

By Senator Simpson

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1 A bill to be entitled
2 An act relating to sinkhole coverage; amending s.
3 627.351, F.S.; requiring Citizens Property Insurance
4 Corporation to submit a biannual report on the number
5 of residential sinkhole policies requested, issued,
6 and declined; providing legislative intent and
7 establishing a Citizens Sinkhole Stabilization Repair
8 Program for sinkhole claims; providing definitions;
9 prohibiting the corporation from requiring a
10 policyholder to advance payment for repairs provided
11 under the program; providing requirements and
12 procedures for contractors who conduct stabilization
13 repairs; providing requirements and terms for
14 contracts between the corporation and such
15 contractors; specifying additional parameters with
16 respect to the program; amending s. 627.706, F.S.;
17 requiring policies to include specified deductible
18 amounts for sinkhole loss coverage; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (ee) of subsection (6) of section
24 627.351, Florida Statutes, is amended, present paragraphs (ff)
25 through (hh) of that subsection are redesignated as paragraphs
26 (gg) through (ii), respectively, and a new paragraph (ff) is
27 added to that subsection, to read:

28 627.351 Insurance risk apportionment plans.—

29 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

32 1. The total number of requests received for residential
33 sinkhole loss coverage;

34 2. The total number of policies issued for residential
35 sinkhole loss coverage;

36 3. The total number of requests declined for residential
37 sinkhole loss coverage; and

38 4. The reasons for declining requests for residential
39 sinkhole loss coverage ~~The office may establish a pilot program~~
40 ~~to offer optional sinkhole coverage in one or more counties or~~
41 ~~other territories of the corporation for the purpose of~~
42 ~~implementing s. 627.706, as amended by s. 30, chapter 2007-1,~~
43 ~~Laws of Florida. Under the pilot program, the corporation is not~~
44 ~~required to issue a notice of nonrenewal to exclude sinkhole~~
45 ~~coverage upon the renewal of existing policies, but may exclude~~
46 ~~such coverage using a notice of coverage change.~~

47 (ff) The Legislature finds that it is in the public
48 interest that sinkhole loss claims be resolved by stabilizing
49 the land and structure and making repairs to the foundation of
50 the damaged structure. Therefore, the corporation shall
51 establish the Citizens Sinkhole Stabilization Repair Program for
52 the purpose of making stabilization repairs. By March 31, 2015,
53 any claim against a corporation policy that covers residential
54 sinkhole loss must be included in and governed by the repair
55 program.

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

57 a. "Engineering report" means the report issued pursuant to
58 s. 627.7073(1).

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59 b. "Recommendation of the engineer" means the
60 recommendation of the engineer engaged by the corporation and
61 issued pursuant to s. 627.7073(1)(a)5.

62 c. "Stabilization repairs" means stabilizing the land and
63 structure and making repairs to the foundation of the damaged
64 structure.

65 d. "Stabilization repair contractor" means a contractor who
66 makes stabilization repairs.

67 2. The repair program shall be managed by the corporation
68 or a third-party administrator and include the following
69 components:

70 a. The policyholder may not be required to advance payment
71 for repairs.

72 b. Stabilization repairs must be conducted by a
73 stabilization repair contractor selected from an approved
74 stabilization repair contractor pool procured by the corporation
75 pursuant to an open and transparent process. 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 section which may be supplemented by

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88 additional requirements as determined by the corporation.

89 (IV) The stabilization repair contractor must demonstrate
90 that it meets insurance coverage requirements, including, but
91 not limited to, commercial general liability and workers'
92 compensation, established by the corporation.

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

95 (VI) Such other requirements as may be established by the
96 corporation.

97 c. Pursuant to the stabilization repair program, qualified
98 stabilization repair contractors shall be selected from the
99 approved stabilization contractor pool to conduct stabilization
100 repairs pursuant to a fixed-price contract between the
101 contractor and the corporation. Such contracts are not subject
102 to s. 627.351(6) (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 conducting stabilization
108 repairs on all properties within the program. At a minimum, the
109 contract must require:

110 (I) The assigned stabilization repair contractor to
111 complete all stabilization repairs identified in the engineering
112 report based on a fixed price.

113 (II) Each stabilization repair contractor to post a payment
114 bond in favor of the corporation as obligee for each project
115 assigned and to post a performance bond, secured by a third-
116 party surety, in favor of the corporation as obligee, in a

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117 principal amount equal to the total cost of all fixed-price
118 contracts annually awarded to that contractor.

