

RÉSUMÉ DIGEST

ACT 77 (HB 577)

2021 Regular Session

McKnight

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

New law provides that new law shall not apply to commercial lines insurance or surplus lines insurance.

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

New 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) Prominently note the residential flood coverage premiums, deductibles, and policy limits 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) If an approved policy form will no longer be marketed in this state.
 - (b) If an approved policy form will be permanently withdrawn from this state.
 - (c) Whether residential flood coverage issued in this state under a discontinued or withdrawn policy form shall remain in force.
 - (d) Whether existing residential flood coverage issued in this state under a discontinued or withdrawn policy form shall continue to be renewed.
 - (e) The policy form numbers being discontinued or withdrawn and the dates of original approval.

New 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, which only covers losses from the peril of flood in a manner equivalent to that provided under the National Flood Insurance Program.
- (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 or contents coverage be adjusted 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 and at least one of the following provisions:
 - (a) An agreement between the insurer and insured that the coverage is in a specified amount.
 - (b) A requirement for a separate named storm or hurricane deductible.

- (c) A requirement that flood loss to a dwelling be adjusted based on the provisions of R.S. 22:1264 or based on the actual cash value of the property.
 - (d) A restriction limiting coverage to the principal building defined in the policy.
 - (e) A provision including or excluding coverage for additional living expenses.
 - (f) A provision excluding coverage for personal property and contents as to 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.

New 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 new law (R.S. 22:1341) and authorizes the use of terms and conditions other than those specified in new law (R.S. 22:1344).

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

New law provides that insurers writing residential flood coverage shall establish flood coverage rates in accordance with existing law, or if filed with the commissioner before Jan. 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 new law are not subject to existing 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.

New 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.

New 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.

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

New 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 new law or residential flood insurance policies with terms and conditions other than those described in new law shall certify on the declarations page of the policy in bold typed print of at least 14 point font whether the policy meets the definition of "private flood insurance"

in 42 U.S.C. 4012a(b)(7) and whether the policy provides at least the coverage provided in the standard flood insurance policy under the National Flood Insurance Program.

Effective January 1, 2022.

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