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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:

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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.