

Bill No. CS for SB 1488

Barcode 131928

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Garcia) recommended the following amendment:

Senate Amendment (with title amendment)

On page 58, line 24, through
page 66, line 10, delete those lines

and insert:

Section 16. Section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.--

(1) Every insurer authorized to transact property insurance in this state shall make available coverage for insurable sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the sinkhole coverage attaches.

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for sinkhole losses:

(a) "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved

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1 by ground water. A sinkhole may form by collapse into
2 subterranean voids created by dissolution of limestone or
3 dolostone or by subsidence as these strata are dissolved.

4 (b)(2) "Sinkhole loss" means structural damage to the
5 building caused by sinkhole activity. Contents coverage shall
6 apply only if there is structural damage to the building
7 caused by sinkhole activity.

8 (c)(3) "Sinkhole activity loss" means ~~actual physical~~
9 ~~damage to the property covered arising out of or caused by~~
10 ~~sudden~~ settlement or systematic weakening collapse of the
11 earth supporting such property only when such settlement or
12 systematic weakening collapse results from movement or
13 raveling of soils, sediments, or rock materials into
14 subterranean voids created by the effect ~~action~~ of water on a
15 limestone or similar rock formation.

16 (d) "Engineer" means a person, as defined in s.
17 471.005, who has a bachelor degree or higher in engineering
18 with a specialty in the geotechnical engineering field. An
19 engineer must have geotechnical experience and expertise in
20 the identification of sinkhole activity as well as other
21 potential causes of damage to the structure.

22 (e) "Professional geologist" means a person, as
23 defined by s. 492.102, who has a bachelor degree or higher in
24 geology or related earth science with expertise in the geology
25 of Florida. A professional geologist must have geological
26 experience and expertise in the identification of sinkhole
27 activity as well as other potential causes of damage to the
28 structure.

29 (3)(4) Every insurer authorized to transact property
30 insurance in this state shall make a proper filing with the
31 office for the purpose of extending the appropriate forms of

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1 property insurance to include coverage for ~~insurable~~ sinkhole
2 losses.

3 Section 17. Section 627.707, Florida Statutes, is
4 amended to read:

5 627.707 ~~Minimum~~ Standards for investigation of
6 sinkhole claims by insurers; nonrenewals.--

7 (1) Upon receipt of a claim for a sinkhole loss, an
8 insurer must meet the following ~~minimum~~ standards in
9 investigating a claim:

10 ~~(1)(a) Upon receipt of a claim for a sinkhole loss,~~
11 The insurer must make an inspection of the insured's premises
12 to determine if there has been physical damage to the
13 structure which may ~~might~~ be the result of sinkhole activity.

14 ~~(b) If, upon the investigation pursuant to paragraph~~
15 ~~(a), the insurer discovers damage to a structure which is~~
16 ~~consistent with sinkhole activity or if the structure is~~
17 ~~located in close proximity to a structure in which sinkhole~~
18 ~~damage has been verified, then prior to denying a claim, the~~
19 ~~insurer must obtain a written certification from an individual~~
20 ~~qualified to determine the existence of sinkhole activity,~~
21 ~~stating that the cause of the claim is not sinkhole activity,~~
22 ~~and that the analysis conducted was of sufficient scope to~~
23 ~~eliminate sinkhole activity as the cause of damage within a~~
24 ~~reasonable professional probability. The written~~
25 ~~certification must also specify the professional discipline~~
26 ~~and professional licensure or registration under which the~~
27 ~~analysis was conducted.~~

28 (2) Following the insurer's initial inspection, the
29 insurer shall engage an engineer and a professional geologist
30 to conduct testing as provided in s. 627.7072 to determine the
31 cause of the loss within a reasonable professional probability

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1 and issue a report as provided in s. 627.7073, if:

2 (a) The insurer is unable to identify a valid cause of
3 the damage or discovers damage to the structure which is
4 consistent with sinkhole loss; or

5 (b) The policyholder demands testing in accordance
6 with this section or s. 627.7072.

7 (3) Following the initial inspection of the insured
8 premises, the insurer shall provide written notice to the
9 policyholder containing the following disclosure:

10 (a) What the insurer has determined to be the cause of
11 damage, if it has made such a determination.

12 (b) A statement of the circumstances under which the
13 insurer is required to engage an engineer and a professional
14 geologist to verify or eliminate sinkhole loss and to make
15 recommendations regarding land and building stabilization and
16 foundation repair.

17 (c) A statement regarding the right of the
18 policyholder to request testing by an engineer and a
19 professional geologist and the circumstances under which the
20 policyholder may demand certain testing.

21 (4) If the insurer determines that there is no
22 sinkhole loss, the insurer may deny the claim. If the insurer
23 denies the claim, the policyholder may demand testing under s.
24 627.7072. The policyholder's demand for testing must be
25 communicated to the insurer in writing after the
26 policyholder's receipt of insurer's denial of the claim.

