

1                   A bill to be entitled  
2           An act relating to the peril of flood; amending s.  
3           163.3178, F.S.; specifying requirements for the  
4           coastal management element required for a local  
5           government comprehensive plan; creating s. 472.0366,  
6           F.S.; defining terms; requiring a surveyor and mapper  
7           to complete an elevation certificate using a checklist  
8           developed by the Division of Emergency Management and  
9           submit a copy of the elevation certificate to the  
10          division within a specified time after its completion;  
11          authorizing the redaction of certain personal  
12          information from the copy; amending s. 627.715, F.S.;  
13          authorizing flexible flood insurance; specifying  
14          coverage requirements; deleting a provision that  
15          prohibits supplemental flood insurance from including  
16          excess coverage over any other insurance covering the  
17          peril of flood; revising the information that must be  
18          prominently noted on a policy declaration page;  
19          requiring the Office of Insurance Regulation to  
20          require a credit or the return of certain premiums to  
21          affected insureds if the office determines that a rate  
22          is excessive or unfairly discriminatory; revising the  
23          notice required to be acknowledged by an applicant for  
24          flood coverage from certain insurers if the  
25          applicant's property is receiving flood insurance  
26          under the National Flood Insurance Program; allowing

27 | an authorized insurer to request a certification from  
 28 | the Office of Insurance Regulation which indicates  
 29 | that a policy, contract, or endorsement issued by the  
 30 | insurer provides coverage for the peril of flood which  
 31 | equals or exceeds the flood coverage offered by the  
 32 | National Flood Insurance Program; specifying  
 33 | requirements for such certification; authorizing such  
 34 | insurer or its agent to reference or include the  
 35 | certification in specified advertising,  
 36 | communications, and documentation; providing that  
 37 | misrepresenting the certification of a flood policy,  
 38 | contract, or endorsement is an unfair or deceptive  
 39 | act; providing an effective date.

40 |  
 41 | Be It Enacted by the Legislature of the State of Florida:

42 |  
 43 | Section 1. Paragraph (f) of subsection (2) of section  
 44 | 163.3178, Florida Statutes, is amended to read:

45 | 163.3178 Coastal management.—

46 | (2) Each coastal management element required by s.  
 47 | 163.3177(6)(g) shall be based on studies, surveys, and data; be  
 48 | consistent with coastal resource plans prepared and adopted  
 49 | pursuant to general or special law; and contain:

50 | (f) A redevelopment component that ~~which~~ outlines the  
 51 | principles that must ~~which shall~~ be used to eliminate  
 52 | inappropriate and unsafe development in the coastal areas when

53 opportunities arise. The component must:

54 1. Include development and redevelopment principles,  
55 strategies, and engineering solutions that reduce the flood risk  
56 in coastal areas which results from high-tide events, storm  
57 surges, flash floods, stormwater runoff, and the related impacts  
58 of sea-level rise.

59 2. Encourage the use of best practices development and  
60 redevelopment principles, strategies, and engineering solutions  
61 that will result in the removal of coastal real property from  
62 flood zone destinations established by the Federal Emergency  
63 Management Agency.

64 3. Identify site development techniques and best practices  
65 that may reduce losses due to flooding and claims made under  
66 flood insurance policies issued in this state.

67 4. Be consistent with, or more stringent than, the flood-  
68 resistant construction requirements of the Florida Building Code  
69 and applicable flood plain management regulations provided in 44  
70 C.F.R. part 60.

71 5. Require that construction activities seaward of the  
72 coastal construction control lines established pursuant to s.  
73 161.053 be consistent with chapter 161.

74 6. Encourage local governments to participate in the  
75 National Flood Insurance Program Community Rating System  
76 administered by the Federal Emergency Management Agency to  
77 achieve flood insurance premium discounts for their residents.

78 Section 2. Section 472.0366, Florida Statutes, is created

79 to read:

80 472.0366 Elevation certificates; requirements for  
81 surveyors and mappers.—

82 (1) As used in this section, the term:

83 (a) "Division" means the Division of Emergency Management  
84 established within the Executive Office of the Governor under s.  
85 14.2016.

