

By Senator Latvala

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1 A bill to be entitled
2 An act relating to sinkhole insurance; amending s.
3 624.407, F.S.; specifying an initial minimum surplus
4 requirement for certain new sinkhole insurers;
5 amending s. 624.408, F.S.; specifying a minimum
6 surplus requirement for certain current sinkhole
7 insurers; amending s. 627.062, F.S.; adding projected
8 sinkhole losses to a list of factors that must be
9 considered by the Office of Insurance Regulation in
10 reviewing certain rate filings; amending s. 627.0628,
11 F.S.; requiring the Florida Commission on Hurricane
12 Loss Projection Methodology to adopt certain standards
13 and guidelines relating to personal lines residential
14 sinkhole loss by a specified date; creating s.
15 627.7151, F.S.; authorizing certain insurers to offer
16 sinkhole insurance in this state; providing
17 applicability; providing coverage requirements and
18 limitations; requiring a notice of coverage or policy
19 limitations on the policy declarations page or face
20 page; authorizing certain rate standards for sinkhole
21 coverage rates to be established and used by insurers;
22 requiring an insurer to provide the office with a
23 specified notice of changes to certain sinkhole
24 coverage rates; requiring an insurer to maintain
25 certain actuarial data for a certain time; authorizing
26 the office to examine such data to determine if the
27 rate is excessive, inadequate, or unfairly
28 discriminatory; authorizing the office to require an
29 insurer to incur costs associated with such
30 examination; authorizing a surplus lines agent to
31 export sinkhole insurance to an eligible surplus lines
32 insurer without meeting a certain requirement;

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33 providing for expiration; requiring an insurer to
34 notify the office within a specified time before
35 writing sinkhole insurance and to file with the office
36 a plan of operation and financial projections;
37 prohibiting Citizens Property Insurance Corporation
38 from issuing or renewing certain sinkhole insurance
39 after a certain date; requiring the corporation to
40 provide coverage for catastrophic ground cover
41 collapse; prohibiting the Florida Hurricane
42 Catastrophe Fund from reimbursing certain losses
43 caused by sinkhole; providing for construction;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Subsection (1) of section 624.407, Florida
49 Statutes, is amended to read:

50 624.407 Surplus required; new insurers.—

51 (1) To receive authority to transact any one kind or
52 combinations of kinds of insurance, as defined in part V of this
53 chapter, an insurer applying for its original certificate of
54 authority in this state shall possess surplus as to
55 policyholders at least the greater of:

56 (a) For a property and casualty insurer, \$5 million, or
57 \$2.5 million for any other insurer.†

58 (b) For life insurers, 4 percent of the insurer's total
59 liabilities.†

60 (c) For life and health insurers, 4 percent of the
61 insurer's total liabilities, plus 6 percent of the insurer's

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62 liabilities relative to health insurance.~~†~~

63 (d) For all insurers other than life insurers and life and
64 health insurers, 10 percent of the insurer's total liabilities.~~†~~

65 ~~or~~

66 (e) Notwithstanding paragraph (a) or paragraph (d), for a
67 domestic insurer that transacts residential property insurance
68 and is:

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

71 2. A wholly owned subsidiary of an insurer domiciled in any
72 other state, \$50 million.

73 (f) Notwithstanding paragraphs (a), (d), and (e), for a
74 domestic insurer that solely transacts personal residential
75 property insurance for the peril of sinkhole in accordance with
76 s. 627.7151, \$2.5 million.

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

79 624.408 Surplus required; current insurers.—

80 (1) To maintain a certificate of authority to transact any
81 one kind or combinations of kinds of insurance, as defined in
82 part V of this chapter, an insurer in this state must at all
83 times maintain surplus as to policyholders at least the greater
84 of:

85 (h) Notwithstanding paragraphs (e), (f), and (g), for a
86 domestic residential property insurer that solely transacts
87 residential property insurance for the peril of sinkhole in
88 accordance with s. 627.7151, \$1.5 million.

89

90 The office may reduce the surplus requirement in paragraphs (f)

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91 and (g) if the insurer is not writing new business, has premiums
92 in force of less than \$1 million per year in residential
93 property insurance, or is a mutual insurance company.

