

SENATE No. 719

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to private flood insurance.

PETITION OF:

NAME:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No. 719

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 719) of Julian Cyr for legislation relative to private flood insurance coverage and rates. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to private flood insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter 175M the following
2 chapter:-

3 CHAPTER 175N:

4 PRIVATE FLOOD INSURANCE

5 Section 1. The following words as used in this chapter shall, unless the context otherwise
6 requires, have the following meanings:

7 “Authorized Insurer”, an insurer authorized by the division of insurance to write
8 insurance under a certificate of authority issued by the division to transact insurance in the
9 commonwealth.

10 “Commissioner”, the commissioner of the division of insurance.

11 “National Flood Insurance Program”, the program of flood insurance coverage and
12 floodplain management administered under the National Flood Insurance Act of 1968 (42 U.S.C.
13 4001 et. seq) and applicable federal regulations promulgated in Title 44 of the Code of Federal
14 Regulations.

15 “Primary residential flood insurance”, an insurance policy covering losses from flood to
16 residential property, other than commercial property, written in the commonwealth by any
17 insurer authorized to do business that is not written to apply coverage in excess of the coverage
18 provided under another flood insurance policy, whether issued by a private insurer or the
19 National Flood Insurance Program.

20 Section 2. (a) Rates for flood insurance coverage established pursuant to this paragraph
21 are not subject to prior approval by the division of insurance. An insurer must attest that the
22 rates are based on actuarial data, methodologies, standards, and guidelines relating to flood that
23 are not excessive, inadequate, or unfairly discriminatory. The division of insurance may audit an
24 insurer’s flood rates to ensure compliance with State laws and regulations.

25 (b) An insurer shall file with the division of insurance all rates and any change to such
26 rates within 30 days after the effective date. The notice of a rate change must include the name of
27 the insurer and the average statewide percentage change in rates. Actuarial data with regard to
28 such rates for flood coverage must be maintained by the insurer for 2 years after the effective
29 date of such rate change.

30 Section 3. The division of insurance may require, through the application of the
31 commonwealth’s existing regulatory system:

32 (a) that an insurer file the forms for primary residential flood insurance coverage;

33 (b) that an authorized insurer may issue an insurance policy, contract, or endorsement;
34 and,

35 (c) for residential properties required to have flood insurance that are in a Special Flood
36 Hazard Area designated by the Federal Emergency Management Agency, that the coverage at
37 least meets the private flood insurance requirements as specified in 42 U.S.C. § 4012a(b) and
38 applicable federal regulations in document 84 FR 4953, effective July 1, 2019.

39 Section 4. Authorized insurers must (a) notify the division of insurance of plans to sell
40 primary residential flood insurance products in accordance with the State’s rate filing laws but at
41 least 30 days before writing such flood insurance in this State; and (b) file a plan of operation
42 and financial projections or material revisions to such plan.

43 Section 5. (a) If a consumer currently has no coverage under the national flood insurance
44 program, before placing the consumer applicant with private flood insurance, the consumer must
45 be informed of the existence of the national flood insurance program.

46 (b) All consumers covered under subsection 5(a), including but not limited to consumers
47 who currently have coverage under the national flood insurance program must be informed that
48 the coverage under the national flood insurance program may be provided at a subsidized rate
49 and that the full-risk rate for flood insurance may apply to the property if the applicant later
50 seeks to reinstate coverage under the program. The insurance producer, surplus lines broker, or
51 the insurer upon its election or if there is no producer or broker must provide such notice.

52 (c) Only applicants who live in a special flood hazard area are subject to this section.

53 This section automatically sunsets if federal legislation is enacted allowing the insured to switch

54 between private flood insurance and national flood insurance program coverage without risk of
55 penalty.

56 Section 6. (a) Notice of cancellation or nonrenewal, other than for nonpayment of
57 premium, as allowed by the division, shall be made at least 45 days before the cancellation or
58 nonrenewal of private flood insurance coverage to the insured.

