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LEGISLATIVE ACTION

Senate

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House

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03/02/2016 11:44 AM

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Senator Latvala moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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12 policyholders at least the greater of:

13 (a) For a property and casualty insurer, \$5 million, or
14 \$2.5 million for any other insurer;

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

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

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

22 ~~or~~

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

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

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

30 (f) Notwithstanding paragraphs (a), (d), and (e), for a
31 domestic insurer that only transacts limited sinkhole coverage
32 insurance for personal lines residential property pursuant to s.
33 627.7151, \$7.5 million.

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

36 624.408 Surplus required; current insurers.-

37 (1) To maintain a certificate of authority to transact any
38 one kind or combinations of kinds of insurance, as defined in
39 part V of this chapter, an insurer in this state must at all
40 times maintain surplus as to policyholders at least the greater



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41 of:

42 (h) Notwithstanding paragraphs (e), (f), and (g), for a
43 domestic insurer that only transacts limited sinkhole coverage
44 insurance for personal lines residential property pursuant to s.
45 627.7151, \$7.5 million.

46

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

51 Section 3. Section 627.7151, Florida Statutes, is created
52 to read:

53 627.7151 Limited sinkhole coverage insurance.—

54 (1) An authorized insurer may issue, but is not required to
55 make available, a limited sinkhole coverage insurance policy
56 providing personal lines residential coverage, subject to
57 underwriting, for the peril of sinkhole loss on any structure or
58 the contents of personal property contained therein, subject to
59 this section and ss. 627.706-627.7074. This section does not
60 apply to commercial lines residential or commercial lines
61 nonresidential coverage for the peril of sinkhole loss. This
62 section also does not apply to coverage for the peril of
63 sinkhole loss that is excess coverage over any other insurance
64 covering the peril of sinkhole loss.

65 (2) Limited sinkhole coverage insurance must cover only
66 losses from the peril of sinkhole loss, as defined in s.
67 627.706(2)(j); however, such coverage is not required to provide
68 for contents and additional living expenses.

69 (3) Citizens Property Insurance Corporation may not issue



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70 limited sinkhole coverage insurance.

71 (4) Limited sinkhole coverage insurance may:

72 (a) Notwithstanding s. 627.707(5), limit coverage to
73 repairs to stabilize the building and repair the foundation in
74 accordance with the recommendations of the professional engineer
75 retained pursuant to s. 627.707(2).

76 (b) In addition to the deductibles authorized under s.
77 627.706(1)(b), offer deductibles agreed to by the insured and
78 insurer.

79 (c) Offer policy limits agreed to by the insured and
80 insurer. However, policy limits below \$50,000 are prohibited
81 unless that amount exceeds full replacement cost of the
82 property.

83 (5) Before issuing a limited sinkhole coverage insurance
84 policy under this section, the insurance agent must obtain a
85 signed acknowledgement from an applicant that includes the
86 following statement in at least 12-point bold, uppercase type:
87 "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE INSURANCE POLICY, I
88 HAVE READ AND UNDERSTAND THE LIMITATIONS THAT MAY APPLY TO MY
89 POLICY AND I UNDERSTAND THAT MY POLICY IS A "REPAIR-ONLY" POLICY
90 WHICH MEANS ONLY REPAIR AND/OR STABILIZATION OF THE SPECIFIED
91 BUILDING AND ITS FOUNDATION IS COVERED, NOT TO EXCEED THE POLICY
92 LIMITS AFTER APPLICATION OF MY DEDUCTIBLE. I ALSO UNDERSTAND
93 THAT IT IS RECOMMENDED THAT I CONSULT WITH A QUALIFIED
94 PROFESSIONAL TO IDENTIFY THE APPROXIMATE COST OF REPAIRING OR
95 STABILIZING THE SPECIFIED BUILDING AND ITS FOUNDATION SO THAT I
96 CAN MAKE AN INFORMED DECISION WHEN SELECTING MY POLICY LIMITS
97 AND DEDUCTIBLE." The signed acknowledgment must also include, in
98 at least 12-point bold, uppercase type:



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

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

110 (6) If the sinkhole loss cannot be repaired within policy
111 limits, the insurer must:

112 (a) Pay the cost, without regard to policy limits, to
113 complete the repairs recommended by the insurer's professional
114 engineer; or

115 (b) Pay the cost, not to exceed the policy limits, to
116 complete the repairs upon the insured's entering into a contract
117 to repair the sinkhole loss in accordance with the repairs
118 recommended by the insurer's professional engineer.

