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1
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 funds
8 that must be maintained by insurers that provide
9 limited sinkhole coverage insurance; creating s.
10 627.7151, F.S.; authorizing certain insurers to offer
11 limited sinkhole coverage insurance in this state;
12 providing requirements and applicability; prohibiting
13 Citizens Property Insurance Corporation from issuing
14 limited sinkhole coverage insurance; requiring signed
15 acknowledgment of certain statements; specifying loss
16 payment requirements; authorizing use of certain
17 insurance forms; exempting such forms from approval;
18 providing an insurer with rate options; requiring the
19 insurer to notify the Office of Insurance Regulation
20 before writing limited sinkhole coverage insurance and
21 to file a plan of operation with the office; providing
22 an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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

28 624.407 Surplus required; new insurers.—

29 (1) To receive authority to transact any one kind or

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30 combinations of kinds of insurance, as defined in part V of this
31 chapter, an insurer applying for its original certificate of
32 authority in this state shall possess surplus as to
33 policyholders at least the greater of:

34 (a) For a property and casualty insurer, \$5 million, or
35 \$2.5 million for any other insurer;

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

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

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

43 ~~or~~

44 (e) Notwithstanding paragraph (a) or paragraph (d), for a
45 domestic insurer that transacts residential property insurance
46 and is:

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

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

51 (f) Notwithstanding paragraphs (a), (d), and (e), for a
52 domestic insurer that only transacts limited sinkhole coverage
53 insurance for personal lines residential property pursuant to s.
54 627.7151, \$7.5 million.

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

57 624.408 Surplus required; current insurers.—

58 (1) To maintain a certificate of authority to transact any

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59 one kind or combinations of kinds of insurance, as defined in
60 part V of this chapter, an insurer in this state must at all
61 times maintain surplus as to policyholders at least the greater
62 of:

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

67
68 The office may reduce the surplus requirement in paragraphs (f)
69 and (g) if the insurer is not writing new business, has premiums
70 in force of less than \$1 million per year in residential
71 property insurance, or is a mutual insurance company.

72 Section 3. Section 627.7151, Florida Statutes, is created
73 to read:

74 627.7151 Limited sinkhole coverage insurance.-

75 (1) An authorized insurer may issue, but is not required to
76 make available, a limited sinkhole coverage insurance policy
77 providing personal lines residential coverage, subject to
78 underwriting, for the peril of sinkhole loss on any structure or
79 the contents of personal property contained therein, subject to
80 this section and ss. 627.706-627.7074. This section does not
81 apply to commercial lines residential or commercial lines
82 nonresidential coverage for the peril of sinkhole loss. This
83 section also does not apply to coverage for the peril of
84 sinkhole loss that is excess coverage over any other insurance
85 covering the peril of sinkhole loss.

86 (2) Limited sinkhole coverage insurance must cover only
87 losses from the peril of sinkhole loss, as defined in s.

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88 627.706(2)(j); however, such coverage is not required to provide
89 for contents and additional living expenses.

90 (3) Citizens Property Insurance Corporation may not issue
91 limited sinkhole coverage insurance.

92 (4) Limited sinkhole coverage insurance may:

93 (a) Notwithstanding s. 627.707(5), limit coverage to
94 repairs to stabilize the building and repair the foundation in
95 accordance with the recommendations of the professional engineer
96 retained pursuant to s. 627.707(2).

97 (b) In addition to the deductibles authorized under s.
98 627.706(1)(b), offer deductibles agreed to by the insured and
99 insurer.

100 (c) Offer policy limits agreed to by the insured and
101 insurer. However, policy limits below \$50,000 are prohibited
102 unless that amount exceeds full replacement cost of the
103 property.

104 (5) Before issuing a limited sinkhole coverage insurance
105 policy under this section, the insurance agent must obtain a
106 signed acknowledgment from an applicant that includes the
107 following statement in at least 12-point bold, uppercase type:
108 "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE INSURANCE POLICY, I
109 HAVE READ AND UNDERSTAND THE LIMITATIONS THAT MAY APPLY TO MY
110 POLICY AND I UNDERSTAND THAT MY POLICY IS A "REPAIR-ONLY" POLICY
111 WHICH MEANS ONLY REPAIR AND/OR STABILIZATION OF THE SPECIFIED
112 BUILDING AND ITS FOUNDATION IS COVERED, NOT TO EXCEED THE POLICY
113 LIMITS AFTER APPLICATION OF MY DEDUCTIBLE. I ALSO UNDERSTAND
114 THAT IT IS RECOMMENDED THAT I CONSULT WITH A QUALIFIED
115 PROFESSIONAL TO IDENTIFY THE APPROXIMATE COST OF REPAIRING OR
116 STABILIZING THE SPECIFIED BUILDING AND ITS FOUNDATION SO THAT I

