

By the Committee on Banking and Insurance; and Senator Latvala

597-03221-16

20161274c1

1 A bill to be entitled
2 An act relating to limited sinkhole coverage
3 insurance; amending s. 624.407, F.S.; specifying the
4 amount of surplus funds required for domestic insurers
5 applying for a certificate of authority to provide
6 limited sinkhole coverage insurance; amending s.
7 624.408, F.S.; specifying the minimum surplus that
8 must be maintained by insurers that provide limited
9 sinkhole coverage insurance; creating s. 627.7151,
10 F.S.; authorizing certain insurers to offer limited
11 sinkhole coverage insurance in this state; providing
12 applicability; providing a limitation of coverage;
13 authorizing a specified limitation of coverage subject
14 to a certain condition; authorizing certain policy
15 terms; requiring an insurance agent to obtain a
16 specified signed acknowledgement from an applicant
17 before issuing a policy; authorizing insurer forms and
18 exempting forms from approval; authorizing an insurer
19 to establish and use rates in accordance with
20 specified rate standards; requiring an insurer to
21 provide a specified notice of changes to rates within
22 a specified time frame to the Office of Insurance
23 Regulation; requiring an insurer to maintain certain
24 actuarial data for a specified time frame; authorizing
25 the office to require an insurer to incur the costs
26 associated with examining such data; providing factors
27 for the office in determining whether a rate is
28 excessive, inadequate, or unfairly discriminatory;
29 authorizing a surplus lines agent to export a contract
30 or endorsement for sinkhole coverage to a surplus
31 lines insurer without meeting certain requirements;
32 requiring the insurer to notify the office before

597-03221-16

20161274c1

33 writing sinkhole insurance and to file a plan of
34 operation with the office; prohibiting assignments of
35 post-loss claims; providing an exception; providing an
36 effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Subsection (1) of section 624.407, Florida
41 Statutes, is amended to read:

42 624.407 Surplus required; new insurers.—

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

48 (a) For a property and casualty insurer, \$5 million, or
49 \$2.5 million for any other insurer;

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

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

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

57 ~~or~~

58 (e) Notwithstanding paragraph (a) or paragraph (d), for a
59 domestic insurer that transacts residential property insurance
60 and is:

61 1. Not a wholly owned subsidiary of an insurer domiciled in

597-03221-16

20161274c1

62 any other state, \$15 million.

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

65 (f) Notwithstanding paragraphs (a), (d), and (e), for a
66 domestic insurer that only transacts limited sinkhole coverage
67 insurance for personal lines residential property pursuant to s.
68 627.7151, \$7.5 million.

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

71 624.408 Surplus required; current insurers.—

72 (1) To maintain a certificate of authority to transact any
73 one kind or combinations of kinds of insurance, as defined in
74 part V of this chapter, an insurer in this state must at all
75 times maintain surplus as to policyholders at least the greater
76 of:

77 (h) Notwithstanding paragraphs (e), (f), and (g), for a
78 domestic insurer that only transacts limited sinkhole coverage
79 insurance for personal lines residential property pursuant to s.
80 627.7151, \$7.5 million.

81
82 The office may reduce the surplus requirement in paragraphs (f)
83 and (g) if the insurer is not writing new business, has premiums
84 in force of less than \$1 million per year in residential
85 property insurance, or is a mutual insurance company.

86 Section 3. Section 627.7151, Florida Statutes, is created
87 to read:

88 627.7151 Limited sinkhole coverage insurance.—

89 (1) An authorized insurer may issue, but is not required to
90 make available, a limited sinkhole coverage insurance policy

597-03221-16

20161274c1

91 providing personal lines residential coverage, subject to
92 underwriting, for the peril of sinkhole loss on any structure or
93 the contents of personal property contained therein, subject to
94 this section and ss. 627.706-627.7074. This section does not
95 apply to commercial lines residential or commercial lines
96 nonresidential coverage for the peril of sinkhole loss. This
97 section also does not apply to coverage for the peril of
98 sinkhole loss that is excess coverage over any other insurance
99 covering the peril of sinkhole loss.

100 (2) Limited sinkhole coverage insurance must cover only
101 losses from the peril of sinkhole loss, as defined in s.
102 627.706(2)(j); however, such coverage shall not be required to
103 provide for contents and additional living expenses.

104 (3) Limited sinkhole coverage insurance may:

105 (a) Notwithstanding s. 627.707(5), limit coverage to
106 repairs to stabilize the building and repair the foundation in
107 accordance with the recommendations of the professional engineer
108 retained pursuant to s. 627.707(2). However, if the insurer's
109 professional engineer determines that the repair cannot be
110 completed within policy limits, the insurer must pay to complete
111 the repairs recommended by the insurer's professional engineer
112 or tender the policy limits to the policyholder.

113 (b) In addition to the deductibles authorized under s.
114 627.706(1)(b), offer deductibles agreed to by the insured and
115 insurer.

116 (c) Offer policy limits agreed to by the insured and
117 insurer, provided policy limits below \$50,000 are not allowed
118 unless that amount exceeds full replacement costs of the
119 property.

597-03221-16

20161274c1

120 (4) Before issuing a limited sinkhole coverage insurance
121 policy under this section, the insurance agent must obtain from
122 an applicant an acknowledgement signed by the applicant that
123 includes the following statement in at least 12-point bold,
124 uppercase type: "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE
125 INSURANCE POLICY I HAVE READ AND UNDERSTAND THE LIMITATIONS THAT
126 MAY APPLY TO MY POLICY." The signed acknowledgment must also
127 include, in at least 12-point bold, uppercase type, for a
128 policy:

129 (a) That limits limited sinkhole coverage to an amount less
130 than the full replacement cost of the property, the following
131 statement: "THIS POLICY LIMITS SINKHOLE COVERAGE TO LESS THAN
132 THE FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT
133 IN HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN
134 THIS PROPERTY AT RISK."

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

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

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

146 (b) For limited sinkhole coverage rates filed with the
147 office before October 1, 2019, the insurer may also establish
148 and use such rates in accordance with the rates, rating

597-03221-16

20161274c1

149 schedules, or rating manuals filed by the insurer with the
150 office which allow the insurer a reasonable rate of return on
151 limited sinkhole coverage written in this state. Limited
152 sinkhole coverage rates established pursuant to this paragraph
153 are not subject to s. 627.062(2) (a) or (f). An insurer shall
154 notify the office of any change to such rates within 30 days
155 after the effective date of the change. The notice must include
156 the name of the insurer and the average statewide percentage
157 change in rates. Actuarial data with regard to such rates for
158 limited sinkhole coverage must be maintained by the insurer for
159 2 years after the effective date of such rate change and is
160 subject to examination by the office. The office may require the
161 insurer to incur the costs associated with an examination. Upon
162 examination, the office, in accordance with generally accepted
163 and reasonable actuarial techniques, shall consider the rate
164 factors in s. 627.062(2) (b) and (d), and the standards in s.
165 627.062(2) (e), to determine whether the rate is excessive,
166 inadequate, or unfairly discriminatory.

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

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

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

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

177 (9) A policyholder of a limited sinkhole coverage insurance

597-03221-16

20161274c1

178 policy authorized by this section who incurs a covered loss may
179 not assign a post-loss claim except to a subsequent purchaser of
180 the property who acquires insurable interest following a loss.

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