

1 A bill to be entitled
2 An act relating to insurance; amending s. 627.0629,
3 F.S.; requiring residential property insurance rate
4 filings to include actuarially reasonable surcharges,
5 debits, or adjustments under certain circumstances;
6 deleting provisions that authorize rate filings for
7 residential property insurance to include rate factors
8 and premium adjustments that reflect local building
9 code enforcement with respect to wind damage; amending
10 s. 627.351, F.S.; requiring the corporation to prepare
11 a report for each calendar year relating to the loss
12 ratio attributable to losses that are not catastrophic
13 losses for residential coverage provided by the
14 corporation; amending s. 627.422, F.S.; authorizing
15 homeowners' insurance policies to prohibit the
16 assignment of rights and benefits; voiding coverage if
17 such an assignment is accepted by a third-party;
18 creating s. 627.70152, F.S.; prohibiting a residential
19 property insurer from being liable for certain damages
20 and attorney fees under specified circumstances with
21 respect to the appraisal loss process; amending s.
22 627.706, F.S.; revising the definition of the term
23 "structural damage" as used in connection with
24 coverage for catastrophic ground cover collapse or
25 sinkhole losses; authorizing insurers to renew the
26 policies of policyholders who maintain sinkhole
27 coverage; requiring notification of policyholders when
28 renewal of a policy removes sinkhole coverage and

29 | instead offers coverage for catastrophic ground cover
 30 | collapse; barring claims for sinkhole loss unless an
 31 | insurer is notified within a specified period after
 32 | the date of the sinkhole loss rather than within a
 33 | specified period after the policyholder knew or
 34 | reasonably should have known about such loss; amending
 35 | s. 627.7074, F.S.; deleting an exception to the
 36 | prohibition against an insurer's liability for
 37 | attorney fees with respect to the neutral evaluation
 38 | process used for resolving sinkhole insurance claims;
 39 | providing an effective date.

41 | Be It Enacted by the Legislature of the State of Florida:

43 | Section 1. Subsections (1) and (2) of section 627.0629,
 44 | Florida Statutes, are amended, and subsections (3) through (8)
 45 | of that section are renumbered as subsections (2) through (7),
 46 | respectively, to read:

47 | 627.0629 Residential property insurance; rate filings.—

48 | (1) It is the intent of the Legislature that insurers
 49 | provide savings to consumers who install or implement windstorm
 50 | damage mitigation techniques, alterations, or solutions to their
 51 | properties to prevent windstorm losses. A rate filing for
 52 | residential property insurance must include actuarially
 53 | reasonable discounts, credits, or other rate differentials, or
 54 | appropriate reductions in deductibles, for properties on which
 55 | fixtures or construction techniques demonstrated to reduce the
 56 | amount of loss in a windstorm have been installed or

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57 | implemented. The fixtures or construction techniques must
58 | include, but are not limited to, fixtures or construction
59 | techniques that enhance roof strength, roof covering
60 | performance, roof-to-wall strength, wall-to-floor-to-foundation
61 | strength, opening protection, and window, door, and skylight
62 | strength. Credits, discounts, or other rate differentials, or
63 | appropriate reductions in deductibles, for fixtures and
64 | construction techniques that meet the minimum requirements of
65 | the Florida Building Code must be included in the rate filing.
66 | The office shall determine the discounts, credits, other rate
67 | differentials, and appropriate reductions in deductibles that
68 | reflect the full actuarial value of such revaluation, which may
69 | be used by insurers in rate filings. A rate filing for
70 | residential property insurance must include actuarially
71 | reasonable surcharges, debits, or other appropriate adjustments
72 | for properties that do not include fixtures or construction
73 | techniques demonstrated to reduce the amount of loss in a
74 | windstorm or meet the minimum requirements of the Florida
75 | Building Code.

