, to the contrary, an offer shall not be served earlier than 10 days after filing the request for hearing with the Division of Administrative Hearings and shall not be served later than 10 days before the date set for the final hearing. The administrative law judge in such proceedings shall award attorney fees and other relief pursuant to ss. 57.105 and 768.79. The corporation may not seek, and the office may not approve, a maximum hourly rate for attorney fees.

Section 4. Effective October 1, 2023, section 627.7155, Florida Statutes, is created to read:

627.7155 Wind and flood coverage in residential and commercial property insurance policies.—For residential and commercial property insurance policies issued or renewed on or after October 1, 2023:

(1) If a residential or commercial property insurer requires that an insured or applicant have coverage for the peril of flood when the insurer issues a policy covering the peril of wind, unless the insurer verifies that the insured or applicant has coverage for the peril of flood at the time the policy was issued or renewed, the insurer may not deny a claim for wind solely because the insured does not have coverage for the peril of flood, unless flood coverage that was verified at the time of application or renewal, or equivalent coverage, is not in force at the time of the loss.

(2) In addition to coverage for the peril of flood directly secured by the insured or applicant, a master flood policy that is issued to someone other than the insured or applicant and that includes the insured or applicant as an intended or third-party beneficiary under the master flood policy is acceptable proof of coverage for the peril of flood for the purposes of this section.

Section 5. For the 2023-2024 fiscal year, the nonrecurring sum of \$750,000 from the Insurance Regulatory Trust Fund is appropriated to the Office of Insurance Regulation to competitively procure a wind-loss mitigation study. The office, in consultation with the Department of Business and Professional Regulation and the Florida Building Commission, shall conduct a residential wind-loss mitigation study to evaluate the windstorm loss relativities for construction features, including, but not limited to, wind uplift prevention, methods and devices to prevent water intrusion through the tracks of sliding glass doors, and those that enhance roof strength; roof covering performance; roof-to-wall strength; wall-to-floor-to-foundation strength; opening protections; and window, door, and skylight strength. The study must include single-family and multifamily homes, mobile homes, and manufactured housing. In addition, the study must include, but need not be limited to, an analysis of developed hurricane loss data for hurricanes since June 1, 2018. The office may use a portion of the funds appropriated to contract separately with building code experts in order to implement this act and adopt rules. The findings of the study shall be reported to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation no later than July 1, 2024.

Section 6. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2023.

Approved by the Governor May 31, 2023.

Filed in Office Secretary of State May 31, 2023.