

1 A bill to be entitled

2 An act relating to flood insurance; amending s.
3 627.062, F.S.; adding projected flood losses to the
4 factors that must be considered by the Office of
5 Insurance Regulation in reviewing certain rate
6 filings; amending s. 627.0628, F.S.; requiring the
7 commission to adopt standards and guidelines relating
8 to personal lines residential flood loss by a certain
9 date; creating s. 627.715, F.S.; authorizing insurers
10 to offer flood insurance in this state; providing
11 standard coverage requirements; providing preferred
12 coverage requirements; defining the term "flood";
13 requiring that certain limitations be noted on the
14 policy declarations or face page; providing the
15 insurer with rate options; allowing a surplus lines
16 agent to export a contract or endorsement for flood
17 coverage to a surplus lines insurer without meeting
18 certain requirements under certain circumstances;
19 requiring the insurer to notify the office before
20 writing flood insurance and to file a plan of
21 operation with the office; providing an exception;
22 prohibiting The Florida Hurricane Catastrophe Fund
23 from reimbursing losses caused by flooding; requiring
24 certain agents to obtain an acknowledgment of certain
25 disclosures signed by the applicant; providing
26 construction; providing an effective date.

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PCS for HB 879

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

Section 1. Paragraph (b) 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:

(b) Upon receiving a rate filing, the office shall review the filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves.

The commission may adopt rules using reasonable techniques of actuarial science and economics to specify the manner in which insurers calculate investment income attributable to classes of insurance written in this state and the manner in which

53 investment income is used to calculate insurance rates. Such
 54 manner must contemplate allowances for an underwriting profit
 55 factor and full consideration of investment income that produces
 56 ~~which produce~~ a reasonable rate of return; however, investment
 57 income from invested surplus may not be considered.

58 5. The reasonableness of the judgment reflected in the
 59 filing.

60 6. Dividends, savings, or unabsorbed premium deposits
 61 allowed or returned to ~~Florida~~ policyholders, members, or
 62 subscribers in this state.

63 7. The adequacy of loss reserves.

64 8. The cost of reinsurance. The office may not disapprove
 65 a rate as excessive solely due to the insurer having obtained
 66 catastrophic reinsurance to cover the insurer's estimated 250-
 67 year probable maximum loss or any lower level of loss.

68 9. Trend factors, including trends in actual losses per
 69 insured unit for the insurer making the filing.

70 10. Conflagration and catastrophe hazards, if applicable.

71 11. Projected hurricane losses, if applicable, which must
 72 be estimated using a model or method found to be acceptable or
 73 reliable by the Florida Commission on Hurricane Loss Projection
 74 Methodology, and as further provided in s. 627.0628.

75 12. Projected flood losses for personal residential
 76 property insurance, if applicable, which may be estimated using
 77 a model or method, or a straight average of model results or
 78 output ranges, independently found to be acceptable or reliable

79 by the Florida Commission on Hurricane Loss Projection
 80 Methodology, and as further provided in s. 627.0628.

81 13. ~~12.~~ A reasonable margin for underwriting profit and
 82 contingencies.

83 14. ~~13.~~ The cost of medical services, if applicable.

84 15. ~~14.~~ Other relevant factors that affect the frequency
 85 or severity of claims or expenses.

86 Section 2. Subsection (3) of section 627.0628, Florida
 87 Statutes, is amended to read:

88 627.0628 Florida Commission on Hurricane Loss Projection
 89 Methodology; public records exemption; public meetings
 90 exemption.—

91 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

92 (a) The commission shall consider any actuarial methods,
 93 principles, standards, models, or output ranges that have the
 94 potential for improving the accuracy of or reliability of the
 95 hurricane loss projections used in residential property
 96 insurance rate filings and flood loss projections used in rate
 97 filings for personal lines residential flood insurance coverage.

98 The commission shall, from time to time, adopt findings as to
 99 the accuracy or reliability of particular methods, principles,
 100 standards, models, or output ranges.

