

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 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; requiring  
13          signed acknowledgement of certain statements;  
14          authorizing use of certain insurance forms; exempting  
15          such forms from approval; providing an insurer with  
16          rate options; authorizing a surplus lines agent to  
17          export limited sinkhole coverage insurance to a  
18          surplus lines insurer without meeting certain  
19          requirements; requiring the insurer to notify the  
20          Office of Insurance Regulation before writing limited  
21          sinkhole coverage insurance and to file a plan of  
22          operation with the office; prohibiting assignment of  
23          post-loss claims; providing an exception; providing an  
24          effective date.

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26   Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

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

~~or~~

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

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

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

53 (f) Notwithstanding paragraphs (a), (d), and (e), for a  
 54 domestic insurer that only transacts limited sinkhole coverage  
 55 insurance for personal lines residential property pursuant to s.  
 56 627.7151, \$7.5 million.

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

59 624.408 Surplus required; current insurers.—

60 (1) To maintain a certificate of authority to transact any  
 61 one kind or combinations of kinds of insurance, as defined in  
 62 part V of this chapter, an insurer in this state must at all  
 63 times maintain surplus as to policyholders at least the greater  
 64 of:

65 (h) Notwithstanding paragraphs (e), (f), and (g), 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.

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

74 Section 3. Section 627.7151, Florida Statutes, is created  
 75 to read:

76 627.7151 Limited sinkhole coverage insurance.—

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

79 providing personal lines residential coverage, subject to  
80 underwriting, for the peril of sinkhole loss on any structure or  
81 the contents of personal property contained therein, subject to  
82 this section and ss. 627.706-627.7074. This section does not  
83 apply to commercial lines residential or commercial lines  
84 nonresidential coverage for the peril of sinkhole loss. This  
85 section also does not apply to coverage for the peril of  
86 sinkhole loss that is excess coverage over any other insurance  
87 covering the peril of sinkhole loss.

88 (2) Limited sinkhole coverage insurance must cover only  
89 losses from the peril of sinkhole loss, as defined in s.  
90 627.706(2)(j); however, such coverage is not required to provide  
91 for contents and additional living expenses.

92 (3) 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). However, if the insurer's  
97 professional engineer determines that the repair cannot be  
98 completed within policy limits, the insurer must pay to complete  
99 the repairs recommended by the insurer's professional engineer  
100 or tender the policy limits to the policyholder.

101 (b) In addition to the deductibles authorized under s.  
102 627.706(1)(b), offer deductibles agreed to by the insured and  
103 insurer.

104 (c) Offer policy limits agreed to by the insured and

105 insurer. However, policy limits below \$50,000 are prohibited  
 106 unless that amount exceeds full replacement cost of the  
 107 property.

108 (4) Before issuing a limited sinkhole coverage insurance  
 109 policy under this section, the insurance agent must obtain a  
 110 signed acknowledgement from an applicant that includes the  
 111 following statement in at least 12-point bold, uppercase type:  
 112 "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE INSURANCE POLICY, I  
 113 HAVE READ AND UNDERSTAND THE LIMITATIONS THAT MAY APPLY TO MY  
 114 POLICY." The signed acknowledgment must also include, in at  
 115 least 12-point bold, uppercase type:

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

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

127 (5) Notwithstanding s. 627.410, an insurer may establish  
 128 and use a limited sinkhole coverage insurance form without  
 129 filing the form with the office and requesting approval of the  
 130 form from the office.

131 (6) (a) An insurer may establish and use limited sinkhole  
132 coverage insurance rates in accordance with the rate standards  
133 provided in s. 627.062.

134 (b) For limited sinkhole coverage insurance rates filed  
135 with the office before October 1, 2019, the insurer may also  
136 establish and use rates in accordance with the rates, rating  
137 schedules, or rating manuals filed by the insurer with the  
138 office which allow the insurer a reasonable rate of return on  
139 limited sinkhole coverage insurance written in this state.  
140 Limited sinkhole coverage insurance rates established pursuant  
141 to this paragraph are not subject to s. 627.062(2) (a) or (f). An  
142 insurer shall notify the office of any change to such rates  
143 within 30 days after the effective date of the change. The  
144 notice must include the name of the insurer and the average  
145 statewide percentage change in rates. Actuarial data with regard  
146 to such rates for limited sinkhole coverage insurance must be  
147 maintained by the insurer for 2 years after the effective date  
148 of such rate change and is subject to examination by the office.  
149 The office may require the insurer to incur the costs associated  
150 with an examination. Upon examination, the office, in accordance  
151 with generally accepted and reasonable actuarial techniques,  
152 shall consider the rate factors in s. 627.062(2) (b) and (d) and  
153 the standards in s. 627.062(2) (e) to determine whether the rate  
154 is excessive, inadequate, or unfairly discriminatory.

155 (7) A surplus lines agent may export limited sinkhole  
156 coverage insurance to an eligible surplus lines insurer without

157 satisfying the conditions set forth in s. 626.916(1). This  
158 subsection expires July 1, 2020.

159 (8) In addition to any other applicable requirements, an  
160 insurer providing limited sinkhole coverage insurance in this  
161 state must:

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

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

166 (9) A holder of a limited sinkhole coverage insurance  
167 policy authorized by this section who incurs a covered loss may  
168 not assign a post-loss claim except to a subsequent purchaser of  
169 the property who acquires insurable interest following a loss.

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