27 (5)(a) If a sinkhole loss is verified, the insurer
28 shall pay to stabilize the land and building, and repair the
29 foundation in accordance with the recommendations of the
30 engineer and the professional geologist as provided under s.
31 627.7073, and in consultation with the policyholder, subject

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1 to the coverage and terms of the policy. The insurer shall pay
2 for other repairs to the structure and contents in accordance
3 with the terms of the policy.

4 (b) For a personal lines residential policy, the
5 insurer may limit its payment to the actual cash value of the
6 sinkhole loss until such time as expenses related to land and
7 building stabilization and foundation repairs are incurred.
8 The insurer has no liability for the work performed unless it
9 agrees to such liability in writing.

10 (6) Except as provided in subsection (7), the fees and
11 costs of the engineer or the professional geologist shall be
12 paid by the insurer.

13 (7)(c) If the insurer obtains, pursuant to s. 627.7073
14 paragraph (b), written certification that there is no sinkhole
15 loss or that the cause of the damage claim was not sinkhole
16 activity, and if the policyholder has submitted the sinkhole
17 claim without good faith grounds for submitting such claim,
18 the policyholder shall reimburse the insurer for 50 percent of
19 the actual costs cost of the analyses and services provided
20 under ss. 627.7072 and 627.7073 analysis under paragraph (b);
21 however, a policyholder is not required to reimburse an
22 insurer more than \$2,500 with respect to any claim. A
23 policyholder is required to pay reimbursement under this
24 subsection paragraph only if the insurer, prior to ordering
25 the analysis under s. 627.7072 paragraph (b), informs the
26 policyholder in writing of the policyholder's potential
27 liability for reimbursement and gives the policyholder the
28 opportunity to withdraw the claim.

29 (8)(2) No insurer shall nonrenew any policy of
30 property insurance on the basis of filing of claims for
31 partial loss caused by sinkhole damage or clay shrinkage as

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1 long as the total of such payments does not exceed the current
2 policy limits of coverage for property damage, and provided
3 the insured has repaired the structure in accordance with the
4 engineering recommendations upon which any payment or policy
5 proceeds were based.

6 (9) The insurer may engage a structural engineer to
7 make recommendations as to repair of the structure.

8 Section 18. Section 627.7072, Florida Statutes, is
9 created to read:

10 627.7072 Testing standards for sinkholes.--

11 (1) The engineer and professional geologist shall
12 perform such tests as sufficient, in their professional
13 opinion, to determine the presence or absence of sinkhole loss
14 or other cause of damage within reasonable professional
15 probability, and to make recommendations regarding necessary
16 building stabilization and foundation repair.

17 (2) Testing shall be conducted in compliance with the
18 Florida Geological Survey Special Publication No. 57 (2005).

19 Section 19. Section 627.7073, Florida Statutes, is
20 created to read:

21 627.7073 Sinkhole reports.--

22 (1) Upon completion of testing as provided in s.
23 627.7072, the engineer or professional geologist shall issue a
24 report and certification to the insurer and the policyholder
25 as provided in this section.

26 (a) Sinkhole loss is verified if, based upon tests
27 performed in accordance with s. 627.7072, an engineer or a
28 professional geologist issues a written report and
29 certification stating:

30 1. That the cause of the actual physical and
31 structural damage is sinkhole activity within a reasonable

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1 professional probability.

2 2. That the analyses conducted were of sufficient
3 scope to identify sinkhole activity as the cause of damage
4 within a reasonable professional probability.

5 3. A description of the tests performed.

6 4. A recommendation of methods for stabilizing the
7 land and building, and for making repairs to the foundation.

8 (b) If sinkhole activity is eliminated as the cause of
9 damage to the structure, the engineer or professional
10 geologist shall issue a written report and certification to
11 the policyholder and the insurer stating:

12 1. That the cause of the damage is not sinkhole
13 activity within a reasonable professional probability.

14 2. That the analyses and tests conducted were of
15 sufficient scope to eliminate sinkhole activity as the cause
16 of damage within a reasonable professional probability.

17 3. A statement of the cause of the damage within a
18 reasonable professional probability.

19 4. A description of the tests performed.

20 (c) The respective findings, opinions and
21 recommendations of the engineer or professional geologist as
22 to the verification of a sinkhole loss, land and building
23 stabilization, foundation repair, and elimination of sinkhole
24 loss shall be presumed correct.

25 (2) Any insurer that has paid a claim for a sinkhole
26 loss shall file a copy of the report and certification
27 prepared pursuant to subsection (1), with the county property
28 appraiser, who shall record the report and certification with
29 the parcel number. The insurer shall bear the cost of filing
30 and recording the report and certification. There shall be no
31 cause of action or liability against an insurer for compliance

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1 with this section.

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3 (Redesignate subsequent sections.)

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 4, line 22, through
9 page 5, line 12, delete those lines

10

11 and insert:

12 creating s. 627.7072, F.S.; providing testing
13 standards for sinkholes; creating s. 627.7073,
14 F.S.; providing requirements for reports issued
15 by engineers and professional geologists;
16 requiring certain reports and certifications to
17 be issued to the policyholder and the insurer;
18 requiring that the insurer file a copy of the
19 report and certification with the county
20 property appraiser to be recorded with the
21 parcel number

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