



657620

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Margolis) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Surplus required; new insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer applying for its original certificate of



657620

11 authority in this state shall possess surplus as to  
12 policyholders at least the greater of:

13 (a) For a property and casualty insurer, \$5 million, or  
14 \$2.5 million for any other insurer;

15 (b) For life insurers, 4 percent of the insurer's total  
16 liabilities;

17 (c) For life and health insurers, 4 percent of the  
18 insurer's total liabilities, plus 6 percent of the insurer's  
19 liabilities relative to health insurance;

20 (d) For all insurers other than life insurers and life and  
21 health insurers, 10 percent of the insurer's total liabilities;

22 ~~or~~

23 (e) Notwithstanding paragraph (a) or paragraph (d), for a  
24 domestic insurer that transacts residential property insurance  
25 and is:

26 1. Not a wholly owned subsidiary of an insurer domiciled in  
27 any other state, \$15 million.

28 2. A wholly owned subsidiary of an insurer domiciled in any  
29 other state, \$50 million; or

30 (f) Notwithstanding paragraphs (a), (d), and (e), for a  
31 domestic insurer that only transacts limited sinkhole coverage  
32 insurance for personal lines residential property pursuant to s.  
33 627.7151, \$7.5 million.

34 Section 2. Paragraph (h) is added to subsection (1) of  
35 section 624.408, Florida Statutes, to read:

36 624.408 Surplus required; current insurers.—

37 (1) To maintain a certificate of authority to transact any  
38 one kind or combinations of kinds of insurance, as defined in  
39 part V of this chapter, an insurer in this state must at all



657620

40 times maintain surplus as to policyholders at least the greater  
41 of:

42 (h) Notwithstanding paragraphs (e), (f), and (g), for a  
43 domestic insurer that only transacts limited sinkhole coverage  
44 insurance for personal lines residential property pursuant to s.  
45 627.7151, \$7.5 million.

46  
47 The office may reduce the surplus requirement in paragraphs (f)  
48 and (g) if the insurer is not writing new business, has premiums  
49 in force of less than \$1 million per year in residential  
50 property insurance, or is a mutual insurance company.

51 Section 3. Section 627.7151, Florida Statutes, is created  
52 to read:

53 627.7151 Limited sinkhole coverage insurance.-

54 (1) An authorized insurer may issue, but is not required to  
55 make available, a limited sinkhole coverage insurance policy  
56 providing personal lines residential coverage, subject to  
57 underwriting, for the peril of sinkhole loss on any structure or  
58 the contents of personal property contained therein, subject to  
59 this section and ss. 627.706-627.7074. This section does not  
60 apply to commercial lines residential or commercial lines  
61 nonresidential coverage for the peril of sinkhole loss. This  
62 section also does not apply to coverage for the peril of  
63 sinkhole loss that is excess coverage over any other insurance  
64 covering the peril of sinkhole loss.

65 (2) Limited sinkhole coverage insurance must cover only  
66 losses from the peril of sinkhole loss, as defined in s.  
67 627.706(2)(j); however, such coverage shall not be required to  
68 provide for contents and additional living expenses.



657620

69       (3) Limited sinkhole coverage insurance may:  
70       (a) Notwithstanding s. 627.707(5), limit coverage to  
71 repairs to stabilize the building and repair the foundation in  
72 accordance with the recommendations of the professional engineer  
73 retained pursuant to s. 627.707(2). However, if the insurer's  
74 professional engineer determines that the repair cannot be  
75 completed within policy limits, the insurer must pay to complete  
76 the repairs recommended by the insurer's professional engineer  
77 or tender the policy limits to the policyholder.  
78       (b) In addition to the deductibles authorized under s.  
79 627.706(1)(b), offer deductibles agreed to by the insured and  
80 insurer.  
81       (c) Offer policy limits agreed to by the insured and  
82 insurer, provided policy limits below \$50,000 are not allowed  
83 unless that amount exceeds full replacement costs of the  
84 property.  
85       (4) Before issuing a limited sinkhole coverage insurance  
86 policy under this section, the insurance agent must obtain from  
87 an applicant an acknowledgement signed by the applicant that  
88 includes the following statement in at least 12-point bold,  
89 uppercase type: "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE  
90 INSURANCE POLICY I HAVE READ AND UNDERSTAND THE LIMITATIONS THAT  
91 MAY APPLY TO MY POLICY." The signed acknowledgment must also  
92 include, in at least 12-point bold, uppercase type, for a  
93 policy:  
94       (a) That limits limited sinkhole coverage to an amount less  
95 than the full replacement cost of the property, the following  
96 statement: "THIS POLICY LIMITS SINKHOLE COVERAGE TO LESS THAN  
97 THE FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT



657620

98 IN HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN  
99 THIS PROPERTY AT RISK."

100 (b) That provides for a deductible which exceeds the  
101 deductibles authorized under s. 627.706(1)(b), the following  
102 statement: "THIS POLICY EXCEEDS THE DEDUCTIBLE AMOUNT PERMITTED  
103 FOR OTHER AUTHORIZED SINKHOLE LOSS INSURANCE POLICIES WHICH MAY  
104 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

105 (5) An insurer may establish and use limited sinkhole  
106 coverage forms. Limited sinkhole coverage forms are not subject  
107 to filing and approval pursuant to s. 627.410.

