

ACT No. 77

2021 Regular Session

HOUSE BILL NO. 577

BY REPRESENTATIVES MCKNIGHT, JORDAN, AND THOMPSON

1 AN ACT

2 To enact Subpart D-1 of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 22:1341 through 1346, relative to residential flood
4 coverage; to provide for notice to applicants; to provide for types of residential flood
5 insurance policies; to provide for definitions; to provide for an alternative rate filing
6 process; to provide an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Subpart D-1 of Part IV of Chapter 4 of Title 22 of the Louisiana Revised
9 Statutes of 1950, comprised of R.S. 22:1341 through 1346, is hereby enacted to read as
10 follows:

11 SUBPART D-1. RESIDENTIAL FLOOD INSURANCE

12 §1341. Definitions

13 For purposes of this Subpart, the following definitions apply:

14 (1) "Flood" means a general and temporary condition of partial or complete
15 inundation of two or more acres of normally dry land area or of two or more
16 properties, at least one of which is the policyholder's property, from any of the
17 following:

18 (a) Overflow of inland or tidal waters.

19 (b) Unusual and rapid accumulation or runoff of surface waters from any
20 source.

21 (c) Mud flow.

22 (d) Collapse or subsidence of land along the shore of a lake or similar body
23 of water as a result of erosion or undermining caused by waves or currents of water

1 exceeding anticipated cyclical levels that result in a flood as defined in this
2 Paragraph.

3 (2) "Hurricane" means a storm system that has been declared a hurricane by
4 the National Hurricane Center of the National Weather Service.

5 (3) "Named storm" means a storm system that has been declared a named
6 storm by the National Hurricane Center of the National Weather Service.

7 (4) "Residential flood coverage" means insurance for the peril of flood for
8 homeowner's, condominium owner's, renter's, and tenant's dwelling, mobile home,
9 and manufactured housing, and similar policies.

10 (5) "Separate named storm or hurricane deductible" means a deductible that
11 applies to flood damage incurred during a named storm or hurricane and may be
12 expressed as a percentage of the insured value of the property or as a specific dollar
13 amount. All of the following shall apply to a separate deductible:

14 (a) The insurer shall not apply the separate named storm or hurricane
15 deductible in addition to another deductible.

16 (b) There shall be one separate named storm or hurricane deductible in a
17 calendar year, which shall apply to all named storm or hurricane losses during the
18 calendar year.

19 (c) The insurer may apply to later flood loss events the greater of the
20 remaining amount of the separate named storm or hurricane deductible or the amount
21 of any other standard flood deductible.

22 (d) The insurer may require policyholders to maintain receipts or other
23 records of such losses in order to apply such losses to a subsequent flood loss
24 incurred during a named storm or hurricane claims.

25 (6) "Standard flood deductible" means a deductible that applies to flood
26 damage incurred during any event and may be expressed as a percentage of the
27 insured value of the property or as a specific dollar amount.

28 §1342. Applicability

29 A. Notwithstanding any provision of law to the contrary, this Subpart shall
30 govern the regulation of any insurance policy, contract, or endorsement providing

1 residential flood coverage on any structure or the contents of personal property
 2 contained therein.

3 B. This Subpart does not apply to either of the following:

4 (1) Commercial lines insurance.

5 (2) Surplus lines insurance.

6 C. Louisiana Citizens Property Insurance Corporation shall not provide
 7 residential flood coverage.

8 §1343. Residential flood coverage; notices; plan of operation

9 In addition to other requirements, an insurer providing residential flood
 10 coverage shall do all of the following:

11 (1) Notify the commissioner at least thirty days before writing residential
 12 flood policies in this state.

13 (2) File a plan of operation, financial projections, and any revisions to either,
 14 as applicable, with the commissioner.

15 (3) Note prominently on the policy declarations page the residential flood
 16 coverage premiums, deductibles, and policy limits.

17 (4) Notify the commissioner in writing at least sixty days prior to the market
 18 end date of residential flood coverage and advise regarding all of the following:

19 (a) If an approved policy form will no longer be marketed in this state.

20 (b) If an approved policy form will be permanently withdrawn from this
 21 state.

22 (c) Whether residential flood coverage issued in this state under a
 23 discontinued or withdrawn policy form will remain in force.

24 (d) Whether existing residential flood coverage issued in this state under a
 25 discontinued or withdrawn policy form will continue to be renewed.

26 (e) The policy form numbers being discontinued or withdrawn and the dates
 27 of original approval.

28 §1344. Residential flood coverage; policy types

29 A. In addition to excess flood insurance, insurers may issue any of the
 30 following types of residential flood coverage:

1 (1) Standard flood insurance, which covers only losses from the peril of
2 flood in a manner equivalent to that provided under the National Flood Insurance
3 Program, including standard flood deductibles and adjustment of losses.

4 (2) Preferred flood insurance, which includes all of the following:

5 (a) The same coverage as standard flood insurance.

6 (b) Coverage for losses from water intrusion originating from outside the
7 structure that are not otherwise covered by a flood policy.

8 (c) Coverage for additional living expenses.

9 (d) A requirement that any loss under personal property or contents coverage
10 be adjusted only on the basis of replacement costs up to the policy limits.

11 (3) Customized flood insurance, which includes coverage that is broader than
12 the coverage provided under standard flood insurance.

