The Committee on Banking and Insurance (Fasano) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 2790 - 2929 and insert:

627.707 Standards for Investigation of sinkhole claims by insurers; insurer payment; nonrenewals.—Upon receipt of a claim for a sinkhole loss to a covered building or other structure, an insurer must meet the following standards in investigating a claim:

(1) The insurer must inspect make an inspection of the policyholder’s insured’s premises to determine if there is structural has been physical damage that to the structure which
may be the result of sinkhole activity.

(2) If the insurer confirms that structural damage exists but is unable to exclude sinkhole activity as a contributing cause of the structural damage following the insurer’s initial inspection, the insurer shall engage a professional engineer or a professional geologist to conduct testing as provided in s. 627.7072 to determine the cause of the loss within a reasonable professional probability and issue a report as provided in s. 627.7073, only if sinkhole loss is covered under the policy. Except as provided in subsection (6), the fees and costs of the professional engineer or professional geologist shall be paid by the insurer.+

(a) The insurer is unable to identify a valid cause of the damage or discovers damage to the structure which is consistent with sinkhole loss; or

(b) The policyholder demands testing in accordance with this section or s. 627.7072.

(3) Following the initial inspection of the policyholder’s insured premises, the insurer shall provide two copies of the signed and sealed engineer’s or geologist’s report, if any, and written notice to the policyholder disclosing the following information:

(a) What the insurer has determined to be the cause of damage, if the insurer has made such a determination.

(b) A statement of the circumstances under which the insurer is required to engage a professional engineer or a professional geologist to verify or eliminate sinkhole loss and to engage a professional engineer to make recommendations regarding land and building stabilization and foundation repair.
(c) A statement regarding the right of the policyholder to request testing by a professional engineer or a professional geologist and the circumstances under which the policyholder may demand certain testing.

(4) If the insurer determines that there is no sinkhole loss, the insurer may deny the claim. If coverage for sinkhole loss is available and if the insurer denies the claim, without performing testing under s. 627.7072, the policyholder may demand testing by the insurer under s. 627.7072. The policyholder’s demand for testing must be communicated to the insurer in writing within 90 days after the policyholder’s receipt of the insurer’s denial of the claim. The policyholder may, at the policyholder’s expense, retain a qualified professional engineer or professional geologist to conduct such testing in order to dispute the findings of the professional engineer or professional geologist retained by the insurer as to the presence or absence of a sinkhole loss, or to render such findings if the insurer denied the claim without performing testing.

(5)(a) Subject to paragraph (b), If a sinkhole loss is verified, the insurer shall pay to stabilize the land and building and repair the foundation in accordance with the recommendations of the professional engineer retained pursuant to subsection (2), as provided under s. 627.7073, and in consultation with notice to the policyholder, subject to the coverage and terms of the policy. The insurer shall pay for other repairs to the structure and contents in accordance with the terms of the policy. The policyholder may, at the policyholder’s expense, retain a qualified professional engineer
to dispute the findings of the professional engineer retained by the insurer as to the appropriate and structurally necessary method of land and building stabilization and foundation repair.

   (a) The insurer may limit its total claims payment to the actual cash value of the sinkhole loss, which does not include any repair technique performed below the existing foundation of the building, until the policyholder enters into a contract for the performance of building stabilization or foundation repairs in accordance with the recommendations set forth in s. 627.7073.

   (b) In order to prevent additional damage to the building or structure, the policyholder shall enter into a contract for the performance of building stabilization or foundation repairs within 90 days after the insurance company confirms coverage for sinkhole loss and notifies the policyholder of such confirmation and the time limitations of this paragraph. The time period is tolled if either party invokes the neutral evaluation process or if the policyholder takes reasonable steps toward retaining a qualified professional engineer to dispute the findings of the professional engineer retained by the insurer. Under such circumstances, the policyholder has 90 days to enter into the contract for repairs after the date the insurer agrees in writing to authorize the repairs recommended by the professional engineer retained by the policyholder or after the date any resulting dispute is resolved by litigation or appraisal.

