

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Regulatory Affairs  
 2 Committee

3 Representative Raburn offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (ee) of subsection (6) of section  
 8 627.351, Florida Statutes, is amended, present paragraphs (ff)  
 9 through (hh) of that subsection are redesignated (hh) through  
 10 (jj), respectively, and new paragraphs (ff) and (gg) are added  
 11 to that subsection, to read:

12 627.351 Insurance risk apportionment plans.—

13 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

14 (ee) At least once every 6 months, the corporation shall  
 15 submit a report to the office disclosing:

16 1. The total number of requests received for residential  
 17 sinkhole loss coverage;

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18 2. The total number of policies issued for residential  
19 sinkhole loss coverage;

20 3. The total number of requests declined for residential  
21 sinkhole loss coverage; and

22 4. The reasons for declining requests for residential  
23 sinkhole loss coverage ~~The office may establish a pilot program~~  
24 ~~to offer optional sinkhole coverage in one or more counties or~~  
25 ~~other territories of the corporation for the purpose of~~  
26 ~~implementing s. 627.706, as amended by s. 30, chapter 2007-1,~~  
27 ~~Laws of Florida. Under the pilot program, the corporation is not~~  
28 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
29 ~~coverage upon the renewal of existing policies, but may exclude~~  
30 ~~such coverage using a notice of coverage change.~~

31 (ff) The Legislature finds that providing a program to  
32 repair property damaged by sinkholes safeguards the public's  
33 health, safety, and welfare and that it is in the public's  
34 interest for sinkhole loss claims to be resolved by stabilizing  
35 the land and structure and repairing the foundation of the  
36 structure. The Legislature further finds that, in the past, many  
37 homeowners who obtained payouts from the corporation for a  
38 sinkhole claim did not use the funds to repair or remediate the  
39 claimed damage, thereby harming the real estate marketability of  
40 their homes and the valuation of other homes in the area.  
41 Therefore, the corporation shall establish a Citizens Sinkhole  
42 Stabilization Repair Program to ensure repair and remediation of  
43 sinkhole damage to homes. By March 31, 2015, any claim against a

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44 corporation policy that covers residential sinkhole loss for  
45 which it is determined that a covered sinkhole loss has occurred  
46 must be included in and governed by the repair program for the  
47 purpose of making stabilization repairs. The determination of  
48 whether a policyholder has a covered sinkhole loss will be made  
49 by the corporation or through neutral evaluation, judicial  
50 decree, or final judgment.

51 1. As used in this paragraph, the term:

52 a. "Engineering report" means the report issued pursuant  
53 to s. 627.7073(1).

54 b. "Recommendation of the engineer" means the  
55 recommendation of the professional engineer engaged by the  
56 corporation and included in the report pursuant to s.  
57 627.7073(1)(a)5.

58 c. "Sinkhole loss" has the same meaning as provided in s.  
59 627.706(2).

60 d. "Stabilization repair" means stabilizing the land and  
61 structure caused by sinkhole activity and repairing the  
62 foundation of the structure.

63 e. "Stabilization repair contractor" means a contractor  
64 who makes stabilization repairs.

65 2. The repair program shall be managed by the corporation  
66 and must include the following components:

67 a. The policyholder may not be required to advance payment  
68 for stabilization repairs.

69 b. Stabilization repairs must be conducted by a

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70 stabilization repair contractor selected from an approved  
71 stabilization repair contractor pool procured by the corporation  
72 pursuant to an open and transparent process. The pool must be  
73 sufficiently comprehensive to provide competition and  
74 inclusiveness. A pool with a minimum of 12 contractors shall be  
75 presumed to be competitive and inclusive. Each contractor  
76 within the pool must be qualified and approved by the  
77 corporation based on criteria that include the following  
78 requirements:

79 (I) The stabilization repair contractor corporate entity  
80 must demonstrate experience in the stabilization of sinkhole  
81 activity pursuant to requirements established by the  
82 corporation.

83 (II) The stabilization repair contractor must be certified  
84 as a contractor pursuant to s. 489.113(1).

85 (III) The stabilization repair contractor must demonstrate  
86 capacity to be bonded and provide performance, surety, or other  
87 bonds as described in this paragraph, which may be supplemented  
88 by additional requirements as determined by the corporation.

89 (IV) The stabilization repair contractor must demonstrate  
90 that it has obtained all insurance required by law, including,  
91 but not limited to, public liability, property damage, and  
92 workers' compensation.

93 (V) The stabilization repair contractor must maintain a  
94 valid drug-free workplace program.

95 (VI) Such other requirements consistent with s. 287.057.

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96 c. Stabilization repair contractors shall be selected from  
97 the approved stabilization repair contractor pool to stabilize  
98 the land and structure and repair the foundation of the  
99 structure in accordance with the recommendation of the  
100 professional engineer pursuant to a contract between the  
101 contractor and the corporation. Such contracts are not subject  
102 to paragraph (e) or s. 287.057. Pursuant to the terms of the  
103 contract, the selected contractor is solely responsible for the  
104 performance of all necessary stabilization repairs specified in  
105 the engineering report and the recommendations of the engineer.

