

By the Committees on Fiscal Policy; and Banking and Insurance;
and Senator Latvala

594-04393-16

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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 that
8 must be maintained by insurers that provide limited
9 sinkhole coverage insurance; creating s. 627.7151,
10 F.S.; authorizing certain insurers to offer limited
11 sinkhole coverage insurance in this state; providing
12 applicability; providing a limitation of coverage;
13 authorizing a specified limitation of coverage subject
14 to a certain condition; authorizing certain policy
15 terms; requiring an insurance agent to obtain a
16 specified signed acknowledgement from an applicant
17 before issuing a policy; authorizing insurer forms and
18 exempting forms from approval; authorizing an insurer
19 to establish and use rates in accordance with
20 specified rate standards; requiring an insurer to
21 provide a specified notice of changes to rates within
22 a specified timeframe to the Office of Insurance
23 Regulation; requiring an insurer to maintain certain
24 actuarial data for a specified timeframe; authorizing
25 the office to require an insurer to incur the costs
26 associated with examining such data; providing factors
27 for the office in determining whether a rate is
28 excessive, inadequate, or unfairly discriminatory;
29 authorizing a surplus lines agent to export a contract
30 or endorsement for sinkhole coverage to a surplus
31 lines insurer without meeting certain requirements;

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32 requiring the insurer to notify the office before
33 writing sinkhole insurance and to file a plan of
34 operation with the office; providing an effective
35 date.

36
37 Be It Enacted by the Legislature of the State of Florida:

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39 Section 1. Subsection (1) of section 624.407, Florida
40 Statutes, is amended to read:

41 624.407 Surplus required; new insurers.—

42 (1) To receive authority to transact any one kind or
43 combinations of kinds of insurance, as defined in part V of this
44 chapter, an insurer applying for its original certificate of
45 authority in this state shall possess surplus as to
46 policyholders at least the greater of:

47 (a) For a property and casualty insurer, \$5 million, or
48 \$2.5 million for any other insurer;

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

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

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

56 ~~or~~

57 (e) Notwithstanding paragraph (a) or paragraph (d), for a
58 domestic insurer that transacts residential property insurance
59 and is:

60 1. Not a wholly owned subsidiary of an insurer domiciled in

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61 any other state, \$15 million.

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

64 (f) Notwithstanding paragraphs (a), (d), and (e), for a
65 domestic insurer that only transacts limited sinkhole coverage
66 insurance for personal lines residential property pursuant to s.
67 627.7151, \$7.5 million.

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

70 624.408 Surplus required; current insurers.—

71 (1) To maintain a certificate of authority to transact any
72 one kind or combinations of kinds of insurance, as defined in
73 part V of this chapter, an insurer in this state must at all
74 times maintain surplus as to policyholders at least the greater
75 of:

76 (h) Notwithstanding paragraphs (e), (f), and (g), for a
77 domestic insurer that only transacts limited sinkhole coverage
78 insurance for personal lines residential property pursuant to s.
79 627.7151, \$7.5 million.

80

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

85 Section 3. Section 627.7151, Florida Statutes, is created
86 to read:

87 627.7151 Limited sinkhole coverage insurance.—

88 (1) An authorized insurer may issue, but is not required to
89 make available, a limited sinkhole coverage insurance policy

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90 providing personal lines residential coverage, subject to
91 underwriting, for the peril of sinkhole loss on any structure or
92 the contents of personal property contained therein, subject to
93 this section and ss. 627.706-627.7074. This section does not
94 apply to commercial lines residential or commercial lines
95 nonresidential coverage for the peril of sinkhole loss. This
96 section also does not apply to coverage for the peril of
97 sinkhole loss that is excess coverage over any other insurance
98 covering the peril of sinkhole loss.

99 (2) Limited sinkhole coverage insurance must cover only
100 losses from the peril of sinkhole loss, as defined in s.
101 627.706(2)(j); however, such coverage shall not be required to
102 provide for contents and additional living expenses.

103 (3) Limited sinkhole coverage insurance may:

104 (a) Notwithstanding s. 627.707(5), limit coverage to
105 repairs to stabilize the building and repair the foundation in
106 accordance with the recommendations of the professional engineer
107 retained pursuant to s. 627.707(2). However, if the insurer's
108 professional engineer determines that the repair cannot be
109 completed within policy limits, the insurer must pay to complete
110 the repairs recommended by the insurer's professional engineer
111 or tender the policy limits to the policyholder.

112 (b) In addition to the deductibles authorized under s.
113 627.706(1)(b), offer deductibles agreed to by the insured and
114 the insurer.

115 (c) Offer policy limits agreed to by the insured and the
116 insurer, provided policy limits below \$50,000 are not allowed
117 unless that amount exceeds full replacement costs of the
118 property.

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119 (4) Before issuing a limited sinkhole coverage insurance
120 policy under this section, the insurance agent must obtain from
121 an applicant an acknowledgement signed by the applicant that
122 includes the following statement in at least 12-point bold,
123 uppercase type: "BY ACCEPTING THIS LIMITED SINKHOLE COVERAGE
124 INSURANCE POLICY I HAVE READ AND UNDERSTAND THE LIMITATIONS THAT
125 MAY APPLY TO MY POLICY." The signed acknowledgment must also
126 include, in at least 12-point bold, uppercase type, for a
127 policy:

128 (a) That limits limited sinkhole coverage to an amount less
129 than the full replacement cost of the property, the following
130 statement: "THIS POLICY LIMITS SINKHOLE COVERAGE TO LESS THAN
131 THE FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT
132 IN HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN
133 THIS PROPERTY AT RISK."

134 (b) That provides for a deductible which exceeds the
135 deductibles authorized under s. 627.706(1)(b), the following
136 statement: "THIS POLICY EXCEEDS THE DEDUCTIBLE AMOUNT PERMITTED
137 FOR OTHER AUTHORIZED SINKHOLE LOSS INSURANCE POLICIES WHICH MAY
138 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

139 (5) An insurer may establish and use limited sinkhole
140 coverage forms. Limited sinkhole coverage forms are not subject
141 to filing and approval pursuant to s. 627.410.

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

145 (b) For limited sinkhole coverage rates filed with the
146 office before October 1, 2019, the insurer may also establish
147 and use such rates in accordance with the rates, rating

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148 schedules, or rating manuals filed by the insurer with the
149 office which allow the insurer a reasonable rate of return on
150 limited sinkhole coverage written in this state. Limited
151 sinkhole coverage rates established pursuant to this paragraph
152 are not subject to s. 627.062(2) (a) or (f). An insurer shall
153 notify the office of any change to such rates within 30 days
154 after the effective date of the change. The notice must include
155 the name of the insurer and the average statewide percentage
156 change in rates. Actuarial data with regard to such rates for
157 limited sinkhole coverage must be maintained by the insurer for
158 2 years after the effective date of such rate change and is
159 subject to examination by the office. The office may require the
160 insurer to incur the costs associated with an examination. Upon
161 examination, the office, in accordance with generally accepted
162 and reasonable actuarial techniques, shall consider the rate
163 factors in s. 627.062(2) (b) and (d), and the standards in s.
164 627.062(2) (e), to determine whether the rate is excessive,
165 inadequate, or unfairly discriminatory.

166 (7) A surplus lines agent may export limited sinkhole
167 coverage insurance to an eligible surplus lines insurer without
168 satisfying the conditions set forth in s. 626.916(1). This
169 subsection expires July 1, 2020.

170 (8) In addition to any other applicable requirements, an
171 insurer providing limited sinkhole coverage in this state must:

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

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

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