119 (III) The stabilization repair contractor to provide a
120 warranty, secured by a third-party surety, to the policyholder
121 which covers all repairs provided by the stabilization repair
122 contractor for at least 5 years after completion of the
123 stabilization repairs.

124 (IV) That, throughout the course of the stabilization
125 repairs performed by the contractor, the engineer monitor the
126 property and confirm that stabilization has been satisfactorily
127 completed and that no further stabilization is necessary to
128 remedy the damage identified in the engineering report and the
129 recommendations of the engineer.

130 (V) That, if the engineer concludes that additional
131 stabilization repairs are necessary to complete the repairs
132 specified in the engineering report and the recommendations of
133 the engineer, the stabilization repair contractor perform
134 additional stabilization repairs at no cost to the corporation
135 or the policyholder. The contract must also contain provisions
136 specifying the remedy and sanctions for failing to perform the
137 additional repairs.

138 e. The corporation shall enter into contracts with
139 qualified stabilization repair contractors to perform repairs
140 pursuant to a process that requires all of the following
141 components:

142 (I) Within 30 days after the completion of the engineering
143 report, the report must be identified on a list that is made
144 available to all stabilization repair contractors within the
145 pool.

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146 (II) The corporation shall select a stabilization repair
147 contractor from the pool pursuant to a selection process
148 established by the corporation for assigning a contractor to
149 perform repairs for each property within the program. The
150 selection process must include all of the following:

151 (A) All stabilization repair contractors within the pool
152 are provided an opportunity to submit an offer to perform the
153 stabilization repairs recommended in the engineering report.
154 Such offer must include an itemized statement of work.

155 (B) The corporation shall review the offers and provide the
156 policyholder with a list of stabilization repair contractors.
157 The corporation may reserve the right to include any or all
158 contractors on the list based upon quality, cost-effectiveness,
159 and such other criteria as the corporation determines
160 appropriate.

161 (C) The policyholder has up to 30 days to select a
162 contractor from the list. If the policyholder fails to make a
163 selection within 30 days, the corporation shall make the
164 selection.

165 (D) If no stabilization repair contractor submits an offer
166 to perform the stabilization repairs for a property within the
167 program, or all offers are above the policyholder's policy
168 limit, the corporation may enter the property into the selection
169 process again or may pay the policyholder an amount up to the
170 policy limits on the structure.

171 3. The corporation is not responsible for serving as a
172 stabilization repair contractor. The corporation's obligations
173 under the repair program are not an election to repair by the
174 corporation and therefore do not imply or create a new

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175 contractual relationship with the policyholder.

176 4. The corporation's liability related to repair activity
177 pursuant to the sinkhole stabilization program and all other
178 repairs to the structure conducted in accordance with the terms
179 of the policy is no greater than the policy limits on the
180 structure.

181 5. This paragraph does not prohibit the corporation from
182 establishing a managed repair program for other repairs to the
183 structure in accordance with the terms of the policy.

184 6. If a dispute arises between the corporation and the
185 policyholder as to the nature or extent of stabilization repairs
186 to be conducted under the program, the sole remedy for resolving
187 such disputes is specific performance.

188 7. The corporation shall pay for other repairs to the
189 structure and contents in accordance with the terms of the
190 policy.

191 8. This paragraph supersedes s. 627.707(5)(a)-(d).

192 Section 2. Subsection (1) of section 627.706, Florida
193 Statutes, is amended to read:

194 627.706 Sinkhole insurance; catastrophic ground cover
195 collapse; definitions.—

196 (1) ~~(a)~~ An Every insurer authorized to transact property
197 insurance in this state must provide coverage for a catastrophic
198 ground cover collapse.

199 ~~(a)(b)~~ The insurer shall make available, for an appropriate
200 additional premium, coverage for sinkhole losses on any
201 structure, including the contents of personal property contained
202 therein, to the extent provided in the form to which the
203 coverage attaches. The insurer may require an inspection of the

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204 property before issuance of sinkhole loss coverage.

205 (b) A policy for residential property insurance must ~~may~~
206 include a deductible for ~~amount applicable to~~ sinkhole loss
207 ~~losses~~ equal to 1 percent, 2 percent, 5 percent, or 10 percent
208 of the policy dwelling limits, with appropriate premium
209 discounts offered with each deductible amount.

210 (c) The insurer may restrict catastrophic ground cover
211 collapse and sinkhole loss coverage to the principal building,
212 as defined in the applicable policy.

213 Section 3. This act shall take effect July 1, 2014.