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CS/CS/HB 813, Engrossed 2

2017 Legislature

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2 An act relating to flood insurance; amending s.  
3 627.0628, F.S.; revising the intervals at which  
4 specified standards and guidelines for projecting  
5 certain rate filings must be revised by the Florida  
6 Commission on Hurricane Loss Projection Methodology;  
7 amending s. 627.715, F.S.; authorizing certain  
8 insurers to issue insurance policies, contracts, or  
9 endorsements providing certain excess coverage for the  
10 peril of flood on a flexible basis; revising  
11 applicability; extending the last date of filing with  
12 the Office of Insurance Regulation of certain flood  
13 coverage rates that may be established and used by an  
14 insurer; specifying a condition for the expiration of  
15 a certain diligent-effort requirement exemption for  
16 surplus lines agents, relating to the export of  
17 certain contracts or endorsements to eligible surplus  
18 lines insurers; revising applicability of certain  
19 notification and filing requirements; revising a  
20 notice requirement for agents before they place flood  
21 insurance coverage with an admitted or surplus lines  
22 insurer for properties receiving flood insurance under  
23 the National Flood Insurance Program; providing  
24 an effective date.  
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26 | Be It Enacted by the Legislature of the State of Florida:

27 |

28 |       Section 1. Paragraph (f) of subsection (3) of section  
29 | 627.0628, Florida Statutes, is amended to read:

30 |       627.0628 Florida Commission on Hurricane Loss Projection  
31 | Methodology; public records exemption; public meetings  
32 | exemption.—

33 |       (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

34 |       (f) The commission shall revise previously adopted  
35 | actuarial methods, principles, standards, models, or output  
36 | ranges every odd-numbered year for hurricane loss projections.  
37 | The commission shall revise previously adopted actuarial  
38 | methods, principles, standards, models, or output ranges no less  
39 | than every 4 years for flood loss projections.

40 |       Section 2. Section 627.715, Florida Statutes, is amended  
41 | to read:

42 |       627.715 Flood insurance.—An authorized insurer may issue  
43 | an insurance policy, contract, or endorsement providing personal  
44 | lines residential coverage for the peril of flood or excess  
45 | coverage for the peril of flood on any structure or the contents  
46 | of personal property contained therein, subject to this section.  
47 | This section does not apply to commercial lines residential or  
48 | commercial lines nonresidential coverage for the peril of flood.  
49 | ~~This section also does not apply to coverage for the peril of~~  
50 | ~~flood that is excess coverage over any other insurance covering~~

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51 ~~the peril of flood.~~ An insurer may issue flood insurance  
 52 policies, contracts, ~~or~~ endorsements, or excess coverage on a  
 53 standard, preferred, customized, flexible, or supplemental  
 54 basis.

55 (1) (a) Except for excess flood insurance policies,  
 56 policies issued under this section include:

57 1. Standard flood insurance, which must cover only losses  
 58 from the peril of flood, as defined in paragraph (b), equivalent  
 59 to that provided under a standard flood insurance policy under  
 60 the National Flood Insurance Program. Standard flood insurance  
 61 issued under this section must provide the same coverage,  
 62 including deductibles and adjustment of losses, as that provided  
 63 under a standard flood insurance policy under the National Flood  
 64 Insurance Program.

65 2. Preferred flood insurance, which must include the same  
 66 coverage as standard flood insurance but:

67 a. Include, within the definition of "flood," losses from  
 68 water intrusion originating from outside the structure that are  
 69 not otherwise covered under the definition of "flood" provided  
 70 in paragraph (b).

71 b. Include coverage for additional living expenses.

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

75 3. Customized flood insurance, which must include coverage

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76 | that is broader than the coverage provided under standard flood  
77 | insurance.

78 |       4. Flexible flood insurance, which must cover losses from  
79 | the peril of flood, as defined in paragraph (b), and may also  
80 | include coverage for losses from water intrusion originating  
81 | from outside the structure which is not otherwise covered by the  
82 | definition of flood. Flexible flood insurance must include one  
83 | or more of the following provisions:

84 |       a. An agreement between the insurer and the insured that  
85 | the flood coverage is in a specified amount, such as coverage  
86 | that is limited to the total amount of each outstanding mortgage  
87 | applicable to the covered property.

88 |       b. A requirement for a deductible in an amount authorized  
89 | under s. 627.701, including a deductible in an amount authorized  
90 | for hurricanes.

91 |       c. A requirement that flood loss to a dwelling be adjusted  
92 | in accordance with s. 627.7011(3) or adjusted only on the basis  
93 | of the actual cash value of the property.

94 |       d. A restriction limiting flood coverage to the principal  
95 | building defined in the policy.

96 |       e. A provision including or excluding coverage for  
97 | additional living expenses.

98 |       f. A provision excluding coverage for personal property or  
99 | contents as to the peril of flood.