106 d. The corporation shall develop a standard stabilization  
107 repair contract for the purpose of stabilizing the land and  
108 structure and repairing the foundation of the structure in  
109 accordance with the recommendation of the professional engineer  
110 for all properties within the repair program. At a minimum, the  
111 contract must require:

112 (I) The assigned stabilization repair contractor to  
113 complete all stabilization repairs identified in the engineering  
114 report based on line-item prices developed by the corporation  
115 which reasonably reflect actual market prices for sinkhole  
116 stabilization activities.

117 (II) Each stabilization repair contractor to post a  
118 payment bond, secured by a third- party surety, in favor of the  
119 corporation as obligee for each project assigned and to post a  
120 performance bond, secured by a third-party surety, in favor of  
121 the corporation as obligee for each project assigned. The amount

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122 of the payment bond and performance bond shall be equal to the  
123 amount of each project contract.

124 (III) The stabilization repair contractor to provide a  
125 warranty to the policyholder, secured by an authorized insurer  
126 or registered risk retention group, which covers all repairs  
127 provided by the stabilization repair contractor for at least 5  
128 years after completion of the stabilization repairs. If, for any  
129 contract, the stabilization repair contractor demonstrates that  
130 a warranty that is secured by an authorized insurer or  
131 registered risk retention group cannot be procured, or that such  
132 warranty cannot be procured for a cost equal to or less than 3  
133 percent of the stabilization repair contract amount, the  
134 corporation shall serve as the guarantor of the work performed  
135 by the contractor. The corporation shall also provide a warranty  
136 to the policyholder which covers all repairs provided by the  
137 stabilization repair contractor for at least 5 years if the  
138 stabilization repair contractor is unable to provide a remedy  
139 required under the warranty it provided to the policyholder.

140 (IV) That, throughout the course of the stabilization  
141 repairs performed by the contractor, the professional engineer  
142 shall monitor the property and confirm that stabilization has  
143 been satisfactorily completed and that no further stabilization  
144 is necessary to remedy the damage identified in the engineering  
145 report and the recommendation of the engineer.

146 (V) That the stabilization repair contractor notify the  
147 corporation if the professional engineer concludes that

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148 additional stabilization repairs are necessary to complete the  
149 repairs specified in the engineering report and the  
150 recommendation of the engineer. If repairs can be completed  
151 within policy limits, the stabilization repair contractor shall  
152 complete the additional repairs based on the line-item prices  
153 developed by the corporation. The contract must also contain  
154 provisions specifying the remedy and sanctions for failing to  
155 perform the additional repairs.

156 e. The corporation shall enter into contracts with  
157 qualified stabilization repair contractors to perform repairs.  
158 The policyholder shall have up to 30 days to select a  
159 stabilization repair contractor from the pool. If the  
160 policyholder fails to make a selection within 30 days, the  
161 corporation shall make a selection.

162 3. The corporation is not responsible for serving as a  
163 stabilization repair contractor. The corporation's obligations  
164 under the repair program are not an election to repair by the  
165 corporation and therefore do not imply or create a new  
166 contractual relationship with the policyholder.

167 4. The corporation's liability related to stabilization  
168 repair activity pursuant to the repair program and all other  
169 repairs to the structure conducted in accordance with the terms  
170 of the policy may not be greater than the policy limits on the  
171 structure.

172 5. The corporation shall pay for other repairs to the  
173 structure and contents in accordance with the terms of the

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174 policy.

175 6. If the professional engineer engaged by the corporation  
176 determines that the stabilization repair cannot be completed  
177 within policy limits, the corporation must pay to complete the  
178 stabilization repair recommended by the corporation's  
179 professional engineer or tender the policy limits to the  
180 policyholder, without a reduction for the repair expenses  
181 incurred, and subject to any dual interest noted on the policy.

182 7. Once there has been an adjudication of a litigated  
183 sinkhole property damage claim and an order has verified  
184 sinkhole loss and adjudicated whether repairs must be made other  
185 than or in addition to the recommendation of the engineer,  
186 stabilization repairs must be completed within a reasonable  
187 period of time. Property owners must provide notice of any  
188 dissatisfaction with regard to the effectiveness of repairs  
189 within 45 days after completion of the repairs. To facilitate  
190 timely repairs and remediation, the corporation shall respond to  
191 such notice within 30 days. If policy limits are tendered  
192 pursuant to subparagraph (6), such proceeds shall be made  
193 payable to the policyholder, subject to any dual interest noted  
194 on the policy.

195 8. This paragraph does not prohibit the corporation from  
196 establishing a managed repair program for other repairs to the  
197 structure in accordance with the terms of the policy.

198 9. This paragraph supersedes s. 627.707(5)(a)-(d).

199 10. This paragraph does not alter the procedure for

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200 engaging a professional engineer specified under s. 627.707.

