

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Fresen offered the following:

Amendment (with title amendment)

Remove lines 1243-1357 and insert:

(hh) The Legislature finds that it is in the public interest that sinkhole loss claims be resolved by stabilizing the land and building and making repairs to the foundation of damaged property. Therefore, a Citizens Sinkhole Stabilization Repair Program shall be established by the corporation. By March 31, 2014, any claim against a corporation policy that covers residential sinkhole loss for which it is determined that a covered sinkhole loss has occurred must be included in and governed by the repair program for the purpose of stabilizing the land and building and making repairs to the foundation. For the purposes of this paragraph, the term "stabilization repairs" means stabilizing the land and building and making repairs to

Amendment No.

17 the foundation; the term "stabilization repair contractor" means
18 a contractor who stabilizes the land and building and makes
19 repairs to the foundation of damaged property; the term
20 "engineering report" means the report issued pursuant to s.
21 627.7073(1); and the term "recommendation of the engineer" means
22 the recommendation of the engineer engaged by the corporation
23 pursuant to s. 627.7073(1)(a)5. The corporation shall pay for
24 other repairs to the structure and contents in accordance with
25 the terms of the policy. The stabilization repair program may be
26 managed by the corporation or a third-party administrator and,
27 at a minimum, must include the following components:

28 1. The corporation may not require the policyholder to
29 advance payment for repairs.

30 2. Stabilization repairs shall be conducted by approved
31 stabilization repair contractors within a stabilization repair
32 contractor pool procured by the corporation pursuant to an open
33 and transparent process. Each stabilization repair contractor
34 within the pool must be qualified and approved by the
35 corporation based upon criteria, including the following minimum
36 requirements:

37 a. The stabilization repair contractor must be certified
38 as a contractor pursuant to s. 489.113(1).

39 b. The stabilization repair contractor corporate entity
40 must demonstrate experience in stabilization of sinkhole
41 activity pursuant to criteria to be established by the
42 corporation.

43 c. The stabilization repair contractor must demonstrate
44 capacity to be bonded and provide performance, surety, or other

625763

Approved For Filing: 4/16/2013 10:58:10 AM

Amendment No.

45 bonds as described in this paragraph, which may be supplemented
46 by additional requirements as determined by the corporation.

47 d. The stabilization repair contractor shall demonstrate
48 insurance coverage requirements, including, but not limited to,
49 commercial general liability coverage and workers' compensation,
50 to be established by the corporation.

51 e. The stabilization repair contractor shall maintain a
52 valid Drug Free Workplace program.

53 f. Such other requirements as established by the
54 corporation.

55 3. Pursuant to the stabilization repair program, qualified
56 stabilization repair contractors shall be selected from the
57 approved stabilization contractor pool to stabilize the land and
58 building and repair the foundation of the damaged property
59 pursuant to a fixed-price contract between the contractor and
60 the corporation. Such contracts are not subject to s.
61 627.351(6) (e) or s. 287.057. Pursuant to the terms of the
62 contract, the selected stabilization repair contractor is solely
63 responsible for the performance of all necessary stabilization
64 repairs specified in the engineering report and the
65 recommendations of the engineer.

66 4. The corporation shall develop a standard stabilization
67 repair contract for the purpose of stabilizing the land and
68 building and repairing the foundation of all properties within
69 the program. The contract shall include the following minimum
70 requirements:

71 a. The assigned stabilization repair contractor shall
72 agree to complete all stabilization repairs identified in the

Amendment No.

73 engineering report and the recommendations of the engineer based
74 upon a fixed price.

75 b. Each stabilization repair contractor shall post a
76 payment bond in favor of the corporation as obligee for each
77 project assigned to that contractor and shall also post a
78 performance bond, secured by a third-party surety, in favor of
79 the corporation as obligee, in an amount equal to the total cost
80 of all fixed-price contracts annually awarded to that contractor.

