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LEGISLATIVE ACTION

Senate

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House

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Floor: 19/F/2R

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04/11/2013 04:26 PM

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Senator Simpson moved the following:

**Senate Amendment (with directory and title amendments)**

Between lines 2189 and 2190

insert:

(ee) 1. The corporation may not decline a request for coverage of residential sinkhole loss based upon: conditions existing at or on the property which do not constitute sinkhole-related activity; or the proximity of the property to the location of another property on which conditions exist which do not constitute sinkhole-related activity.

a. For the purposes of this subparagraph, the term "sinkhole-related activity" means settlement or systematic weakening of the earth if the settlement or systematic weakening



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14 results from contemporaneous movement or raveling of soils,  
15 sediments, or rock materials into subterranean voids created by  
16 the effect of water on a limestone or similar rock formation.

17 b. On or before December 31 of each calendar year, the  
18 corporation shall submit an annual report to the Office of  
19 Insurance Regulation and the Insurance Consumer Advocate  
20 disclosing:

21 (I) The total number of requests received for residential  
22 sinkhole loss coverage;

23 (II) The total number of policies issued for residential  
24 sinkhole loss coverage;

25 (III) The total number of requests declined for residential  
26 sinkhole loss coverage; and

27 (IV) The reasons for each decline of residential sinkhole  
28 loss coverage.

29 2. A policy for residential property insurance issued by  
30 the corporation must include a deductible applicable to sinkhole  
31 losses equal to 1 percent, 2 percent, 5 percent, or 10 percent  
32 of the policy dwelling limits, with an appropriate premium  
33 discount amount offered with each deductible amount.

34 3. The Legislature finds that it is in the public interest  
35 that indemnity funds paid pursuant to sinkhole loss claims are  
36 applied to repairing property damage in order to ensure that  
37 sinkhole indemnity funds paid for sinkhole damage are applied to  
38 above-ground and subsurface repairs. Therefore, a Citizens  
39 Sinkhole Repair Program shall be established by the corporation,  
40 subject to approval by the Office of Insurance Regulation and  
41 the Financial Services Commission. Any claim against a  
42 corporation policy that covers residential sinkhole loss for



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43 which it is determined that such loss has occurred must be  
44 included in the repair program.

45 a. The repair program may be managed by a third-party  
46 administrator and, at a minimum, must include the following  
47 components:

48 (I) The corporation may not require the policyholder to  
49 advance payment for repairs.

50 (II) All applicable provisions contained in the  
51 corporation's plan of operation apply, including, but not  
52 limited to, the consumer's right to courteous, prompt, and  
53 professional customer service and the right to fair, prompt and  
54 professional services.

55 (III) Repairs shall be conducted by repair contractors who  
56 are qualified based upon guidelines adopted by the Financial  
57 Services Commission by rule.

58 (A) The repair program shall select qualified repair  
59 contractors to perform repairs to damaged property pursuant to a  
60 fixed-price contract between the contractor and the  
61 policyholder. Pursuant to the terms of the contract, the  
62 selected repair contractor is solely responsible for the  
63 performance of all necessary repairs.

64 (B) Each qualified contractor shall post a performance  
65 bond, secured by a third-party surety, in favor of the  
66 corporation as obligee, in a principle amount equal to the total  
67 cost of all fixed-price contracts annually awarded to that  
68 repair contractor.

69 (C) Each repair contractor shall also provide a warranty to  
70 the policyholder which covers all repairs provided by the  
71 contractor for at least 5 years after completion of the repairs.



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72           b. The corporation is not responsible for serving as a  
73 repair contractor. The corporation's obligations pursuant to the  
74 repair program are not an election to repair by the corporation  
75 and therefore do not imply a new contractual relationship.

76           c. The corporation's liability related to repair activity  
77 for damaged property included in the repair program is no  
78 greater than the limits of the policy covering that property.

79           d. For the purposes of the repair program, the presumed  
80 correctness specified in s. 627.7073(1)(c) of the findings,  
81 opinions, and recommendations by the professional engineer or  
82 geologist as to land and building stabilization and foundation  
83 repair are recognized by the Legislature as necessary to address  
84 the public policy interest in ensuring that sinkhole-damaged  
85 residential property is repaired. Therefore, the presumption is  
86 intended to operate as a burden-shifting presumption under ss.  
87 90.302(2) and 90.304. ~~The office may establish a pilot program~~  
88 ~~to offer optional sinkhole coverage in one or more counties or~~  
89 ~~other territories of the corporation for the purpose of~~  
90 ~~implementing s. 627.706, as amended by s. 30, chapter 2007-1,~~  
91 ~~Laws of Florida. Under the pilot program, the corporation is not~~  
92 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
93 ~~coverage upon the renewal of existing policies, but may exclude~~  
94 ~~such coverage using a notice of coverage change.~~

95  
96 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

97 And the directory clause is amended as follows:

98           Delete line 765

99 and insert:

100           (z), and (ee) of subsection (6) of section 627.351, Florida



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101 Statutes,

102

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

104 And the title is amended as follows:

105 Delete line 69

106 and insert:

107 secured by a surplus note; prohibiting the corporation  
108 from denying sinkhole coverage for certain reasons;  
109 requiring the corporation to submit an annual report  
110 to the Office of Insurance Regulation and the  
111 Insurance Consumer Advocate on the number of  
112 residential sinkhole policies issued and declined;  
113 requiring the policy to include a deductible;  
114 establishing a Citizens Sinkhole Repair Program for  
115 sinkhole claims; providing program components;  
116 specifying the corporation's liability with respect to  
117 sinkhole claims; specifying the presumed correctness  
118 of professional engineer and geologist opinions;  
119 deleting obsolete provisions; requiring the  
120 corporation