76 | ~~(2) (a) A rate filing for residential property insurance~~
77 | ~~made on or before the implementation of paragraph (b) may~~
78 | ~~include rate factors that reflect the manner in which building~~
79 | ~~code enforcement in a particular jurisdiction addresses the risk~~
80 | ~~of wind damage; however, such a rate filing must also provide~~
81 | ~~for variations from such rate factors on an individual basis~~
82 | ~~based on an inspection of a particular structure by a licensed~~
83 | ~~home inspector, which inspection may be at the cost of the~~
84 | ~~insured.~~

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85 ~~(b) A rate filing for residential property insurance made~~
86 ~~more than 150 days after approval by the office of a building~~
87 ~~code rating factor plan submitted by a statewide rating~~
88 ~~organization shall include positive and negative rate factors~~
89 ~~that reflect the manner in which building code enforcement in a~~
90 ~~particular jurisdiction addresses risk of wind damage. The rate~~
91 ~~filing shall include variations from standard rate factors on an~~
92 ~~individual basis based on inspection of a particular structure~~
93 ~~by a licensed home inspector. If an inspection is requested by~~
94 ~~the insured, the insurer may require the insured to pay the~~
95 ~~reasonable cost of the inspection. This paragraph applies to~~
96 ~~structures constructed or renovated after the implementation of~~
97 ~~this paragraph.~~

98 ~~(c) The premium notice shall specify the amount by which~~
99 ~~the rate has been adjusted as a result of this subsection and~~
100 ~~shall also specify the maximum possible positive and negative~~
101 ~~adjustments that are approved for use by the insurer under this~~
102 ~~subsection.~~

103 Section 2. Paragraph (gg) is added to subsection (6) of
104 section 627.351, Florida Statutes, to read:

105 627.351 Insurance risk apportionment plans.—

106 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

107 (gg) The corporation must prepare a report for each
108 calendar year outlining both the statewide average and county-
109 specific details of the loss ratio attributable to losses that
110 are not catastrophic losses for residential coverage provided by
111 the corporation, which information must be presented to the
112 office and available for public inspection on the Internet

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113 website of the corporation by January 15th of the following
114 calendar year.

115 Section 3. Section 627.422, Florida Statutes, is amended
116 to read:

117 627.422 Assignment of policies.—A policy may be
118 assignable, or not assignable, as provided by its terms.

119 (1) Subject to its terms relating to assignability, any
120 life or health insurance policy under the terms of which the
121 beneficiary may be changed upon the sole request of the
122 policyowner may be assigned either by pledge or transfer of
123 title, by an assignment executed by the policyowner alone and
124 delivered to the insurer, whether or not the pledgee or assignee
125 is the insurer. Any such assignment entitles ~~shall entitle~~ the
126 insurer to deal with the assignee as the owner or pledgee of the
127 policy in accordance with the terms of the assignment, until the
128 insurer has received at its home office written notice of
129 termination of the assignment or pledge or written notice by or
130 on behalf of some other person claiming some interest in the
131 policy in conflict with the assignment.

132 (2) Any homeowner's insurance policy may prohibit the
133 assignment of rights or benefits under the policy, and a third-
134 party beneficiary may not accept an assignment or recover
135 against any policy that prohibits assignment. Any assignment of
136 rights or benefits under a homeowner's insurance policy that
137 prohibits assignment renders the coverage void.

138 Section 4. Section 627.70152, Florida Statutes, is created
139 to read:

140 627.70152 Appraisal process; insurer liability for damages

141 and attorney fees; applicability.-

142 (1) If an insurer who offers residential coverage, as
 143 defined in s. 627.4025, uses an appraisal clause in the property
 144 insurance contract to establish a process of estimating or
 145 evaluating the amount of the loss, and the insurer timely agrees
 146 in writing to comply, and timely complies with the
 147 recommendation of the appraisal process, but the policyholder
 148 declines to resolve the matter in accordance with the
 149 recommendation of the appraisal process, then the insurer is not
 150 liable for:

151 (a) Extracontractual damages related to a claim.

152 (b) Attorney fees under s. 627.428 or other provisions of
 153 the insurance code.

154 (2) This section:

155 (a) Applies only in a county if the loss ratio
 156 attributable to losses that are not catastrophic losses for
 157 residential coverage in that county exceeds the statewide loss
 158 ratio for such losses as calculated and reported by the
 159 corporation pursuant to 627.351(6)(gg).