81 c. In addition to the required performance bond, each
82 stabilization repair contractor shall provide a warranty,
83 secured by a third-party surety, to the policyholder that covers
84 all repairs provided by the contractor for at least 5 years
85 after completion of the stabilization repairs.

86 d. Throughout the course of the stabilization repairs
87 performed by the contractor, the engineer shall monitor the
88 property and confirm that the stabilization has been
89 satisfactorily completed and that no further stabilization is
90 necessary to remedy the damage identified in the engineering
91 report and the recommendations of the engineer.

92 e. If the engineer concludes that additional stabilization
93 repair is necessary to complete the stabilization repairs
94 specified in the engineering report and the recommendations of
95 the engineer, the stabilization repair contractor shall be
96 required to perform the additional stabilization repairs at no
97 additional cost to the corporation or the policyholder. The
98 contract between the corporation and the contractor shall
99 contain provisions specifying the remedy and sanctions for

Amendment No.

100 failing to perform additional repairs pursuant to this sub-
101 subparagraph.

102 5. The corporation shall enter into contracts to perform
103 repairs pursuant to a process that includes, but is not limited
104 to, the following requirements:

105 a. Within 30 days after the completion of the engineering
106 report, such report shall be identified on a list that shall be
107 made available to all stabilization contractors procured within
108 the program.

109 b. The corporation shall establish a selection process for
110 assigning stabilization repair contractors to perform repairs
111 for each property within the program, including the following
112 requirements:

113 (I) All stabilization repair contractors within the
114 stabilization repair contractor pool shall be provided with an
115 opportunity to submit an offer, which includes an itemized
116 statement of work, to perform the stabilization repairs
117 recommended in the engineering report.

118 (II) The corporation shall review the offers and provide
119 the policyholder with a list of stabilization repair
120 contractors. The policyholder shall be provided a reasonable
121 time, not to exceed 30 days, to participate in the selection by
122 choosing the stabilization repair contractor from among those
123 qualified contractors on the list provided by the corporation.
124 If the policyholder has not made a selection within the 30-day
125 period described in this sub-sub-subparagraph, then the
126 corporation may make the selection. The corporation may reserve
127 the right to include any or all contractors on the list based

625763

Approved For Filing: 4/16/2013 10:58:10 AM

Amendment No.

128 upon quality, cost effectiveness, and such other criteria as the
129 corporation shall determine.

130 c. In the event that no stabilization repair contractor
131 submits an offer to perform the stabilization repairs for a
132 property within the program or all offers are above the
133 policyholder's policy limit, the corporation may enter the
134 property into the selection process again or the corporation may
135 pay to the policyholder an amount up to the policy limits on the
136 structure.

137 6. The corporation is not responsible for serving as a
138 repair contractor. The corporation's obligations pursuant to the
139 stabilization repair program are not an election to repair by
140 the corporation and, therefore, do not imply or result in a new
141 contractual relationship with the policyholder.

142 7. The corporation's liability related to repair activity,
143 including stabilization repairs pursuant to the sinkhole
144 stabilization repair program and all other repairs to the
145 structure in accordance with the terms of the policy, is no
146 greater than the policy limits on the structure.

147 8. Nothing in this section shall be construed to prohibit
148 the corporation from establishing a managed repair program for
149 other repairs to structures in accordance with the terms of the
150 policy.

151 9. If a dispute arises between the corporation and the
152 policyholder as to the nature or extent of stabilization repairs
153 to be conducted under the program, the sole remedy for resolving
154 such disputes shall be specific performance.

155 10. This paragraph supersedes s. 627.707(5) (a)-(d).

Amendment No.

156 (ii) A policy for residential property insurance issued by
157 the corporation shall include a deductible amount applicable to
158 sinkhole losses which shall be offered in amounts equal to 2
159 percent, 5

160

161

162

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

163

Remove line 125 and insert:

164

Citizens Sinkhole Stabilization Repair Program for

165

sinkhole claims; providing definitions;