100 |       5. Supplemental flood insurance, which may provide

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101 coverage designed to supplement a flood policy obtained from the  
 102 National Flood Insurance Program or from an insurer issuing  
 103 standard or preferred flood insurance pursuant to this section.  
 104 Supplemental flood insurance may provide, but need not be  
 105 limited to, coverage for jewelry, art, deductibles, and  
 106 additional living expenses.

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

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

120 (2) Flood coverage deductibles and policy limits pursuant  
 121 to this section must be prominently noted on the policy  
 122 declarations page or face page.

123 (3) (a) An insurer may establish and use flood coverage  
 124 rates in accordance with the rate standards provided in s.  
 125 627.062.

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126 (b) For flood coverage rates filed with the office before  
127 October 1, 2025 ~~2019~~, the insurer may also establish and use  
128 such rates in accordance with the rates, rating schedules, or  
129 rating manuals filed by the insurer with the office which allow  
130 the insurer a reasonable rate of return on flood coverage  
131 written in this state. Flood coverage rates established pursuant  
132 to this paragraph are not subject to s. 627.062(2)(a) and (f).  
133 An insurer shall notify the office of any change to such rates  
134 within 30 days after the effective date of the change. The  
135 notice must include the name of the insurer and the average  
136 statewide percentage change in rates. Actuarial data with regard  
137 to such rates for flood coverage must be maintained by the  
138 insurer for 2 years after the effective date of such rate change  
139 and is subject to examination by the office. The office may  
140 require the insurer to incur the costs associated with an  
141 examination. Upon examination, the office, in accordance with  
142 generally accepted and reasonable actuarial techniques, shall  
143 consider the rate factors in s. 627.062(2)(b), (c), and (d), and  
144 the standards in s. 627.062(2)(e), to determine if the rate is  
145 excessive, inadequate, or unfairly discriminatory. If the office  
146 determines that a rate is excessive or unfairly discriminatory,  
147 the office shall require the insurer to provide appropriate  
148 credit to affected insureds or an appropriate refund to affected  
149 insureds who no longer receive coverage from the insurer.

150 (4) A surplus lines agent may export a contract or

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151 endorsement providing flood coverage to an eligible surplus  
152 lines insurer without making a diligent effort to seek such  
153 coverage from three or more authorized insurers under s.  
154 626.916(1) (a). This subsection expires July 1, 2019, or on the  
155 date on which the Commissioner of Insurance Regulation  
156 determines in writing that there is an adequate admitted market  
157 to provide coverage for the peril of flood consistent with this  
158 section, whichever date occurs first. If there are fewer than  
159 three admitted insurers on the date this subsection expires, the  
160 number of declinations necessary to meet the diligent-effort  
161 requirement shall be no fewer than the number of authorized  
162 insurers providing flood coverage 2017.

163 (5) In addition to any other applicable requirements, an  
164 insurer providing flood coverage that is not excess coverage in  
165 this state must:

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

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

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

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

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176           (8) An agent must provide a written notice to be signed by  
177 the applicant before the agent places, ~~upon receiving an~~  
178 ~~application for~~ flood insurance coverage with ~~from~~ an admitted  
179 ~~authorized~~ or surplus lines insurer for a property receiving  
180 flood insurance under the National Flood Insurance Program,  
181 ~~obtain an acknowledgment signed by the applicant before placing~~  
182 ~~the coverage with the authorized or surplus lines insurer.~~ The  
183 notice acknowledgment must notify the applicant that, if the  
184 applicant discontinues coverage under the National Flood  
185 Insurance Program which is provided at a subsidized rate, the  
186 full risk rate for flood insurance may apply to the property if  
187 the applicant later seeks to reinstate coverage under the  
188 program.

189           (9) With respect to the regulation of flood coverage  
190 written in this state by authorized insurers, this section  
191 supersedes any other provision in the Florida Insurance Code in  
192 the event of a conflict.

193           (10) If federal law or rule requires a certification by a  
194 state insurance regulatory official as a condition of qualifying  
195 for private flood insurance or disaster assistance, the  
196 Commissioner of Insurance Regulation may provide the  
197 certification, and such certification is not subject to review  
198 under chapter 120.

199           (11) (a) An authorized insurer offering flood insurance may  
200 request the office to certify that a policy, contract, or



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201 endorsement provides coverage for the peril of flood which  
202 equals or exceeds the flood coverage offered by the National  
203 Flood Insurance Program. To be eligible for certification, such  
204 policy, contract, or endorsement must contain a provision  
205 stating that it meets the private flood insurance requirements  
206 specified in 42 U.S.C. s. 4012a(b) and may not contain any  
207 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

208 (b) The authorized insurer or its agent may reference or  
209 include a certification under paragraph (a) in advertising or  
210 communications with an agent, a lending institution, an insured,  
211 or a potential insured only for a policy, contract, or  
212 endorsement that is certified under this subsection. The  
213 authorized insurer may include a statement that notifies an  
214 insured of the certification on the declarations page or other  
215 policy documentation related to flood coverage certified under  
216 this subsection.

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

220 Section 3. This act shall take effect July 1, 2017.