

GREEN SHEET REDIGEST

HB 577

2021 Regular Session

McKnight

INSURANCE/FLOOD. Provides relative to residential flood coverage.

DIGEST

Proposed law defines the terms "flood", "hurricane", "named storm", "residential flood coverage", "separate named storm or hurricane deductible", and "standard flood deductible".

Proposed law provides that proposed law shall not apply to commercial lines insurance and surplus lines insurance.

Proposed law provides that the La. Citizens Property Insurance Corporation shall not provide residential flood coverage.

Proposed law provides that insurers providing residential flood coverage shall do all of the following:

- (1) Notify the commissioner at least 30 days before writing residential flood coverage in this state.
- (2) File a plan of operation, financial projections, and any revisions of such with the commissioner.
- (3) Note the residential flood coverage premiums, deductibles, and policy limits prominently on the policy declarations page.
- (4) Notify the commissioner in writing at least 60 days prior to the market end date of residential flood coverage and to advise regarding all of the following:
 - (a) When an approved policy form will no longer be marketed in this state.
 - (b) When an approved policy form will be permanently withdrawn from this state.
 - (c) Whether or not residential flood coverage issued in this state under a discontinued or withdrawn policy form shall remain in force.
 - (d) Whether existing residential flood coverage issued in this state under a discontinued or withdrawn policy form shall continue to be renewed.
 - (e) The policy form numbers being discontinued or withdrawn and the dates of original approval.

Proposed law provides that in addition to excess flood insurance, insurers may issue any of the following types of residential flood coverage:

- (1) Standard flood coverage.
- (2) Preferred flood insurance, which shall include the same coverage as standard flood insurance, losses from water intrusion originating from outside the structure that are not otherwise covered by flood damage, coverage for additional living expenses, and a requirement that any loss under personal property be adjusted only on the basis of replacement costs up to the policy limits.
- (3) Customized flood insurance which includes coverage that is broader than the coverage provided under standard flood insurance.

- (4) Flexible flood insurance, which covers losses from the peril of flood.
- (5) Supplemental flood insurance, which may provide coverage designed to supplement a flood policy obtained from the National Flood Insurance Program or from an insurer issuing standard or preferred flood insurance.

Proposed law authorizes insurers writing residential flood policies to issue flood insurance that covers losses from the peril of flood using a definition of "flood" other than that provided in proposed law (R.S. 22:1341) and authorizes the use of terms and conditions other than those specified in proposed law (R.S. 22:1344).

Proposed law provides that insurers offering private flood insurance may continue using policy forms filed and approved before January 1, 2022.

Proposed law provides that insurers writing residential flood coverage shall establish flood coverage rates in accordance with present law, and if filed with the commissioner before January 1, 2027, the following shall apply:

- (1) An insurer may establish and use rates in accordance with the rates, rating schedules, or rating manuals filed by the insurer with the commissioner.
- (2) Rates established pursuant to this proposed law are not subject to present law.
- (3) Within 30 days after the effective date of the change, the insurer shall notify the commissioner of any change to previously established rates and of the average statewide percentage change in rates.
- (4) Actuarial data shall be maintained by the insurer for two years after the effective date of the rate change and is subject to examination by the commissioner.
- (5) If the commissioner determines that a rate is excessive or unfairly discriminatory, the commissioner shall require the insurer to provide appropriate credit to affected policyholders and an appropriate refund to affected former policyholders.

Proposed law provides that a producer shall provide written notice to be signed by the applicant before the producer places residential flood coverage with an authorized or surplus lines insurer for a property receiving flood coverage from the National Flood Insurance Program.

Proposed law provides that notice shall inform the applicant of the following:

- (1) Coverage under the National Flood Insurance Program is provided at a subsidized rate.
- (2) If an applicant discontinues coverage under the National Flood Insurance Program, the full risk rate may apply to the property.

Proposed law provides that if an applicant does not have flood coverage, a producer shall inform the applicant of the National Flood Insurance Program.

Proposed law provides that insurers writing standard flood insurance policies, preferred flood insurance policies, customized flood insurance policies, flexible flood insurance policies, or residential flood insurance policies using a different definition of "flood" than that in proposed law, or residential flood insurance policies with terms and conditions other than those described in proposed law shall certify on the declarations page of the policy in bold typed print of at least 14 point font whether the policy meets or exceeds or provides less coverage than "private flood insurance" as defined in 42 U.S.C. 4012a(b)(7), conforms to other applicable federal regulations, and the standard flood insurance policy under the National Flood Insurance Program.

Effective Jan. 1, 2022.

(Adds R.S. 22:1341-1346)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Make technical changes.
2. Authorize insurers writing residential flood policies to issue flood insurance that covers losses from the peril of flood using a definition of "flood" other than that provided in proposed law (R.S. 22:1341) and authorize the use of terms and conditions other than those specified in proposed law (R.S. 22:1344), if the policy contains the following: "This is a flood insurance policy that deviates from the flood insurance policy types described in R.S. 22:1344".
3. Authorize insurers offering private flood insurance to continue using policy forms filed and approved before January 1, 2022.
4. Provide that insurers may certify that their flood insurance policies meet or exceed the definition of "standard flood policy", as specified in 42 U.S.C. 4012a(b)(7) and applicable federal regulations.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Make it mandatory, rather than permissive, for insurers writing certain flood insurance policies to certify whether the policy meets or exceeds or offers less coverage than "private flood insurance" as defined in 42 U.S.C. 4012a(b)(7), conforms to other applicable federal regulations, and the standard flood insurance policy under the National Flood Insurance Program.
3. Provide model language for the insurer's certification and provide the location and format for which the certification must appear in the policy.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the reengrossed bill

1. Removes requirement that the insurer provide the following written notice to the applicant: "This is a flood insurance policy that deviates from the flood insurance policy types described in R.S. 22:1344".