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1  
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 Florida Commission on Hurricane Loss Projection  
8 Methodology to adopt standards and guidelines relating  
9 to personal lines residential flood loss by a certain  
10 date; creating s. 627.715, F.S.; authorizing certain  
11 insurers to offer flood insurance in this state;  
12 providing standard, preferred, and customized coverage  
13 requirements; authorizing supplemental flood  
14 insurance; providing supplemental flood insurance  
15 requirements; defining the term "flood"; requiring  
16 that certain limitations be noted on the policy  
17 declarations or face page; providing the insurer with  
18 rate options; authorizing a surplus lines agent to  
19 export a contract or endorsement for flood coverage to  
20 a surplus lines insurer without meeting certain  
21 requirements; requiring the insurer to notify the  
22 office before writing flood insurance and to file a  
23 plan of operation with the office; prohibiting  
24 Citizens Property Insurance Corporation from providing  
25 flood insurance; prohibiting the Florida Hurricane  
26 Catastrophe Fund from reimbursing losses caused by  
27 flooding; requiring certain agents to obtain an  
28 acknowledgment of certain disclosures signed by the  
29 applicant; providing construction; providing that the

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30 Commissioner of Insurance Regulation may provide  
31 certification if required to qualify for flood  
32 insurance or disaster assistance; providing that the  
33 certification is not subject to review under the  
34 Administrative Procedure Act; providing an effective  
35 date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Paragraph (b) of subsection (2) of section  
40 627.062, Florida Statutes, is amended to read:

41 627.062 Rate standards.—

42 (2) As to all such classes of insurance:

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

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

50 2. Past and prospective expenses.

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

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

58 The commission may adopt rules using reasonable techniques of

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59 actuarial science and economics to specify the manner in which  
60 insurers calculate investment income attributable to classes of  
61 insurance written in this state and the manner in which  
62 investment income is used to calculate insurance rates. Such  
63 manner must contemplate allowances for an underwriting profit  
64 factor and full consideration of investment income that produces  
65 ~~which produce~~ a reasonable rate of return; however, investment  
66 income from invested surplus may not be considered.

67 5. The reasonableness of the judgment reflected in the  
68 filing.

69 6. Dividends, savings, or unabsorbed premium deposits  
70 allowed or returned to ~~Florida~~ policyholders, members, or  
71 subscribers in this state.

72 7. The adequacy of loss reserves.

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

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

79 10. Conflagration and catastrophe hazards, if applicable.

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

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

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88 by the Florida Commission on Hurricane Loss Projection  
89 Methodology and as further provided in s. 627.0628.

90 ~~13.12.~~ A reasonable margin for underwriting profit and  
91 contingencies.

92 ~~14.13.~~ The cost of medical services, if applicable.

93 ~~15.14.~~ Other relevant factors that affect the frequency or  
94 severity of claims or expenses.

95

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

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

101 627.0628 Florida Commission on Hurricane Loss Projection  
102 Methodology; public records exemption; public meetings  
103 exemption.—

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

105 (a) The commission shall consider any actuarial methods,  
106 principles, standards, models, or output ranges that have the  
107 potential for improving the accuracy of or reliability of the  
108 hurricane loss projections used in residential property  
109 insurance rate filings and flood loss projections used in rate  
110 filings for personal lines residential flood insurance coverage.

111 The commission shall, from time to time, adopt findings as to  
112 the accuracy or reliability of particular methods, principles,  
113 standards, models, or output ranges.

114 (b) The commission shall consider any actuarial methods,  
115 principles, standards, or models that have the potential for  
116 improving the accuracy of or reliability of projecting probable

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117 maximum loss levels. The commission shall adopt findings as to  
118 the accuracy or reliability of particular methods, principles,  
119 standards, or models related to probable maximum loss  
120 calculations.

121 (c) In establishing reimbursement premiums for the Florida  
122 Hurricane Catastrophe Fund, the State Board of Administration  
123 must, to the extent feasible, employ actuarial methods,  
124 principles, standards, models, or output ranges found by the  
125 commission to be accurate or reliable.

126 (d) With respect to a rate filing under s. 627.062, an  
127 insurer shall employ and may not modify or adjust actuarial  
128 methods, principles, standards, models, or output ranges found  
129 by the commission to be accurate or reliable in determining  
130 hurricane loss factors for use in a rate filing under s.  
131 627.062. An insurer shall employ and may not modify or adjust  
132 models found by the commission to be accurate or reliable in  
133 determining probable maximum loss levels pursuant to paragraph  
134 (b) with respect to a rate filing under s. 627.062 made more  
135 than 60 days after the commission has made such findings. This  
136 paragraph does not prohibit an insurer from using a straight  
137 average of model results or output ranges for the purposes of a  
138 rate filing for personal lines residential flood insurance  
139 coverage under s. 627.062.

140 (e) The commission shall adopt actuarial methods,  
141 principles, standards, models, or output ranges for personal  
142 lines residential flood loss no later than July 1, 2017.

143 (f)~~(e)~~ The commission shall revise ~~adopt revisions to~~  
144 previously adopted actuarial methods, principles, standards,  
145 models, or output ranges every odd-numbered ~~odd~~ year.