59 (b) Notwithstanding subsection 6(a), notice of cancellation for nonpayment of premium,
60 or fraud or misrepresentation in the application, shall be made and provided as required by the
61 commissioner.

62 Section 7. Section 168 of Chapter 175 of the General Laws shall not apply to flood
63 coverage under an insurance policy issued by an eligible surplus lines insurer unless and until the
64 commissioner certifies in a bulletin or order that the admitted private flood insurance market is
65 adequate.

66 Section 8. (a) Writing private flood insurance does not constitute participation in the
67 property insurance market for purposes of determining participation in the Massachusetts
68 Property Insurance Underwriting Association under Chapter 175C of the General Laws.

69 (b) All rates, supplementary rate information, and any supporting information filed under
70 this act shall be open to public inspection upon disposition, except information marked and
71 accepted by the commissioner as confidential, trade secret, or proprietary by the insurer or filer
72 in accordance with section 4A of chapter 175. Copies may be obtained from the commissioner
73 upon request and upon payment of a reasonable fee.

74 (c) With respect to the regulation of flood coverage written in this state by authorized
75 insurers, this section supersedes any other provision in the state insurance code in the event of a
76 conflict.

77 (d) An insurer may certify that the insurance policy meets the definition of “private flood
78 insurance,” as specified in 42 U.S.C. § 4012a(b)(7) and applicable federal regulations.

79 (e) It is the intent of the legislature that nothing in this law restrict the use of existing
80 filings by an insurer or limit ability of private insurers to provide flood insurance coverage of any
81 type not addressed herein.

82 Section 10. (a) (1) The division of banks shall by regulation require regulated lending
83 institutions, as a condition of making, increasing, extending, or renewing any loan secured by
84 improved real estate or a mobile home that the regulated lending institution determines is located
85 or is to be located in an area that has been identified by the commissioner under 42 U.S.C.
86 Chapter 50 as an area having special flood hazards, to notify the purchaser or lessee, or to obtain
87 satisfactory assurances that the seller or lessor has notified the purchaser or lessee, and the
88 servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of
89 the signing of the purchase agreement, lease, or other documents involved in the transaction. The
90 regulations also shall require that the regulated lending institution retain a record of the receipt of
91 the notices by the purchaser or lessee and the servicer.

92 (2) Written notification required under subsection (a) of this section shall include:

93 (i) a warning, in a form to be established by the division of banks, stating that the
94 building on the improved real estate securing the loan is located, or the mobile home securing the
95 loan is or is to be located, in an area having special flood hazards;

96 (ii) a description of the flood insurance purchase requirements under section 102(b) of the
97 Flood Disaster Protection Chapter, 42 U.S.C. Chapter 50;

98 (iii) a statement that flood insurance coverage may be purchased under the National
99 Flood Insurance Program and also is available from private insurers; and

100 (iv) any other information that the division of banks considers necessary to carry out the
101 purposes of the national flood insurance program.

102 (b) The division of banks shall by regulation require regulated lending institutions, in
103 connection with the making, increasing, extending, renewing, selling, or transferring any loan
104 described in subsection (a)(1) of section 10, to notify, in writing, the division of banks of the
105 servicer of the loan during the term of the loan. Such institutions shall also notify the division of
106 banks of any change in the servicer of the loan, not later than 60 days after the effective date of
107 such change. The regulations under this subsection shall provide that, upon any change in the
108 servicing of a loan, the duty to provide notification under this subsection shall transfer to the
109 transferee servicer of the loan.

110 (c) The division of banks shall, not less than 45 days before the expiration of any contract
111 for flood insurance under this chapter, issue notice of such expiration by first-class mail to the
112 owner of the property covered by the contract, the servicer of any loan secured by the property
113 covered by the contract, and, if known by the division of banks, the owner of the loan.

114 Section 11. (a) The division of insurance may adopt rules and regulations to implement
115 this law.

116 (b) The division of banks may adopt rules and regulations to implement this law.

117 (c) The division of banks shall submit a report to the legislature on the implementation of
118 this chapter and on compliance with the rules one year after passage.