201 (gg) As a component of the stabilization repair program  
202 set forth in paragraph (ff), a policy for residential property  
203 insurance issued by the corporation must include a deductible  
204 applicable to sinkhole losses which shall be offered in amounts  
205 equal to 2 percent, 5 percent, and 10 percent of the policy  
206 dwelling limits, with appropriate premium discounts offered with  
207 each deductible amount. However, for the purposes of determining  
208 eligibility pursuant sub-subparagraphs (c)5.a. and b. and s.  
209 627.3518(5), the term "comparable coverage" for sinkhole losses  
210 means a 10 percent deductible regardless of the deductible  
211 selected by a corporation policyholder.

212 Section 2. Paragraphs (c) and (f) of subsection (2) of  
213 section 627.706, Florida Statutes, are amended to read:

214 627.706 Sinkhole insurance; catastrophic ground cover  
215 collapse; definitions.—

216 (2) As used in ss. 627.706-627.7074, and as used in  
217 connection with any policy providing coverage for a catastrophic  
218 ground cover collapse or for sinkhole losses, the term:

219 (c) "Neutral evaluator" means an a ~~professional~~ engineer  
220 licensed under chapter 471 with experience and expertise in the  
221 identification of sinkhole activity as well as other potential  
222 causes of structural damage or a professional geologist. The  
223 engineer or professional geologist must have ~~who has~~ completed a  
224 course of study in alternative dispute resolution designed or  
225 approved by the department for use in the neutral evaluation

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226 process, must be ~~and who is~~ determined by the department to be  
227 fair and impartial, and must not be otherwise ineligible for  
228 certification as provided in s. 627.7074.

229 (f) "Professional engineer" means a person, as defined in  
230 s. 471.005, who has a bachelor's degree or higher in  
231 engineering. A professional engineer must also have experience  
232 and expertise in the identification of sinkhole activity or ~~as~~  
233 ~~well as~~ other potential causes of structural damage.

234 Section 3. By January 1, 2017, the Office of Program  
235 Policy Analysis and Government Accountability shall review the  
236 Citizens Sinkhole Stabilization Repair Program and submit a  
237 report to the Governor, the Chief Financial Officer, the  
238 President of the Senate, and the Speaker of the House of  
239 Representatives. The report must:

240 (1) Analyze policyholder satisfaction with stabilization  
241 repairs received through the program and the sufficiency of  
242 consumer protections provided by the program.

243 (2) Analyze the timeliness of stabilization repairs, in  
244 comparison with industry averages and practices. The report  
245 shall evaluate the loss costs associated with sinkhole claims  
246 under the program, comparing them with corporation's loss costs  
247 before the program's creation.

248 (3) Evaluate whether disputes between stabilization repair  
249 contractors and policyholders are resolved in an effective and  
250 timely manner.

251 (4) Evaluate whether litigation of sinkhole claims and

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252 associated costs are increasing or decreasing under the program,  
253 and the causes of such litigation.

254 (5) Evaluate the cost-effectiveness of allowing the  
255 program to be managed by a third-party administrator.

256 Section 4. If any provision of this act, or the  
257 application thereof to any person or circumstance is held  
258 invalid, such invalidity shall not affect other provisions or  
259 applications of this act which can be given effect without the  
260 invalid provision or application. It is the express intent of  
261 the Legislature to enact multiple important, but independent  
262 reforms to Florida law relating to sinkhole insurance coverage  
263 provided by Citizens Property Insurance Corporation and related  
264 claims. The Legislature further intends that the multiple  
265 reforms in the act could and should be enforced if one or more  
266 provisions are held invalid. To this end, the provisions of this  
267 act are declared to be severable.

268 Section 5. This act shall take effect July 1, 2014.

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**T I T L E A M E N D M E N T**

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Remove everything before the enacting clause and insert:

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A bill to be entitled

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An act relating to sinkhole coverage; amending s. 627.351, F.S.;

276

requiring Citizens Property Insurance Corporation to submit a

277

biannual report on the number of residential sinkhole policies

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278 requested, issued, and declined; providing legislative intent  
279 and establishing a Citizens Sinkhole Stabilization Repair  
280 Program for sinkhole claims; defining terms; prohibiting the  
281 corporation from requiring a policyholder to advance payment for  
282 stabilization repairs provided under the program; providing  
283 requirements and procedures for selecting stabilization repair  
284 contractors to conduct stabilization repairs; requiring  
285 stabilization repairs to be conducted pursuant to a contract and  
286 providing parameters for such contracts; requiring the  
287 policyholder to select a contractor from the pool within a  
288 certain time period; specifying additional parameters with  
289 respect to the program; requiring the corporation to offer  
290 specified deductible amounts for sinkhole loss coverage;  
291 amending s. 627.706, F.S.; revising definitions; requiring the  
292 Office of Program Policy Analysis and Government Accountability  
293 to conduct a study of the program and submit a report to the  
294 Governor, the Chief Financial Officer, and the Legislature;  
295 providing severability; providing an effective date.