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LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/3R

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04/11/2013 02:52 PM

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Senator Simpson moved the following:

**Senate Amendment (with title amendment)**

Before line 11

insert:

Section 1. Paragraph (ee) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(ee) 1. The corporation may not decline a request for coverage of residential sinkhole loss based upon: conditions existing at or on the property which do not constitute sinkhole-related activity; or the proximity of the property to the location of another property on which conditions exist which do



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14 not constitute sinkhole-related activity.

15 a. For the purposes of this subparagraph, the term  
16 "sinkhole-related activity" means settlement or systematic  
17 weakening of the earth if the settlement or systematic weakening  
18 results from contemporaneous movement or raveling of soils,  
19 sediments, or rock materials into subterranean voids created by  
20 the effect of water on a limestone or similar rock formation.

21 b. On or before December 31 of each calendar year, the  
22 corporation shall submit an annual report to the Office of  
23 Insurance Regulation and the Insurance Consumer Advocate  
24 disclosing:

25 (I) The total number of requests received for residential  
26 sinkhole loss coverage;

27 (II) The total number of policies issued for residential  
28 sinkhole loss coverage;

29 (III) The total number of requests declined for residential  
30 sinkhole loss coverage; and

31 (IV) The reasons for each decline of residential sinkhole  
32 loss coverage.

33 2. A policy for residential property insurance issued by  
34 the corporation must include a deductible applicable to sinkhole  
35 losses equal to 1 percent, 2 percent, 5 percent, or 10 percent  
36 of the policy dwelling limits, with an appropriate premium  
37 discount amount offered with each deductible amount.

38 3. The Legislature finds that it is in the public interest  
39 that indemnity funds paid pursuant to sinkhole loss claims are  
40 applied to repairing property damage in order to ensure that  
41 sinkhole indemnity funds paid for sinkhole damage are applied to  
42 above-ground and subsurface repairs. Therefore, a Citizens



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43 Sinkhole Repair Program shall be established by the corporation,  
44 subject to approval by the Office of Insurance Regulation and  
45 the Financial Services Commission. Any claim against a  
46 corporation policy that covers residential sinkhole loss for  
47 which it is determined that such loss has occurred must be  
48 included in the repair program.

49 a. The repair program may be managed by a third-party  
50 administrator and, at a minimum, must include the following  
51 components:

52 (I) The corporation may not require the policyholder to  
53 advance payment for repairs.

54 (II) All applicable provisions contained in the  
55 corporation's plan of operation apply, including, but not  
56 limited to, the consumer's right to courteous, prompt, and  
57 professional customer service and the right to fair, prompt, and  
58 professional services.

59 (III) Repairs shall be conducted by repair contractors who  
60 are qualified based upon guidelines adopted by the Financial  
61 Services Commission by rule.

62 (A) The repair program shall select qualified repair  
63 contractors to perform repairs to damaged property pursuant to a  
64 fixed-price contract between the contractor and the  
65 policyholder. Under the terms of the contract, the selected  
66 repair contractor is solely responsible for the performance of  
67 all necessary repairs.

68 (B) Each qualified contractor shall post a performance  
69 bond, secured by a third-party surety, in favor of the  
70 corporation as obligee, in a principle amount equal to the total  
71 cost of all fixed-price contracts annually awarded to that



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72 repair contractor.

73 (C) Each repair contractor shall also provide a warranty to  
74 the policyholder which covers all repairs provided by the  
75 contractor for at least 5 years after completion of the repairs.

76 b. The corporation is not responsible for serving as a  
77 repair contractor. The corporation's obligations pursuant to the  
78 repair program are not an election to repair by the corporation  
79 and therefore do not imply a new contractual relationship.

80 c. The corporation's liability related to repair activity  
81 for damaged property included in the repair program is no  
82 greater than the limits of the policy covering that property.

83 d. For the purposes of the repair program, the presumed  
84 correctness specified in s. 627.7073(1)(c) of the findings,  
85 opinions, and recommendations by the professional engineer or  
86 geologist as to land and building stabilization and foundation  
87 repair is recognized by the Legislature as necessary to address  
88 the public policy interest in ensuring that sinkhole-damaged  
89 residential property is repaired. Therefore, the presumption is  
90 intended to operate as a burden-shifting presumption under ss.  
91 90.302(2) and 90.304 ~~The office may establish a pilot program to~~  
92 ~~offer optional sinkhole coverage in one or more counties or~~  
93 ~~other territories of the corporation for the purpose of~~  
94 ~~implementing s. 627.706, as amended by s. 30, chapter 2007-1,~~  
95 ~~Laws of Florida. Under the pilot program, the corporation is not~~  
96 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
97 ~~coverage upon the renewal of existing policies, but may exclude~~  
98 ~~such coverage using a notice of coverage change.~~

99  
100 ===== T I T L E A M E N D M E N T =====



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101 And the title is amended as follows:  
102       Delete line 2  
103 and insert:  
104       An act relating to insurance coverage; amending s.  
105       627.351, F.S.; prohibiting Citizen's Property  
106       Insurance Corporation from denying sinkhole coverage  
107       for certain reasons; requiring the corporation to  
108       submit an annual report to the Office of Insurance  
109       Regulation and the Insurance Consumer Advocate on the  
110       number of residential sinkhole policies issued and  
111       declined; requiring the policy to include a  
112       deductible; establishing a Citizens Sinkhole Repair  
113       Program for sinkhole claims; providing program  
114       components; specifying the corporation's liability  
115       with respect to sinkhole claims; specifying the  
116       presumed correctness of professional engineer and  
117       geologist opinions; deleting obsolete provisions;