86 (b) "Elevation certificate" means the certificate used to  
87 demonstrate the elevation of property which has been developed  
88 by the Federal Emergency Management Agency pursuant to federal  
89 floodplain management regulation and which is completed by a  
90 surveyor and mapper.

91 (2) An elevation certificate must be completed by a  
92 surveyor and mapper in accordance with the checklist developed  
93 by the division. Within 30 days after completion of an elevation  
94 certificate, a surveyor and mapper must submit a copy of the  
95 certificate to the division. The copy must be unaltered, except  
96 that the surveyor and mapper may redact the name of the property  
97 owner.

98 Section 3. Section 627.715, Florida Statutes, is amended  
99 to read:

100 627.715 Flood insurance.—An authorized insurer may issue  
101 an insurance policy, contract, or endorsement providing personal  
102 lines residential coverage for the peril of flood on any  
103 structure or the contents of personal property contained  
104 therein, subject to this section. This section does not apply to

105 commercial lines residential or commercial lines nonresidential  
106 coverage for the peril of flood. This section also does not  
107 apply to coverage for the peril of flood that is excess coverage  
108 over any other insurance covering the peril of flood. An insurer  
109 may issue flood insurance policies, contracts, or endorsements  
110 on a standard, preferred, customized, or supplemental basis.

111 (1) (a) 1. Standard flood insurance must cover only losses  
112 from the peril of flood, as defined in paragraph (b), equivalent  
113 to that provided under a standard flood insurance policy under  
114 the National Flood Insurance Program. Standard flood insurance  
115 issued under this section must provide the same coverage,  
116 including deductibles and adjustment of losses, as that provided  
117 under a standard flood insurance policy under the National Flood  
118 Insurance Program.

119 2. Preferred flood insurance must include the same  
120 coverage as standard flood insurance but:

121 a. Include, within the definition of "flood," losses from  
122 water intrusion originating from outside the structure that are  
123 not otherwise covered under the definition of "flood" provided  
124 in paragraph (b).

125 b. Include coverage for additional living expenses.

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

129 3. Customized flood insurance must include coverage that  
130 is broader than the coverage provided under standard flood

131 insurance.

132 4. Flexible flood insurance must cover losses from the  
133 peril of flood, as defined in paragraph (b), and may also  
134 include coverage for losses from water intrusion originating  
135 from outside the structure which is not otherwise covered by the  
136 definition of flood. Flexible flood insurance must include one  
137 or more of the following provisions:

138 a. An agreement between the insurer and the insured that  
139 the flood coverage is in a specified amount, such as coverage  
140 that is limited to the total amount of each outstanding mortgage  
141 applicable to the covered property.

142 b. A requirement for a deductible in an amount authorized  
143 under s. 627.701, including a deductible in an amount authorized  
144 for hurricanes.

145 c. A requirement that flood loss to a dwelling be adjusted  
146 in accordance with s. 627.7011(3) or adjusted on the basis of  
147 the actual cash value of the property.

148 d. A restriction limiting flood coverage to the principal  
149 building, as defined in the policy.

150 e. A provision including or excluding coverage for  
151 additional living expenses.

152 f. A provision excluding coverage for personal property or  
153 contents as to the peril of flood.

154 ~~5.4.~~ Supplemental flood insurance may provide coverage  
155 designed to supplement a flood policy obtained from the National  
156 Flood Insurance Program or from an insurer issuing standard or

157 preferred flood insurance pursuant to this section. Supplemental  
158 flood insurance may provide, but need not be limited to,  
159 coverage for jewelry, art, deductibles, and additional living  
160 expenses. ~~Supplemental flood insurance does not include coverage~~  
161 ~~for the peril of flood that is excess coverage over any other~~  
162 ~~insurance covering the peril of flood.~~

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

- 167 1. Overflow of inland or tidal waters;
- 168 2. Unusual and rapid accumulation or runoff of surface  
169 waters from any source;
- 170 3. Mudflow; or
- 171 4. Collapse or subsidence of land along the shore of a  
172 lake or similar body of water as a result of erosion or  
173 undermining caused by waves or currents of water exceeding  
174 anticipated cyclical levels that result in a flood as defined in  
175 this paragraph.