101 (b) The commission shall consider any actuarial methods,
 102 principles, standards, or models that have the potential for
 103 improving the accuracy of or reliability of projecting probable
 104 maximum loss levels. The commission shall adopt findings as to

105 the accuracy or reliability of particular methods, principles,
 106 standards, or models related to probable maximum loss
 107 calculations.

108 (c) In establishing reimbursement premiums for the Florida
 109 Hurricane Catastrophe Fund, the State Board of Administration
 110 must, to the extent feasible, employ actuarial methods,
 111 principles, standards, models, or output ranges found by the
 112 commission to be accurate or reliable.

113 (d) With respect to a rate filing under s. 627.062, an
 114 insurer shall employ and may not modify or adjust actuarial
 115 methods, principles, standards, models, or output ranges found
 116 by the commission to be accurate or reliable in determining
 117 hurricane loss factors for use in a rate filing under s.
 118 627.062. An insurer shall employ and may not modify or adjust
 119 models found by the commission to be accurate or reliable in
 120 determining probable maximum loss levels pursuant to paragraph
 121 (b) with respect to a rate filing under s. 627.062 made more
 122 than 60 days after the commission has made such findings. This
 123 paragraph does not prohibit an insurer from using a straight
 124 average of model results or output ranges for the purposes of a
 125 rate filing for personal lines residential flood insurance
 126 coverage under s. 627.062.

127 (e) The commission shall adopt actuarial methods,
 128 principles, standards, models, or output ranges for personal
 129 lines residential flood loss no later than July 1, 2016.

130 (f) ~~(e)~~ The commission shall revise ~~adopt revisions to~~

131 previously adopted actuarial methods, principles, standards,
 132 models, or output ranges every odd-numbered ~~odd~~ year.

133 (g) ~~(f)~~1. A trade secret, as defined in s. 688.002, that is
 134 used in designing and constructing a hurricane loss model and
 135 that is provided pursuant to this section, by a private company,
 136 to the commission, office, or consumer advocate appointed
 137 pursuant to s. 627.0613, is confidential and exempt from s.
 138 119.07(1) and s. 24(a), Art. I of the State Constitution.

139 2.a. That portion of a meeting of the commission or of a
 140 rate proceeding on an insurer's rate filing at which a trade
 141 secret made confidential and exempt by this paragraph is
 142 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
 143 State Constitution. The closed meeting must be recorded, and no
 144 portion of the closed meeting may be off the record.

145 b. The recording of a closed portion of a meeting is
 146 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 147 Constitution.

148 c. This subparagraph is subject to the Open Government
 149 Sunset Review Act in accordance with s. 119.15 and shall stand
 150 repealed on October 2, 2015, unless reviewed and saved from
 151 repeal through reenactment by the Legislature.

152 Section 3. Section 627.715, Florida Statutes, is created
 153 to read:

154 627.715 Flood Insurance.— An authorized insurer may issue
 155 an insurance policy, contract or endorsement providing personal
 156 lines residential coverage for the peril of flood on any

157 structure or the contents of personal property contained
 158 therein, subject to the provisions of this section. This section
 159 does not apply to commercial lines residential or commercial
 160 lines nonresidential coverage for the peril of flood. This
 161 section also does not apply to coverage for the peril of flood
 162 that is excess coverage over any other insurance covering the
 163 peril of flood. An insurer may issue flood insurance policies,
 164 contracts, or endorsements on a standard or preferred basis.

165 (1) (a) 1. Standard flood insurance must cover only losses
 166 from the peril of flood, as defined in paragraph (b), equivalent
 167 to that provided under a standard flood insurance policy under
 168 the National Flood Insurance Program. Standard flood insurance
 169 issued under this section must provide the same coverage,
 170 including deductibles and adjustment of losses, as that provided
 171 under a standard flood insurance policy under the National Flood
 172 Insurance Program.

