

2020 Regular Session

HOUSE BILL NO. 569

BY REPRESENTATIVE JORDAN

INSURANCE/FLOOD: Provides relative to private market flood insurance

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 the regulation of
4 private market flood insurance; to provide for rate and form requirements; to provide
5 for the duties of flood insurance producers; to provide for the maintenance of
6 records; to provide for certification for qualification of federal disaster assistance;
7 to provide for the advertising of certification; to provide for unfair trade practice; to
8 provide for rulemaking; to provide for definitions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

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

13 SUBPART D-1. PRIVATE FLOOD INSURANCE ACT

14 §1341. Short title; purpose; definitions

15 A. This Subpart shall be known and may be cited as the "Private Flood
16 Insurance Act".

17 B. The purpose and intent of this Subpart is to encourage a robust private
18 flood insurance market to provide consumer choices and alternatives to the existing
19 National Flood Insurance Program.

20 C. As used in this Subpart:

1 (1) "Applicant" means any individual who has applied to be covered by a
2 personal insurance policy with an insurer.

3 (2) "Authorized insurer" shall have the same definition as set forth in R.S.
4 22:46.

5 (3) "NFIP" means the National Flood Insurance Program which is the
6 program of flood insurance coverage and floodplain management administered under
7 42 U.S.C. 4001 et seq. and applicable federal regulations promulgated in Title 44 of
8 the Code of Federal Regulations.

9 (4) "Surplus lines broker" shall have the same definition as set forth in R.S.
10 22:1542.

11 (5) "Surplus lines insurer" shall have the same definition as set forth in R.S.
12 22:46.

13 §1342. Rates; forms

14 A. The commissioner shall require, pursuant to R.S. 22:851 et seq. and R.S.
15 22:1451 et seq., that an insurer file the rates and forms for coverage pursuant to this
16 Subpart.

17 B. The commissioner may require that an authorized insurer issuing an
18 insurance policy, contract, or endorsement pursuant to the provisions of this Subpart
19 issue such an insurance policy, contract, or endorsement that at least meets the
20 federal requirements for private flood insurance to obtain mortgage loans as
21 specified in 42 U.S.C. 4012a(b).

22 §1343. Duties of producers

23 A. A producer shall do all of the following:

24 (1) Notify an applicant of the existence of the NFIP and private market
25 alternatives for flood insurance coverage.

26 (2) Inform an applicant that a homeowner's property insurance policy, unless
27 endorsed for flood insurance coverage, does not include coverage for the peril of
28 flood.

1 (3) Inform an applicant that unless flood insurance is purchased, the
2 applicant has declined flood coverage.

3 B. A surplus lines broker may place a policy or endorsement providing flood
4 insurance coverage to an eligible surplus lines insurer in accordance with R.S.
5 22:431 et seq.

6 C. A producer, in keeping with best practice standards, may maintain in his
7 records, written or electronic evidence, to be signed by the applicant, acknowledging
8 that the applicant was properly notified and informed in accordance with Subsection
9 A of this Section.

10 §1344. Conflict of laws

11 With respect to the regulation of flood coverage written in this state by
12 authorized insurers, in the event of a conflict, this Subpart supersedes any other
13 provisions of this Title.

14 §1345. Certification of private flood insurance policy

15 A. If federal law or rule requires a certification of a private flood insurance
16 policy by the Department of Insurance as a condition of qualifying for federal
17 disaster assistance, the commissioner may provide the certification, and that
18 certification is not subject to review pursuant to the Administrative Procedure Act.

19 B. An authorized insurer offering flood insurance may request the
20 commissioner certify that a policy, contract, or endorsement provides coverage for
21 the peril of flood which equals or exceeds the flood coverage offered by the NFIP.

22 C. An authorized insurer or its producer may reference or include a
23 certification pursuant to Subsection B of this Section in advertising or
24 communications with a producer, a lending institution, an insured, or a potential
25 insured only for a policy, contract, or endorsement that is certified pursuant to this
26 Section. The authorized insurer may include a statement that notifies an insured of
27 the certification on the declarations page or other policy documentation related to
28 flood coverage certified pursuant to this Section.

1 D. An insurer or producer who knowingly misrepresents that a flood policy,
2 contract, or endorsement is certified pursuant to this Section commits an unfair or
3 deceptive act pursuant to the Unfair Trade Practices and Consumer Protection Law.

4 §1346. Regulations

5 The commissioner may, after notice and hearing, promulgate such rules and
6 regulations, as may be necessary or proper to carry out the provisions of this Subpart.

7 Such rules and regulations shall be subject to rulemaking and review in accordance
8 with the Administrative Procedure Act.

9 Section 2. This Act shall become effective on January 1, 2021.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 569 Original

2020 Regular Session

Jordan

Abstract: Provides for the framework to regulate private flood insurance in this state.

Proposed law provides for proposed law to be known as the "Private Flood Insurance Act".

Proposed law defines the following terms as used in proposed law: applicant, authorized insurer, NFIP, surplus lines broker, and surplus lines insurer.

Present law provides for the regulation of insurance contracts and requires insurance policy forms to be filed with and approved by the commissioner.

Present law provides for the regulation of insurance rates and gives the commissioner to accept, review, and approve applications for rates or rate changes for all lines of property and casualty insurance.

Proposed law requires the commissioner to have insurers file rates and forms for coverage pursuant to proposed law in accordance with the requirements of present law.

Proposed law authorizes the commissioner to require insurers issuing lines of insurance pursuant to proposed law to meet the federal requirements for private flood insurance to obtain mortgage loans.

Proposed law requires insurance producers to:

- (1) Notify an applicant of the existence of the National Flood Insurance Program and private market alternatives.
- (2) Inform an applicant that his homeowner's policy does not include flood protection unless endorsed for flood coverage.
- (3) Inform an applicant that flood coverage is declined unless flood insurance is purchased.

Present law provides for regulations for surplus lines insurance.

Proposed law authorizes surplus lines brokers to place policies or endorsements providing flood coverage to surplus lines insurers pursuant to present law.

Proposed law authorizes producers to keep records signed by an applicant that acknowledge that the producer complied with proposed law.

Proposed law provides for proposed law to supersede present law in regards to the regulation of flood coverage when there is a conflict between proposed law and present law.

Proposed law authorizes the commissioner to provide a certification of a private flood insurance policy if such a certification is required to qualify for federal disaster assistance.

Proposed law authorizes an insurer to request that the commissioner certify that a flood policy meets or exceeds the flood coverage offered by the NFIP.

Proposed law authorizes an insurer or producer to reference or include a certification pursuant to proposed law when advertising or communicating with a producer, lender, insured, or applicant only about a policy pursuant to proposed law.

Proposed law provides that a producer or insurer who knowingly misrepresents that a policy is certified pursuant to proposed law is committing an unfair or deceptive act pursuant to present law.

Proposed law authorizes the commissioner to promulgate rules and regulations in order to carry out proposed law.

Effective Jan. 1, 2021.

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