94 Section 3. Paragraph (b) of subsection (2) of section
95 627.062, Florida Statutes, is amended to read:

96 627.062 Rate standards.—

97 (2) As to all such classes of insurance:

98 (b) Upon receiving a rate filing, the office shall review
99 the filing to determine if a rate is excessive, inadequate, or
100 unfairly discriminatory. In making that determination, the
101 office shall, in accordance with generally accepted and
102 reasonable actuarial techniques, consider the following factors:

103 1. Past and prospective loss experience within and without
104 this state.

105 2. Past and prospective expenses.

106 3. The degree of competition among insurers for the risk
107 insured.

108 4. Investment income reasonably expected by the insurer,
109 consistent with the insurer's investment practices, from
110 investable premiums anticipated in the filing, plus any other
111 expected income from currently invested assets representing the
112 amount expected on unearned premium reserves and loss reserves.
113 The commission may adopt rules using reasonable techniques of
114 actuarial science and economics to specify the manner in which
115 insurers calculate investment income attributable to classes of
116 insurance written in this state and the manner in which
117 investment income is used to calculate insurance rates. Such
118 manner must contemplate allowances for an underwriting profit
119 factor and full consideration of investment income that produces

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120 a reasonable rate of return; however, investment income from
121 invested surplus may not be considered.

122 5. The reasonableness of the judgment reflected in the
123 filing.

124 6. Dividends, savings, or unabsorbed premium deposits
125 allowed or returned to policyholders, members, or subscribers in
126 this state.

127 7. The adequacy of loss reserves.

128 8. The cost of reinsurance. The office may not disapprove a
129 rate as excessive solely due to the insurer having obtained
130 catastrophic reinsurance to cover the insurer's estimated 250-
131 year probable maximum loss or any lower level of loss.

132 9. Trend factors, including trends in actual losses per
133 insured unit for the insurer making the filing.

134 10. Conflagration and catastrophe hazards, if applicable.

135 11. Projected hurricane losses, if applicable, which must
136 be estimated using a model or method found to be acceptable or
137 reliable by the Florida Commission on Hurricane Loss Projection
138 Methodology, and as further provided in s. 627.0628.

139 12. Projected flood and sinkhole losses for personal
140 residential property insurance, if applicable, which may be
141 estimated using a model or method, or a straight average of
142 model results or output ranges, independently found to be
143 acceptable or reliable by the Florida Commission on Hurricane
144 Loss Projection Methodology and as further provided in s.
145 627.0628.

146 13. A reasonable margin for underwriting profit and
147 contingencies.

148 14. The cost of medical services, if applicable.

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149 15. Other relevant factors that affect the frequency or
150 severity of claims or expenses.

151
152 The provisions of this subsection do not apply to workers'
153 compensation, employer's liability insurance, and motor vehicle
154 insurance.

155 Section 4. Paragraphs (a), (d), and (e) of subsection (3)
156 of section 627.0628, Florida Statutes, are amended to read:

157 627.0628 Florida Commission on Hurricane Loss Projection
158 Methodology; public records exemption; public meetings
159 exemption.—

160 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

161 (a) The commission shall consider any actuarial methods,
162 principles, standards, models, or output ranges that have the
163 potential for improving the accuracy of or reliability of the
164 hurricane loss projections used in residential property
165 insurance rate filings and flood and sinkhole loss projections
166 used in rate filings for personal lines residential flood and
167 sinkhole insurance coverage. The commission shall, from time to
168 time, adopt findings as to the accuracy or reliability of
169 particular methods, principles, standards, models, or output
170 ranges.

171 (d) With respect to a rate filing under s. 627.062, an
172 insurer shall employ and may not modify or adjust actuarial
173 methods, principles, standards, models, or output ranges found
174 by the commission to be accurate or reliable in determining
175 hurricane loss factors and probable maximum loss levels for use
176 in a rate filing under s. 627.062. An insurer may employ a model
177 in a rate filing until 120 days after the expiration of the

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178 commission's acceptance of that model and may not modify or
179 adjust models found by the commission to be accurate or reliable
180 in determining probable maximum loss levels. This paragraph does
181 not prohibit an insurer from using a straight average of model
182 results or output ranges for the purposes of a rate filing for
183 personal lines residential flood or sinkhole insurance coverage
184 under s. 627.062.

