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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to sinkhole coverage; amending s. 627.351, F.S.; requiring Citizens Property Insurance Corporation to submit a biannual report on the number of residential sinkhole policies requested, issued, and declined; providing legislative intent and establishing a Citizens Sinkhole Stabilization Repair Program for sinkhole claims; defining terms; prohibiting the corporation from requiring a policyholder to advance payment for stabilization repairs provided under the program; providing requirements and procedures for selecting stabilization repair contractors to conduct stabilization repairs; requiring stabilization repairs to be conducted pursuant to a contract and providing parameters for such contracts; requiring the policyholder to select a contractor from the pool within a certain time period; specifying additional parameters with respect to the program, including provision for resolving disputes between the corporation and a policyholder; providing applicability; requiring the corporation to offer specified deductible amounts for sinkhole loss coverage; amending s. 627.706, F.S.; revising the definition of "professional engineer"; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study of the program and



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28 submit a report to the Governor, the Chief Financial  
29 Officer, and the Legislature; providing an effective  
30 date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Paragraph (ee) of subsection (6) of section  
35 627.351, Florida Statutes, is amended, present paragraphs (ff)  
36 through (hh) of that subsection are redesignated (hh) through  
37 (jj), respectively, and new paragraphs (ff) and (gg) are added  
38 to that subsection, to read:

39 627.351 Insurance risk apportionment plans.—

40 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

41 (ee) At least once every 6 months, the corporation shall  
42 submit a report to the office disclosing:

43 1. The total number of requests received for residential  
44 sinkhole loss coverage;

45 2. The total number of policies issued for residential  
46 sinkhole loss coverage;

47 3. The total number of requests declined for residential  
48 sinkhole loss coverage; and

49 4. The reasons for declining requests for residential  
50 sinkhole loss coverage ~~The office may establish a pilot program~~  
51 ~~to offer optional sinkhole coverage in one or more counties or~~  
52 ~~other territories of the corporation for the purpose of~~  
53 ~~implementing s. 627.706, as amended by s. 30, chapter 2007-1,~~  
54 ~~Laws of Florida. Under the pilot program, the corporation is not~~  
55 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
56 ~~coverage upon the renewal of existing policies, but may exclude~~



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57 ~~such coverage using a notice of coverage change.~~

58 (ff) The Legislature finds that providing a program to  
59 repair property damaged by sinkholes safeguards the public's  
60 health, safety, and welfare and that it is in the public's  
61 interest for sinkhole loss claims to be resolved by stabilizing  
62 the land and structure and repairing the foundation of the  
63 damaged structure. The Legislature further finds that, in the  
64 past, many homeowners who obtained payouts from the corporation  
65 for a sinkhole claim did not use the funds to repair or  
66 remediate the claimed damage, thereby harming the real estate  
67 marketability of their homes and the valuation of other homes in  
68 the area. Therefore, the corporation shall establish a Citizens  
69 Sinkhole Stabilization Repair Program to promote the repair and  
70 remediation of sinkhole damage to homes. By March 31, 2015, any  
71 claim against a corporation policy that covers residential  
72 sinkhole loss for which it is determined that a covered sinkhole  
73 loss has occurred must be included in and governed by the repair  
74 program for the purpose of making stabilization repairs. The  
75 determination of whether a policyholder has a covered sinkhole  
76 loss will be made by the corporation or through neutral  
77 evaluation, judicial decree, or final judgment.

78 1. As used in this paragraph, the term:

79 a. "Engineering report" means the report issued pursuant to  
80 s. 627.7073(1).

81 b. "Neutral evaluation" and "neutral evaluator" have the  
82 same meanings as provided in s. 627.706(2).

83 c. "Recommendation of the engineer" means the  
84 recommendation of the professional engineer engaged by the  
85 corporation and included in the report pursuant to s.



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86 627.7073(1)(a)5.

87 d. "Sinkhole loss" has the same meaning as provided in s.  
88 627.706(2).

89 e. "Stabilization repair" means stabilizing the land and  
90 structure caused by sinkhole activity and repairing the damaged  
91 structure.

92 f. "Stabilization repair contractor" means a contractor who  
93 makes stabilization repairs.

94 2. The repair program shall be managed by the corporation  
95 and must include the following components:

96 a. The policyholder may not be required to advance payment  
97 for stabilization repairs.

98 b. Stabilization repairs must be conducted by a  
99 stabilization repair contractor selected from an approved  
100 stabilization repair contractor pool procured by the corporation  
101 pursuant to an open and transparent process. Each contractor  
102 within the pool must be qualified and approved by the  
103 corporation based on criteria that include the following  
104 requirements:

105 (I) The stabilization repair contractor corporate entity  
106 must demonstrate experience in the stabilization of sinkhole  
107 activity pursuant to requirements established by the  
108 corporation.