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146        ~~(f)~~1. A trade secret, as defined in s. 688.002, that is  
147 used in designing and constructing a hurricane loss model and  
148 that is provided pursuant to this section, by a private company,  
149 to the commission, office, or consumer advocate appointed  
150 pursuant to s. 627.0613, is confidential and exempt from s.  
151 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

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

165        Section 3. Section 627.715, Florida Statutes, is created to  
166 read:

167        627.715 Flood insurance.—An authorized insurer may issue an  
168 insurance policy, contract, or endorsement providing personal  
169 lines residential coverage for the peril of flood on any  
170 structure or the contents of personal property contained  
171 therein, subject to this section. This section does not apply to  
172 commercial lines residential or commercial lines nonresidential  
173 coverage for the peril of flood. This section also does not  
174 apply to coverage for the peril of flood that is excess coverage

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175 over any other insurance covering the peril of flood. An insurer  
176 may issue flood insurance policies, contracts, or endorsements  
177 on a standard, preferred, customized, or supplemental basis.

178 (1) (a) 1. Standard flood insurance must cover only losses  
179 from the peril of flood, as defined in paragraph (b), equivalent  
180 to that provided under a standard flood insurance policy under  
181 the National Flood Insurance Program. Standard flood insurance  
182 issued under this section must provide the same coverage,  
183 including deductibles and adjustment of losses, as that provided  
184 under a standard flood insurance policy under the National Flood  
185 Insurance Program.

186 2. Preferred flood insurance must include the same coverage  
187 as standard flood insurance but:

188 a. Include, within the definition of "flood," losses from  
189 water intrusion originating from outside the structure that are  
190 not otherwise covered under the definition of "flood" provided  
191 in paragraph (b).

192 b. Include coverage for additional living expenses.

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

196 3. Customized flood insurance must include coverage that is  
197 broader than the coverage provided under standard flood  
198 insurance.

199 4. Supplemental flood insurance may provide coverage  
200 designed to supplement a flood policy obtained from the National  
201 Flood Insurance Program or from an insurer issuing standard or  
202 preferred flood insurance pursuant to this section. Supplemental  
203 flood insurance may provide, but need not be limited to,

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204 coverage for jewelry, art, deductibles, and additional living  
205 expenses. Supplemental flood insurance does not include coverage  
206 for the peril of flood that is excess coverage over any other  
207 insurance covering the peril of flood.

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

212 1. Overflow of inland or tidal waters;

213 2. Unusual and rapid accumulation or runoff of surface  
214 waters from any source;

215 3. Mudflow; or

216 4. Collapse or subsidence of land along the shore of a lake  
217 or similar body of water as a result of erosion or undermining  
218 caused by waves or currents of water exceeding anticipated  
219 cyclical levels that result in a flood as defined in this  
220 paragraph.

221 (2) Any limitations on flood coverage or policy limits  
222 pursuant to this section, including, but not limited to,  
223 deductibles, must be prominently noted on the policy  
224 declarations page or face page.

225 (3) (a) An insurer may establish and use flood coverage  
226 rates in accordance with the rate standards provided in s.  
227 627.062.

228 (b) For flood coverage rates filed with the office before  
229 October 1, 2019, the insurer may also establish and use such  
230 rates in accordance with the rates, rating schedules, or rating  
231 manuals filed by the insurer with the office which allow the  
232 insurer a reasonable rate of return on flood coverage written in



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233 this state. Flood coverage rates established pursuant to this  
234 paragraph are not subject to s. 627.062(2) (a) and (f). An  
235 insurer shall notify the office of any change to such rates  
236 within 30 days after the effective date of the change. The  
237 notice must include the name of the insurer and the average  
238 statewide percentage change in rates. Actuarial data with regard  
239 to such rates for flood coverage must be maintained by the  
240 insurer for 2 years after the effective date of such rate change  
241 and is subject to examination by the office. The office may  
242 require the insurer to incur the costs associated with an  
243 examination. Upon examination, the office, in accordance with  
244 generally accepted and reasonable actuarial techniques, shall  
245 consider the rate factors in s. 627.062(2) (b), (c), and (d), and  
246 the standards in s. 627.062(2) (e), to determine if the rate is  
247 excessive, inadequate, or unfairly discriminatory.

248 (4) A surplus lines agent may export a contract or  
249 endorsement providing flood coverage to an eligible surplus  
250 lines insurer without making a diligent effort to seek such  
251 coverage from three or more authorized insurers under s.  
252 626.916(1) (a). This subsection expires July 1, 2017.

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

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

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

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

261 (7) The Florida Hurricane Catastrophe Fund may not provide

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262 reimbursement for losses proximately caused by the peril of  
263 flood, including losses that occur during a covered event as  
264 defined in s. 215.555(2) (b).

265 (8) An agent obtaining an application for flood coverage  
266 from an authorized or surplus lines insurer for a property  
267 receiving flood insurance under the National Flood Insurance  
268 Program must obtain an acknowledgment signed by the applicant  
269 before placing the coverage with the authorized or surplus lines  
270 insurer. The acknowledgment must notify the applicant that the  
271 full risk rate for flood insurance may apply to the property if  
272 such insurance is later obtained under the National Flood  
273 Insurance Program.

274 (9) With respect to the regulation of flood coverage  
275 written in this state by authorized insurers, this section  
276 supersedes any other provision in the Florida Insurance Code in  
277 the event of a conflict.

278 Section 4. If federal law or rule requires a certification  
279 by a state insurance regulatory official as a condition of  
280 qualifying for private flood insurance or disaster assistance,  
281 the Commissioner of Insurance Regulation may provide the  
282 certification, and such certification is not subject to review  
283 under chapter 120, Florida Statutes.

284 Section 5. This act shall take effect upon becoming a law.