



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4137

Introduced 1/22/2020, by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

New Act

Creates the Flood Insurance Act. Allows the Department of Insurance to require, through prior form approval, that an authorized insurer issues an insurance policy, contract, or endorsement that meets the private flood insurance requirements in a specified provision of federal law. Provides that flood coverage rates are not subject to prior approval by the Department of Insurance, but the Department may audit an insurer's residential flood insurance rates to ensure that rates are based on actuarial data, methodologies, and standards that are not excessive, inadequate, or unfairly discriminatory. Requires insurers to notify the Department at least 30 days before writing flood insurance in this State, to notify the Department of any changes in rates within 30 days after the effective date of the change, and to file a plan of operation and financial projections, or revisions to the plan. Requires an agent of an insurer to maintain certain evidence in his or her records. Authorizes the Department of Insurance to certify that a private flood insurance policy provides flood coverage which equals or exceeds the coverage offered by the National Flood Insurance Program, or that a private flood insurance policy meets federal requirements. Provides that an insurer or agent who knowingly misrepresents that a flood insurance policy is certified under this Act commits an unfair or deceptive act under the Uniform Deceptive Trade Practices Act.

LRB101 15156 BMS 64305 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Flood
5 Insurance Act.

6 Section 5. Purpose. The purpose of this Act is to protect
7 lives and property from the increasing peril of flood and to
8 encourage a robust private flood insurance market to provide
9 consumer choices and alternatives to the existing National
10 Flood Insurance Program.

11 Section 10. Prior form approval. The Department of
12 Insurance may require, through prior form approval, that an
13 authorized insurer issues an insurance policy, contract, or
14 endorsement that meets the private flood insurance
15 requirements as specified in 42 U.S.C. 4012a(b) and may not
16 contain any provision that is not in compliance with 42 U.S.C.
17 4012a(b).

18 Section 15. Rates.

19 (a) Flood coverage rates established pursuant to this Act
20 are not subject to prior approval by the Department of
21 Insurance. An insurer must ensure that the rates are based on

1 actuarial data, methodologies, standards, and guidelines
2 relating to personal lines residential flood coverage that are
3 not excessive, inadequate, or unfairly discriminatory. The
4 Department of Insurance may audit an insurer's personal lines
5 residential flood rates to validate adherence and may require
6 corrective measures.

7 (b) An insurer shall notify the Department of Insurance of
8 any change to personal lines residential flood rates within 30
9 days after the effective date of the change. The notice must
10 include the name of the insurer and the average statewide
11 percentage change in rates. Actuarial data with regard to such
12 rates for flood coverage must be maintained by the insurer for
13 2 years after the effective date of the rate change.

14 Section 20. Duties of the insurer. Authorized insurers
15 must:

16 (1) notify the Department of Insurance at least 30 days
17 before writing flood insurance in this State; and

18 (2) file a plan of operation and financial projections,
19 or revisions to such plan.

20 Section 25. Duties of an agent.

21 (a) The purpose of this Section is to reduce policyholder
22 confusion and ensure adoption and acceptance of a consumer's
23 actual flood risk and to ensure that the interaction between
24 the insurance agent and customer occurred and that the

1 consumer's choice about flood insurance is documented with full
2 transparency.

3 (b) An agent of an insurer must maintain in his or her
4 records written or electronic evidence, to be signed by the
5 applicant, acknowledging that:

6 (1) the agent has explained the National Flood
7 Insurance Program and private market alternatives to
8 national flood insurance coverage, including how rates may
9 affect the applicant if they choose a private insurance
10 market alternative to their existing National Flood
11 Insurance Program policy;

12 (2) a homeowner's property insurance policy, unless
13 endorsed for flood insurance coverage, does not include
14 coverage for the risk of flood; and

15 (3) unless purchased, the applicant has declined flood
16 coverage.

17 There is no specific, prescribed format for the agent
18 disclosure documentation.

19 Section 30. Miscellaneous provisions.

20 (a) With respect to the regulation of flood coverage
21 written in this State by authorized insurers, this Act
22 supersedes any other provision in the Illinois Insurance Code
23 in the event of a conflict.

24 (b) If federal law or rule requires a certification by the
25 Department of Insurance as a condition of qualifying for

1 private flood insurance or disaster assistance, the Director of
2 Insurance may provide the certification, and such
3 certification is not subject to review under the Illinois
4 Administrative Procedure Act.

5 (c) An authorized insurer offering flood insurance may
6 request the Department of Insurance to certify that a policy,
7 contract, or endorsement provides coverage for the risk of
8 flood that equals or exceeds the flood coverage offered by the
9 National Flood Insurance Program. To be eligible for
10 certification, such policy, contract, or endorsement must
11 contain a provision stating that it meets the private flood
12 insurance requirements specified in 42 U.S.C. 4012a(b) and may
13 not contain any provision that is not in compliance with 42
14 U.S.C. 4012a(b).

15 (d) The authorized insurer or its agent may reference or
16 include a certification provided by the Department of Insurance
17 under subsection (b) or (c) in advertising or communications
18 with an agent, a lending institution, an insured, or a
19 potential insured only for a policy, contract, or endorsement
20 that is certified under this Section. The authorized insurer
21 may include a statement that notifies an insured of the
22 certification on the declarations page or other policy
23 documentation related to flood coverage certified under this
24 Section.

25 (e) An insurer or agent who knowingly misrepresents that a
26 flood policy, contract, or endorsement is certified under this

1 Section commits an unfair or deceptive act under the Uniform
2 Deceptive Trade Practices Act.

3 Section 35. Rulemaking authority. The Director of
4 Insurance may adopt reasonable rules as necessary to implement
5 the purposes and provisions of this Act.