

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; prohibiting  
13          Citizens Property Insurance Corporation from issuing  
14          limited sinkhole coverage insurance; requiring signed  
15          acknowledgement 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.

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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  
 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  
 48 in any other state, \$15 million.

49 2. A wholly owned subsidiary of an insurer domiciled in  
 50 any 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  
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  
76 to 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.  
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 acknowledgement 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  
 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.

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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  
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  
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.