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117 CAN MAKE AN INFORMED DECISION WHEN SELECTING MY POLICY LIMITS
118 AND DEDUCTIBLE.” The signed acknowledgment must also include, in
119 at least 12-point bold, uppercase type:

120 (a) For a policy that provides limited sinkhole coverage
121 insurance in an amount less than the full replacement cost of
122 the property, the following statement: “THIS POLICY LIMITS
123 SINKHOLE COVERAGE TO LESS THAN THE FULL COST OF REPLACEMENT FOR
124 THE PROPERTY, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO
125 YOU AND MAY PUT YOUR EQUITY IN THIS PROPERTY AT RISK.”

126 (b) For a policy that provides for a deductible that
127 exceeds the deductibles authorized under s. 627.706(1)(b), the
128 following statement: “THIS POLICY EXCEEDS THE DEDUCTIBLE AMOUNT
129 PERMITTED FOR OTHER AUTHORIZED SINKHOLE LOSS INSURANCE POLICIES,
130 WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU.”

131 (6) If the sinkhole loss cannot be repaired within policy
132 limits, the insurer must:

133 (a) Pay the cost, without regard to policy limits, to
134 complete the repairs recommended by the insurer’s professional
135 engineer; or

136 (b) Pay the cost, not to exceed the policy limits, to
137 complete the repairs upon the insured’s entering into a contract
138 to repair the sinkhole loss in accordance with the repairs
139 recommended by the insurer’s professional engineer.

140
141 However, if the insured obtains a lower-cost alternative repair
142 recommendation from a professional engineer for stabilizing the
143 land or the building and repairing the foundation, the insurer
144 must pay the cost, not to exceed the policy limits, to complete
145 the lower-cost alternative repair upon the insured’s entering

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146 into a contract to repair the sinkhole loss in accordance with
147 the lower-cost alternative repair recommendation by the
148 insured's professional engineer. Such lower-cost alternative
149 repair shall be subject to reasonable cost adjustment by the
150 insurer; however, the insurer may not depart from the
151 engineering requirements of the insured's professional
152 engineer's lower-cost alternative repair recommendation. Except
153 when payment for sinkhole loss is made under paragraph (a), the
154 insured is responsible for the amount of the repair costs in
155 excess of policy limits, if any.

156 (7) The insurer shall make payment for sinkhole losses to
157 the insured and the contractor performing the repairs jointly.
158 The insurer may make payment for contents and additional living
159 expenses, if covered, directly to the insured.

160 (8) Notwithstanding s. 627.410, an insurer may establish
161 and use a limited sinkhole coverage insurance form without
162 filing the form with the office and requesting approval of the
163 form from the office.

164 (9) (a) An insurer may establish and use limited sinkhole
165 coverage insurance rates in accordance with the rate standards
166 provided in s. 627.062.

167 (b) For limited sinkhole coverage insurance rates filed
168 with the office before October 1, 2019, the insurer may also
169 establish and use rates in accordance with the rates, rating
170 schedules, or rating manuals filed by the insurer with the
171 office which allow the insurer a reasonable rate of return on
172 limited sinkhole coverage insurance written in this state.
173 Limited sinkhole coverage insurance rates established pursuant
174 to this paragraph are not subject to s. 627.062 (2) (a) or (f). An

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175 insurer shall notify the office of any change to such rates
176 within 30 days after the effective date of the change. The
177 notice must include the name of the insurer and the average
178 statewide percentage change in rates. Actuarial data with regard
179 to such rates for limited sinkhole coverage insurance must be
180 maintained by the insurer for 2 years after the effective date
181 of such rate change and is subject to examination by the office.
182 The office may require the insurer to incur the costs associated
183 with an examination. Upon examination, the office, in accordance
184 with generally accepted and reasonable actuarial techniques,
185 shall consider the rate factors in s. 627.062(2)(b) and (d) and
186 the standards in s. 627.062(2)(e) to determine whether the rate
187 is excessive, inadequate, or unfairly discriminatory.

188 (10) In addition to any other applicable requirements, an
189 insurer providing limited sinkhole coverage insurance in this
190 state must:

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

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

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