176 (2) ~~Any limitations on~~ Flood coverage deductibles and ~~or~~  
177 policy limits pursuant to this section, ~~including, but not~~  
178 ~~limited to, deductibles,~~ must be prominently noted on the policy  
179 declarations page or face page.

180 (3) (a) An insurer may establish and use flood coverage  
181 rates in accordance with the rate standards provided in s.  
182 627.062.

183 (b) For flood coverage rates filed with the office before  
184 October 1, 2019, the insurer may also establish and use such  
185 rates in accordance with the rates, rating schedules, or rating  
186 manuals filed by the insurer with the office which allow the  
187 insurer a reasonable rate of return on flood coverage written in  
188 this state. Flood coverage rates established pursuant to this  
189 paragraph are not subject to s. 627.062(2)(a) and (f). An  
190 insurer shall notify the office of any change to such rates  
191 within 30 days after the effective date of the change. The  
192 notice must include the name of the insurer and the average  
193 statewide percentage change in rates. Actuarial data with regard  
194 to such rates for flood coverage must be maintained by the  
195 insurer for 2 years after the effective date of such rate change  
196 and is subject to examination by the office. The office may  
197 require the insurer to incur the costs associated with an  
198 examination. Upon examination, the office, in accordance with  
199 generally accepted and reasonable actuarial techniques, shall  
200 consider the rate factors in s. 627.062(2)(b), (c), and (d), and  
201 the standards in s. 627.062(2)(e), to determine if the rate is  
202 excessive, inadequate, or unfairly discriminatory. If the office  
203 determines that a rate is excessive or unfairly discriminatory,  
204 the office shall require the insurer to provide appropriate  
205 credit to the affected insureds or provide a refund to those  
206 policyholders that no longer receive flood coverage from the  
207 insurer.

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



209 endorsement providing flood coverage to an eligible surplus  
 210 lines insurer without making a diligent effort to seek such  
 211 coverage from three or more authorized insurers under s.  
 212 626.916(1) (a). This subsection expires July 1, 2017.

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

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

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

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

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

225 (8) An agent must, upon receiving ~~obtaining~~ an application  
 226 for flood coverage from an authorized or surplus lines insurer  
 227 for a property receiving flood insurance under the National  
 228 Flood Insurance Program, ~~must~~ must obtain an acknowledgment signed by  
 229 the applicant before placing the coverage with the authorized or  
 230 surplus lines insurer. The acknowledgment must notify the  
 231 applicant that, if the applicant discontinues coverage under the  
 232 National Flood Insurance Program which is provided at a  
 233 subsidized rate, the full risk rate for flood insurance may  
 234 apply to the property if the applicant ~~such insurance is~~ later

235 seeks to reinstate coverage ~~obtained~~ under the ~~National Flood~~  
 236 ~~Insurance~~ program.

237 (9) With respect to the regulation of flood coverage  
 238 written in this state by authorized insurers, this section  
 239 supersedes any other provision in the Florida Insurance Code in  
 240 the event of a conflict.

241 (10) If federal law or rule requires a certification by a  
 242 state insurance regulatory official as a condition of qualifying  
 243 for private flood insurance or disaster assistance, the  
 244 Commissioner of Insurance Regulation may provide the  
 245 certification, and such certification is not subject to review  
 246 under chapter 120.

247 (11) (a) An authorized insurer offering flood insurance may  
 248 request the office to certify that a policy, contract, or  
 249 endorsement provides coverage for the peril of flood which  
 250 equals or exceeds the flood coverage offered by the National  
 251 Flood Insurance Program. To be eligible for certification, such  
 252 policy, contract, or endorsement must state, and the office must  
 253 confirm, that it meets the private flood insurance requirements  
 254 specified in 42 U.S.C. s. 4012a(b) and may not contain any  
 255 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

256 (b) The authorized insurer or its agent may reference or  
 257 include a certification under paragraph (a) in advertising or  
 258 communications with an agent, a lending institution, an insured,  
 259 or a potential insured only for a policy, contract, or  
 260 endorsement that is certified under this subsection. The

261 authorized insurer may include a statement that notifies an  
262 insured of the certification on the declarations page or other  
263 policy documentation related to flood coverage certified under  
264 this subsection.

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

268 Section 4. This act shall take effect July 1, 2015.