109 (II) The stabilization repair contractor must be certified  
110 as a contractor pursuant to s. 489.113(1).

111 (III) The stabilization repair contractor must demonstrate  
112 capacity to be bonded and provide performance, surety, or other  
113 bonds as described in this section, which may be supplemented by  
114 additional requirements as determined by the corporation.



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115       (IV) The stabilization repair contractor must demonstrate  
116 that it meets insurance coverage requirements, including, but  
117 not limited to, commercial general liability and workers'  
118 compensation, established by the corporation.

119       (V) The stabilization repair contractor must maintain a  
120 valid drug-free workplace program.

121       (VI) Such other requirements as may be established by the  
122 corporation.

123       c. Stabilization repair contractors selected from the  
124 approved stabilization repair contractor pool shall conduct  
125 stabilization repairs pursuant to a contract between the  
126 contractor and the corporation. Such contract is not subject to  
127 paragraph (e) or s. 287.057. Pursuant to the terms of the  
128 contract, the selected contractor is solely responsible for the  
129 performance of all necessary stabilization repairs specified in  
130 the engineering report and the recommendations of the engineer.

131       d. The corporation shall develop a standard stabilization  
132 repair contract for the purpose of conducting stabilization  
133 repairs on all properties within the repair program. At a  
134 minimum, the contract must require:

135       (I) The assigned stabilization repair contractor to  
136 complete all stabilization repairs identified in the engineering  
137 report based on line-item prices developed by the corporation  
138 which reasonably reflect actual market prices for sinkhole  
139 stabilization activities.

140       (II) Each stabilization repair contractor to post a payment  
141 bond in favor of the corporation as obligee for each project  
142 assigned and to post a performance bond, secured by a third-  
143 party surety, in favor of the corporation as obligee.



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144       (III) The stabilization repair contractor to provide a  
145 warranty to the policyholder, secured by an authorized insurer  
146 or registered risk retention group, which covers all repairs  
147 provided by the stabilization repair contractor for at least 5  
148 years after completion of the stabilization repairs. If, for any  
149 contract, the stabilization repair contractor demonstrates that  
150 a warranty that is secured by an authorized insurer or  
151 registered risk retention group cannot be procured, or that such  
152 warranty cannot be procured for a cost equal to or less than 3  
153 percent of the stabilization repair contract amount, the  
154 corporation shall serve as the guarantor of the work performed  
155 by the contractor. The corporation shall also provide a warranty  
156 to the policyholder which covers all repairs provided by the  
157 stabilization repair contractor for at least 5 years if the  
158 stabilization repair contractor is unable to provide a remedy  
159 required under the warranty it provided to the policyholder.

160       (IV) That, throughout the course of the stabilization  
161 repairs performed by the contractor, the engineer monitor the  
162 property and confirm that stabilization has been satisfactorily  
163 completed and that no further stabilization is necessary to  
164 remedy the damage identified in the engineering report and the  
165 recommendations of the engineer.

166       (V) That the stabilization repair contractor notify the  
167 corporation if the engineer concludes that additional  
168 stabilization repairs are necessary to complete the repairs  
169 specified in the engineering report and the recommendations of  
170 the engineer. If repairs can be completed within policy limits,  
171 the stabilization repair contractor shall complete the  
172 additional repairs based on the line-item prices developed by



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173 the corporation. The contract must also contain provisions  
174 specifying the remedy and sanctions for failing to perform the  
175 additional repairs.

176 e. The corporation shall enter into contracts with  
177 qualified stabilization repair contractors to perform repairs.  
178 The policyholder shall have up to 30 days to select a  
179 stabilization repair contractor from the pool. If the  
180 policyholder fails to make a selection within 30 days, the  
181 corporation shall make a selection.

182 3. The corporation is not responsible for serving as a  
183 stabilization repair contractor. The corporation's obligations  
184 under the repair program are not an election to repair by the  
185 corporation and therefore do not imply or create a new  
186 contractual relationship with the policyholder.

187 4. The corporation's liability related to stabilization  
188 repair activity pursuant to the repair program and all other  
189 repairs to the structure conducted in accordance with the terms  
190 of the policy may not be greater than the policy limits on the  
191 structure.

192 5. The corporation shall pay for other repairs to the  
193 structure and contents in accordance with the terms of the  
194 policy.

195 6. If the professional engineer engaged by the corporation  
196 determines that the stabilization repair cannot be completed  
197 within policy limits, the corporation must pay to complete the  
198 stabilization repair recommended by the corporation's  
199 professional engineer or tender the policy limits to the  
200 policyholder, subject to any dual interest noted on the policy.