   (c) After the policyholder enters into the contract for the performance of building stabilization or foundation repairs, the insurer shall pay the amounts necessary to begin and perform such repairs as the work is performed and the expenses are
incurred. The insurer may not require the policyholder to advance payment for such repairs. If repair covered by a personal lines residential property insurance policy has begun and the professional engineer selected or approved by the insurer determines that the repair cannot be completed within the policy limits, the insurer must either complete the professional engineer’s recommended repair or tender the policy limits to the policyholder without a reduction for the repair expenses incurred.

(d) The stabilization and all other repairs to the structure and contents must be completed within 12 months after entering into the contract for repairs described in paragraph (b) unless:

1. There is a mutual agreement between the insurer and the policyholder;
2. The claim is involved with the neutral evaluation process;
3. The claim is in litigation; or
4. The claim is under appraisal.

(e) Upon the insurer’s obtaining the written approval of all named policyholders and the policyholder and any other lienholder, the insurer may make payment directly to the persons selected by the policyholder to perform the land and building stabilization and foundation repairs. The decision by the insurer to make payment to such persons does not hold the insurer liable for the work performed. The policyholder may not accept a rebate from any person performing the repairs specified in this section. If a policyholder does receive a rebate, coverage is void ab initio and the policyholder must refund any
payments made under such coverage. Any person making the repairs specified in this section who offers a rebate, or any policyholder who accepts a rebate for such repairs, commits insurance fraud, punishable as a third-degree felony as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Except as provided in subsection (7), the fees and costs of the professional engineer or the professional geologist shall be paid by the insurer.

(6)(7) If the insurer obtains, pursuant to s. 627.7073, written certification that there is no sinkhole loss and the policyholder does not subsequently obtain a contrary written certification from a neutral evaluator or other qualified professional engineer or professional geologist or that the cause of the damage was not sinkhole activity, and if the policyholder has submitted the sinkhole claim without good faith grounds for submitting such claim, the policyholder shall reimburse the insurer for 50 percent of the actual costs of the analyses and services provided under ss. 627.7072 and 627.7073; however, a policyholder is not required to reimburse an insurer more than the deductible or $2,500, whichever is greater, with respect to any claim. A policyholder is required to pay reimbursement under this subsection only if the insurer, before prior to ordering the analysis under s. 627.7072, informs the policyholder in writing of the policyholder’s potential liability for reimbursement and gives the policyholder the opportunity to withdraw the claim.

(7)(6) An insurer may not nonrenew any policy of property insurance on the basis of filing of claims for partial loss caused by sinkhole damage or clay shrinkage if as long as
the total of such payments does not equal or exceed the current policy limits of coverage for the policy in effect on the date of loss, for property damage to the covered building, as set forth on the declarations page, or if and provided the policyholder has repaired the structure in accordance with the engineering recommendations made pursuant to subsection (2) upon which any payment or policy proceeds were based. If the insurer pays such limits, it may nonrenew the policy.

(8) (9) The insurer and policyholder may engage a professional structural engineer to make recommendations as to the repair of the structure.

Delete line 2967

and insert:

(c) If the policyholder disagrees with the findings, opinions, or recommendations of the professional engineer or professional geologist retained by the insurer, the policyholder may, at the policyholder’s expense, retain a qualified professional engineer or professional geologist to conduct testing under s. 627.7072 and render independent findings, opinions, and recommendations as to the cause of the distress to the property and the appropriate method of land and building stabilization and foundation repair.

(d) Unless the policyholder engages another qualified professional engineer or professional geologist as described in paragraph (c), the respective findings, opinions, and recommendations
And the title is amended as follows:

Delete lines 166 - 176
and insert:

investigation of sinkholes by insurers; providing a time limitation for demanding sinkhole testing by a policyholder and entering into a contract for repairs; authorizing a policyholder to retain a professional engineer or geologist at the policyholder’s expense to conduct testing or dispute findings; requiring all repairs to be completed within a certain time; providing exceptions; providing a criminal penalty for offering a rebate or for accepting a rebate from persons performing repairs; amending s. 627.7073, F.S.; revising provisions relating to inspection reports; authorizing a policyholder to retain a professional engineer or geologist at the policyholder’s expense to render independent findings; providing that the