173 2. Preferred flood insurance must include the same coverage
 174 as standard flood insurance except:

175 a. include within the definition of "flood," losses from
 176 water intrusion originating from outside the structure that are
 177 not otherwise covered under the definition of "flood" in
 178 paragraph (b).

179 b. include coverage for additional living expenses.

180 c. provide that any loss under personal property or
 181 contents coverage that is repaired or replaced be adjusted only
 182 on the basis of replacement costs up to the policy limits.

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

- 187 1. Overflow of inland or tidal waters;
- 188 2. Unusual and rapid accumulation or runoff of surface
 189 waters from any source;
- 190 3. Mudflow; or
- 191 4. Collapse or subsidence of land along the shore of a lake
 192 or similar body of water as a result of erosion or undermining
 193 caused by waves or currents of water exceeding anticipated
 194 cyclical levels that result in a flood as defined above.

195 (2) Any limitations on flood coverage or policy limits
 196 pursuant to this section, including but not limited to,
 197 deductibles, must be prominently noted on the policy
 198 declarations page or face page.

199 (3) (a) An insurer may establish and use flood coverage
 200 rates in accordance with the rate standards of s. 627.062.

201 (b) For flood coverage rates filed with the office before
 202 October 1, 2019 the insurer may also establish and use such
 203 rates in accordance with the rates, rating schedules or rating
 204 manuals filed by the insurer with the office which allow the
 205 insurer a reasonable rate of return on flood coverage written in
 206 this state. Flood coverage rates established pursuant to this
 207 paragraph are not subject to s. 627.062(2) (a) or (f). An insurer
 208 shall notify the office of any change to such rates within 30

209 days after the effective date of the change. The notice must
 210 include the name of the insurer and the average statewide
 211 percentage change in rates. Actuarial data with regard to such
 212 rates for flood coverage must be maintained by the insurer for 2
 213 years after the effective date of such rate change and is
 214 subject to examination by the office. The office may require the
 215 insurer to incur the costs associated with an examination. Upon
 216 examination, the office, in accordance with generally accepted
 217 and reasonable actuarial techniques, shall consider the rate
 218 factors in s. 627.062(2)(b), (c) and (d) and the standards in s.
 219 627.062(2)(e) to determine if the rate is excessive, inadequate
 220 or unfairly discriminatory.

221 (4) A surplus lines agent may export a contract or
 222 endorsement providing flood coverage to an eligible surplus
 223 lines insurer without making a diligent effort to seek such
 224 coverage from three or more authorized insurers under s.
 225 626.916(1)(a) only if the premium for the coverage from the
 226 surplus lines insurer is at least 10 percent less than the
 227 premium for comparable coverage from an authorized insurer.

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

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

232 (b) File a plan of operation and financial projections or
 233 revisions to such plan, as applicable, with the office unless
 234 the insurer maintains at least \$35 million in surplus. For

235 purposes of this paragraph, an insurer may demonstrate such
 236 surplus if the insurer group surplus is used to support covered
 237 flood insurance risks through a pooling arrangement or
 238 intercompany reinsurance.

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

241 (7) The Florida Hurricane Catastrophe Fund may not provide
 242 reimbursement for losses proximately caused by the peril of
 243 flood, including losses that occur during a covered event as
 244 defined under s. 215.555(2).

245 (8) An agent obtaining an application for flood coverage
 246 from an authorized or surplus lines insurer for a property
 247 receiving flood insurance under the National Flood Insurance
 248 Program must obtain an acknowledgment signed by the applicant
 249 before placing the coverage with the authorized or surplus lines
 250 insurer. The acknowledgment must notify the applicant that the
 251 full risk rate for flood insurance may apply to the property if
 252 such insurance is later obtained under the National Flood
 253 Insurance Program.

254 (9) With respect to the regulation of flood coverage
 255 written in this state by private insurers, this section
 256 supersedes any other provision in the Florida Insurance Code in
 257 the event of a conflict.

258 Section 4. This act shall take effect upon becoming a law.