13 (4) Flexible flood insurance, which covers losses from the peril of flood and
14 may also include coverage for losses from water intrusion originating from outside
15 the structure, that is not otherwise covered. Flexible flood insurance shall include one
16 or more of the following provisions:

17 (a) An agreement between the insurer and the insured that the flood coverage
18 is in a specified amount, such as coverage that is limited to the total amount of each
19 outstanding mortgage applicable to the covered property.

20 (b) A requirement for a separate named storm or hurricane deductible.

21 (c) A requirement that flood loss to a dwelling be adjusted in accordance
22 with R.S. 22:1264 or adjusted only on the basis of the actual cash value of the
23 property.

24 (d) A restriction limiting residential flood coverage to the principal building
25 defined in the policy.

26 (e) A provision including or excluding coverage for additional living
27 expenses.

28 (f) A provision excluding coverage for personal property and contents as to
29 the peril of flood.

1 (5) Supplemental flood insurance, which may provide coverage designed to
2 supplement a flood policy obtained from the National Flood Insurance Program or
3 from an insurer issuing standard or preferred flood insurance pursuant to this
4 Section. Supplemental flood insurance may provide coverage for any of the
5 following:

6 (a) Jewelry.

7 (b) Art.

8 (c) Deductibles.

9 (d) Additional living expenses.

10 (e) Other coverage permitted by law.

11 B. An insurer writing residential flood policies may issue flood insurance
12 that covers losses from the peril of flood using either or both of the following:

13 (1) A definition of "flood" other than that in R.S. 22:1341.

14 (2) Terms and conditions other than those used in the policy types described
15 in Subsection A of this Section.

16 C. Notwithstanding Subsections A and B of this Section, insurers offering
17 private flood insurance may continue using policy forms filed and approved before
18 January 1, 2022.

19 §1345. Residential flood coverage; rates

20 For an insurer writing residential flood coverage, either of the following shall
21 apply:

22 (1) An insurer may establish and use residential flood coverage rates in
23 accordance with the provisions of R.S. 22:1451 and 1454.

24 (2) For residential flood coverage rates filed with the commissioner before
25 January 1, 2027, all of the following shall apply:

26 (a) An insurer shall establish and use rates in accordance with the rates,
27 rating schedules, or rating manuals filed by the insurer with the commissioner which
28 allow the insurer a reasonable rate of return on residential flood coverage written in
29 this state.

1 **(b) Rates established pursuant to this Paragraph are not subject to R.S.**
 2 **22:1451.**

3 **(c) Within thirty days after the effective date of the change, the insurer shall**
 4 **notify the commissioner of any change to previously established rates and of the**
 5 **average statewide percentage change in rates.**

6 **(d) Actuarial data with regard to rates for residential flood coverage shall be**
 7 **maintained by the insurer for two years after the effective date of the rate change and**
 8 **is subject to examination by the commissioner. The commissioner may require the**
 9 **insurer to incur the costs associated with an examination. Upon examination, the**
 10 **commissioner, in accordance with generally accepted and reasonable actuarial**
 11 **techniques, shall consider the rate factors and standards in R.S. 22:1454, to**
 12 **determine if the rate is excessive, inadequate, or unfairly discriminatory.**

13 **(e) If the commissioner determines that a rate is excessive or unfairly**
 14 **discriminatory, the commissioner shall require the insurer to provide appropriate**
 15 **credit to any affected policyholders and an appropriate refund to any affected former**
 16 **policyholders.**

17 **§1346. Notices regarding flood coverage**

18 **A.(1) A producer shall provide written notice to be signed by the applicant**
 19 **before a producer places residential flood coverage with an authorized or surplus**
 20 **lines insurer for a property receiving flood coverage from the National Flood**
 21 **Insurance Program. The notice required by this Subsection shall inform the**
 22 **applicant of all of the following:**

23 **(a) Coverage under the National Flood Insurance Program is provided at a**
 24 **subsidized rate.**

25 **(b) If the applicant discontinues coverage under the National Flood**
 26 **Insurance Program, the full risk rate may apply to the property if the applicant later**
 27 **seeks coverage under the National Flood Insurance Program.**

28 **(2) If an applicant does not have flood coverage, a producer shall inform the**
 29 **applicant of the existence of the National Flood Insurance Program.**

1 B.(1) An insurer writing standard flood insurance policies, preferred flood
 2 insurance policies, customized flood insurance policies, flexible flood insurance
 3 policies, residential flood insurance policies using a different definition of "flood"
 4 than that used in R.S. 22:1341, or residential flood insurance policies with terms and
 5 conditions other than those described in R.S. 22:1344, shall make one of the
 6 following certifications:

7 (a) "This policy meets the definition of private flood insurance contained in
 8 42 U.S.C. 4012a(b)(7) and the corresponding regulation." A certification made under
 9 this Subparagraph shall also contain a separate statement providing: "This policy
 10 provides at least the coverage of the standard flood insurance policy under the
 11 National Flood Insurance Program."

12 (b) "This policy does not meet the definition of private flood insurance
 13 contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation." A
 14 certification made under this Subparagraph shall also contain a separate statement
 15 providing: "This policy provides less coverage than the standard flood insurance
 16 policy under the National Flood Insurance Program."

17 (2) The certifications required pursuant to this Subsection shall be in writing
 18 on the declarations page of the policy in bold typed print of not less than a fourteen
 19 point font.

20 Section 2. This Act shall become effective January 1, 2022.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____