201 7. Once a sinkhole property damage claim has been settled,



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202 or a court judgment or order for damages obtained, the property  
203 owner must use the proceeds from such settlement or court  
204 decision to repair and remediate the property within a  
205 reasonable period of time. Property owners must provide notice  
206 within 45 days after completion of the repairs. To facilitate  
207 timely repairs and remediation, the corporation shall disburse  
208 claim settlement proceeds and court-ordered judgments made  
209 payable to the property owner, and if there is a mortgage  
210 balance, to both the property owner and financial lender as co-  
211 payees.

212 8. If the corporation denies a policyholder's claim for  
213 sinkhole loss, the corporation or the policyholder may invoke  
214 neutral evaluation by filing a request with the department  
215 pursuant to s. 627.7074(7). Neutral evaluation is mandatory if  
216 requested by the corporation or the policyholder.

217 a. The neutral evaluator may not directly or indirectly  
218 participate in the remediation, repair, or restoration of the  
219 damaged property that is the subject of the claim, have a  
220 financial interest in the remediation, repair, or restoration of  
221 the damaged property that is the subject of the claim, or have a  
222 financial interest in any business entity that is involved in  
223 the remediation, repair, or restoration of the damaged property  
224 that is the subject of the claim.

225 b. The only issues to be determined by the neutral  
226 evaluator, pursuant to state law and the applicable policy, are  
227 whether there is sinkhole activity present as determined by a  
228 qualified professional geologist and, if so, whether there is  
229 sinkhole loss as determined by a qualified professional  
230 engineer. If the neutral evaluator determines that sinkhole loss





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231 exists, the sinkhole damage shall be included in and governed by  
232 the repair program.

233 c. Filing a request for neutral evaluation tolls the  
234 applicable time requirements for filing suit for 60 days  
235 following the conclusion of the neutral evaluation process or  
236 the time prescribed in s. 95.11, whichever is later.

237 9. This paragraph does not prohibit the corporation from  
238 establishing a managed repair program for other repairs to the  
239 structure in accordance with the terms of the policy.

240 10. This paragraph supersedes s. 627.7074(4) and applies  
241 only to the corporation and its policyholders and does not apply  
242 to any other insurer.

243 11. This paragraph supersedes s. 627.707(5)(a)-(d).

244 (gg) As a component of the stabilization repair program set  
245 forth in paragraph (ff), a policy for residential property  
246 insurance issued by the corporation must include a deductible  
247 applicable to sinkhole losses which shall be offered in amounts  
248 equal to 2 percent, 5 percent, and 10 percent of the policy  
249 dwelling limits, with appropriate premium discounts offered with  
250 each deductible amount. However, for the purposes of determining  
251 eligibility pursuant sub-subparagraphs (c)5.a. and b. and s.  
252 627.3518(5), the term "comparable coverage" for sinkhole losses  
253 means a 10 percent deductible regardless of the deductible  
254 selected by a corporation policyholder.

255 Section 2. Paragraph (f) of subsection (2) of section  
256 627.706, Florida Statutes, is amended to read:

257 627.706 Sinkhole insurance; catastrophic ground cover  
258 collapse; definitions.-

259 (2) As used in ss. 627.706-627.7074, and as used in



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260 connection with any policy providing coverage for a catastrophic  
261 ground cover collapse or for sinkhole losses, the term:

262 (f) "Professional engineer" means an engineer ~~a person~~, as  
263 defined in s. 471.005, who has a bachelor's degree ~~or higher~~ in  
264 engineering. A professional engineer must also have experience  
265 and expertise in the identification of sinkhole activity or ~~as~~  
266 ~~well as~~ other potential causes of structural damage.

267 Section 3. By January 1, 2017, the Office of Program Policy  
268 Analysis and Government Accountability shall review the Citizens  
269 Sinkhole Stabilization Repair Program and submit a report to the  
270 Governor, the Chief Financial Officer, the President of the  
271 Senate, and the Speaker of the House of Representatives. The  
272 report must:

273 (1) Analyze policyholder satisfaction with stabilization  
274 repairs received through the program and the sufficiency of  
275 consumer protections provided by the program.

276 (2) Analyze the timeliness of stabilization repairs, in  
277 comparison with industry averages and practices. The report  
278 shall evaluate the loss costs associated with sinkhole claims  
279 under the program, comparing them with corporation's loss costs  
280 before the program's creation.

281 (3) Evaluate whether disputes between stabilization repair  
282 contractors and policyholders are resolved in an effective and  
283 timely manner.

284 (4) Evaluate whether litigation of sinkhole claims and  
285 associated costs are increasing or decreasing under the program,  
286 and the causes of such litigation.

287 (5) Evaluate the cost-effectiveness of allowing the program  
288 to be managed by a third-party administrator.



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Section 4. This act shall take effect July 1, 2014.