108 (6)(a) An insurer may establish and use limited sinkhole  
109 coverage rates in accordance with the rate standards provided in  
110 s. 627.062.

111 (b) For limited sinkhole coverage rates filed with the  
112 office before October 1, 2019, the insurer may also establish  
113 and use such rates in accordance with the rates, rating  
114 schedules, or rating manuals filed by the insurer with the  
115 office which allow the insurer a reasonable rate of return on  
116 limited sinkhole coverage written in this state. Limited  
117 sinkhole coverage rates established pursuant to this paragraph  
118 are not subject to s. 627.062(2)(a) or (f). An insurer shall  
119 notify the office of any change to such rates within 30 days  
120 after the effective date of the change. The notice must include  
121 the name of the insurer and the average statewide percentage  
122 change in rates. Actuarial data with regard to such rates for  
123 limited sinkhole coverage must be maintained by the insurer for  
124 2 years after the effective date of such rate change and is  
125 subject to examination by the office. The office may require the  
126 insurer to incur the costs associated with an examination. Upon



657620

127 examination, the office, in accordance with generally accepted  
128 and reasonable actuarial techniques, shall consider the rate  
129 factors in s. 627.062(2)(b) and (d), and the standards in s.  
130 627.062(2)(e), to determine whether the rate is excessive,  
131 inadequate, or unfairly discriminatory.

132 (7) A surplus lines agent may export limited sinkhole  
133 coverage insurance to an eligible surplus lines insurer without  
134 satisfying the conditions set forth in s. 626.916(1). This  
135 subsection expires July 1, 2020.

136 (8) In addition to any other applicable requirements, an  
137 insurer providing limited sinkhole coverage in this state must:

138 (a) Notify the office at least 30 days before writing  
139 limited sinkhole coverage insurance in this state.

140 (b) File a plan of operation and financial projections or  
141 revisions to such plan, as applicable, with the office.

142 (9) A policyholder of a limited sinkhole coverage insurance  
143 policy authorized by this section who incurs a covered loss may  
144 not assign a post-loss claim except to a subsequent purchaser of  
145 the property who acquires insurable interest following a loss.

146 Section 4. This act shall take effect July 1, 2016.

147  
148 ===== T I T L E A M E N D M E N T =====

149 And the title is amended as follows:

150 Delete everything before the enacting clause  
151 and insert:

152 A bill to be entitled  
153 An act relating to limited sinkhole coverage  
154 insurance; amending s. 624.407, F.S.; specifying the  
155 amount of surplus funds required for domestic insurers



657620

156 applying for a certificate of authority to provide  
157 limited sinkhole coverage insurance; amending s.  
158 624.408, F.S.; specifying the minimum surplus that  
159 must be maintained by insurers that provide limited  
160 sinkhole coverage insurance; creating s. 627.7151,  
161 F.S.; authorizing certain insurers to offer limited  
162 sinkhole coverage insurance in this state; providing  
163 applicability; providing a limitation of coverage;  
164 authorizing a specified limitation of coverage subject  
165 to a certain condition; authorizing certain policy  
166 terms; requiring an insurance agent to obtain a  
167 specified signed acknowledgement from an applicant  
168 before issuing a policy; authorizing insurer forms and  
169 exempting forms from approval; authorizing an insurer  
170 to establish and use rates in accordance with  
171 specified rate standards; requiring an insurer to  
172 provide a specified notice of changes to rates within  
173 a specified time frame to the Office of Insurance  
174 Regulation; requiring an insurer to maintain certain  
175 actuarial data for a specified time frame; authorizing  
176 the office to require an insurer to incur the costs  
177 associated with examining such data; providing factors  
178 for the office in determining whether a rate is  
179 excessive, inadequate, or unfairly discriminatory;  
180 authorizing a surplus lines agent to export a contract  
181 or endorsement for sinkhole coverage to a surplus  
182 lines insurer without meeting certain requirements;  
183 requiring the insurer to notify the office before  
184 writing sinkhole insurance and to file a plan of



657620

185 operation with the office; prohibiting assignments of  
186 post-loss claims; providing an exception; providing an  
187 effective date.