185 (e)1. The commission shall adopt actuarial methods,
186 principles, standards, models, or output ranges for personal
187 lines residential flood loss no later than July 1, 2017.

188 2. The commission shall adopt actuarial methods,
189 principles, standards, models, or output ranges for personal
190 lines residential sinkhole loss no later than July 1, 2018.

191 Section 5. Section 627.7151, Florida Statutes, is created
192 to read:

193 627.7151 Sinkhole insurance.-

194 (1) An authorized insurer may issue an insurance policy
195 providing personal lines residential property coverage for the
196 peril of sinkhole on any residential structure or the contents
197 of personal property contained in such residential structure
198 subject to this section and s. 627.706. This section does not
199 apply to commercial lines residential or commercial lines
200 nonresidential coverage for the peril of sinkhole. This section
201 also does not apply to coverage for the peril of sinkhole which
202 is excess coverage over any other insurance covering the peril
203 of sinkhole.

204 (2) Sinkhole insurance must cover only sinkhole loss as
205 defined in s. 627.706(2).

206 (3) Sinkhole insurance must:

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207 (a) Include coverage for additional living expenses.

208 (b) Provide that any loss under personal property or
209 contents coverage which is repaired or replaced be adjusted only
210 on the basis of replacement costs up to the policy limits.

211 (4) Any limitations on sinkhole coverage or policy limits
212 pursuant to this section, including, but not limited to,
213 deductibles, must be prominently noted on the policy
214 declarations page or face page.

215 (5) (a) An insurer may establish and use sinkhole coverage
216 rates in accordance with the rate standards provided in s.
217 627.062.

218 (b) For sinkhole coverage rates filed with the office
219 before October 1, 2019, the insurer may also establish and use
220 such rates in accordance with the rates, rating schedules, or
221 rating manuals filed by the insurer with the office which allow
222 the insurer a reasonable rate of return on sinkhole coverage
223 written in this state.

224 1. An insurer shall notify the office of any change to
225 sinkhole coverage rates within 30 days after the effective date
226 of the change. The notice must include the name of the insurer
227 and the average statewide percentage change in rates.

228 2. An insurer shall maintain for 2 years after the
229 effective date of a rate change the actuarial data with respect
230 to such rates for sinkhole coverage.

231 3. The office may examine such actuarial data and require
232 the insurer to incur the costs associated with an examination.
233 Upon examination, the office, in accordance with generally
234 accepted and reasonable actuarial techniques, shall consider the
235 rate factors in s. 627.062(2)(b), (c), and (d), and the

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236 standards in s. 627.062(2)(e), to determine if the rate is
237 excessive, inadequate, or unfairly discriminatory.

238 4. Sinkhole coverage rates established pursuant to this
239 paragraph are not subject to s. 627.062(2)(a) and (f).

240 (6) A surplus lines agent may export sinkhole insurance to
241 an eligible surplus lines insurer without making a diligent
242 effort to seek such coverage from three or more authorized
243 insurers in accordance with s. 626.916(1)(a). This subsection
244 expires July 1, 2020.

245 (7) In addition to any other applicable requirement, an
246 insurer providing sinkhole coverage in this state must notify
247 the office at least 30 days before writing sinkhole insurance in
248 this state and file with the office a plan of operation and
249 financial projections or revisions to such plan, as applicable.

250 (8) Citizens Property Insurance Corporation may not issue
251 or renew personal lines residential property insurance for the
252 peril of sinkhole after July 1, 2018. The corporation shall
253 provide coverage for catastrophic ground cover collapse as
254 defined in s. 627.706(2)(a).

255 (9) The Florida Hurricane Catastrophe Fund may not provide
256 reimbursement for personal residential property losses
257 proximately caused by the peril of sinkhole, including losses
258 that occur during a covered event as defined in s.
259 215.555(2)(b).

260 (10) With respect to the regulation of sinkhole coverage
261 written in this state by authorized insurers, this section
262 supersedes any other provision in the Florida Insurance Code,
263 except s. 627.706, in the event of a conflict.

264 Section 6. This act shall take effect upon becoming a law.