119
120 However, if the insured obtains a lower-cost alternative repair
121 recommendation from a professional engineer for stabilizing the
122 land or the building and repairing the foundation, the insurer
123 must pay the cost, not to exceed the policy limits, to complete
124 the lower-cost alternative repair upon the insured's entering
125 into a contract to repair the sinkhole loss in accordance with
126 the lower-cost alternative repair recommendation by the
127 insured's professional engineer. Such lower-cost alternative



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128 repair shall be subject to reasonable cost adjustment by the
129 insurer; however, the insurer may not depart from the
130 engineering requirements of the insured's professional
131 engineer's lower-cost alternative repair recommendation. Except
132 when payment for sinkhole loss is made under paragraph (a), the
133 insured is responsible for the amount of the repair costs in
134 excess of policy limits, if any.

135 (7) The insurer shall make payment for sinkhole losses to
136 the insured and the contractor performing the repairs jointly.
137 The insurer may make payment for contents and additional living
138 expenses, if covered, directly to the insured.

139 (8) Notwithstanding s. 627.410, an insurer may establish
140 and use a limited sinkhole coverage insurance form without
141 filing the form with the office and requesting approval of the
142 form from the office.

143 (9) (a) An insurer may establish and use limited sinkhole
144 coverage insurance rates in accordance with the rate standards
145 provided in s. 627.062.

146 (b) For limited sinkhole coverage insurance rates filed
147 with the office before October 1, 2019, the insurer may also
148 establish and use rates in accordance with the rates, rating
149 schedules, or rating manuals filed by the insurer with the
150 office which allow the insurer a reasonable rate of return on
151 limited sinkhole coverage insurance written in this state.
152 Limited sinkhole coverage insurance rates established pursuant
153 to this paragraph are not subject to s. 627.062(2)(a) or (f). An
154 insurer shall notify the office of any change to such rates
155 within 30 days after the effective date of the change. The
156 notice must include the name of the insurer and the average



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157 statewide percentage change in rates. Actuarial data with regard
158 to such rates for limited sinkhole coverage insurance must be
159 maintained by the insurer for 2 years after the effective date
160 of such rate change and is subject to examination by the office.
161 The office may require the insurer to incur the costs associated
162 with an examination. Upon examination, the office, in accordance
163 with generally accepted and reasonable actuarial techniques,
164 shall consider the rate factors in s. 627.062(2)(b) and (d) and
165 the standards in s. 627.062(2)(e) to determine whether the rate
166 is excessive, inadequate, or unfairly discriminatory.

167 (10) In addition to any other applicable requirements, an
168 insurer providing limited sinkhole coverage insurance in this
169 state must:

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

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

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

175
176 ===== T I T L E A M E N D M E N T =====

177 And the title is amended as follows:

178 Delete everything before the enacting clause
179 and insert:

180 A bill to be entitled
181 An act relating to limited sinkhole coverage
182 insurance; amending s. 624.407, F.S.; specifying the
183 amount of surplus funds required for domestic insurers
184 applying for a certificate of authority to provide
185 limited sinkhole coverage insurance; amending s.



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186 624.408, F.S.; specifying the minimum surplus funds
187 that must be maintained by insurers that provide
188 limited sinkhole coverage insurance; creating s.
189 627.7151, F.S.; authorizing certain insurers to offer
190 limited sinkhole coverage insurance in this state;
191 providing requirements and applicability; prohibiting
192 Citizens Property Insurance Corporation from issuing
193 limited sinkhole coverage insurance; requiring signed
194 acknowledgement of certain statements; specifying loss
195 payment requirements; authorizing use of certain
196 insurance forms; exempting such forms from approval;
197 providing an insurer with rate options; requiring the
198 insurer to notify the Office of Insurance Regulation
199 before writing limited sinkhole coverage insurance and
200 to file a plan of operation with the office; providing
201 an effective date.