160 (b) Does not affect or impair claims for extracontractual
 161 damages

162 Section 5. Paragraph (k) of subsection (2) and subsections
 163 (4) and (5) of section 627.706, Florida Statutes, are amended to
 164 read:

165 627.706 Sinkhole insurance; catastrophic ground cover
 166 collapse; definitions.-

167 (2) As used in ss. 627.706-627.7074, and as used in
 168 connection with any policy providing coverage for a catastrophic

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169 ground cover collapse or for sinkhole losses, the term:

170 (k) "Structural damage" means a covered building,
171 regardless of the date of its construction, has experienced the
172 following:

173 1. Interior floor displacement or deflection in excess of
174 acceptable variances as defined in ACI 117-90 or the Florida
175 Building Code, which results in settlement-related damage to the
176 interior such that the interior building structure or members
177 become unfit for service or represents a safety hazard as
178 defined within the Florida Building Code;

179 2. Foundation displacement or deflection in excess of
180 acceptable variances as defined in ACI 318-95 or the Florida
181 Building Code, which results in settlement-related damage to the
182 primary structural members or primary structural systems that
183 prevents those members or systems from supporting the loads and
184 forces they were designed to support to the extent that stresses
185 in those primary structural members or primary structural
186 systems exceeds one and one-third the nominal strength allowed
187 under the Florida Building Code for new buildings of similar
188 structure, purpose, or location;

189 3. Damage that results in listing, leaning, or buckling of
190 the exterior load-bearing walls or other vertical primary
191 structural members to such an extent that a plumb line passing
192 through the center of gravity does not fall inside the middle
193 one-third of the base as defined within the Florida Building
194 Code;

195 4. Damage that results in the building, or any portion of
196 the building containing primary structural members or primary

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197 structural systems, collapsing ~~being significantly likely to~~
198 ~~imminently collapse~~ because of the movement or instability of
199 the ground within the influence zone of the supporting ground
200 within the sheer plane necessary for the purpose of supporting
201 such building as defined within the Florida Building Code; or

202 5. Damage occurring on or after October 15, 2005, that
203 qualifies as "substantial structural damage" as defined in the
204 Florida Building Code.

205 (4) An insurer offering sinkhole coverage to policyholders
206 before or after the adoption of s. 30, chapter 2007-1, Laws of
207 Florida, may renew pursuant to s. 627.43141 or nonrenew the
208 policies of policyholders maintaining sinkhole coverage, at the
209 option of the insurer, and provide an offer of coverage or
210 renewal that includes catastrophic ground cover collapse and
211 excludes sinkhole coverage. Insurers acting in accordance with
212 this subsection are subject to the following requirements:

213 (a) Policyholders must be notified that the renewal or a
214 nonrenewal is for purposes of removing sinkhole coverage, and
215 that the policyholder is being offered a policy that provides
216 coverage for catastrophic ground cover collapse.

217 (b) Policyholders must be provided an actuarially
218 reasonable premium credit or discount for the removal of
219 sinkhole coverage and provision of only catastrophic ground
220 cover collapse.

221 (c) Subject to the provisions of this subsection and the
222 insurer's approved underwriting or insurability guidelines, the
223 insurer shall provide each policyholder with the opportunity to
224 purchase an endorsement to his or her policy providing sinkhole

225 coverage and may require an inspection of the property before
 226 issuance of a sinkhole coverage endorsement.

227 (d) Section 624.4305 does not apply to nonrenewal notices
 228 issued pursuant to this subsection.

229 (5) Any claim, including, but not limited to, initial,
 230 supplemental, and reopened claims under an insurance policy that
 231 provides sinkhole coverage is barred unless notice of the claim
 232 was given to the insurer in accordance with the terms of the
 233 policy within 2 years after the date of ~~the policyholder knew or~~
 234 ~~reasonably should have known about~~ the sinkhole loss.

235 Section 6. Subsection (15) of section 627.7074, Florida
 236 Statutes, is amended to read:

237 627.7074 Alternative procedure for resolution of disputed
 238 sinkhole insurance claims.—

239 (15) If the insurer timely agrees in writing to comply and
 240 timely complies with the recommendation of the neutral
 241 evaluator, but the policyholder declines to resolve the matter
 242 in accordance with the recommendation of the neutral evaluator
 243 pursuant to this section:

244 (a) The insurer is not liable for extracontractual damages
 245 related to a claim for a sinkhole loss but only as related to
 246 the issues determined by the neutral evaluation process. This
 247 section does not affect or impair claims for extracontractual
 248 damages unrelated to the issues determined by the neutral
 249 evaluation process contained in this section; and

250 (b) The actions of the insurer are not a confession of
 251 judgment or admission of liability, and the insurer is not
 252 liable for attorney's fees under s. 627.428 or other provisions

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253 | of the insurance code ~~unless the policyholder obtains a judgment~~
254 | ~~that is more favorable than the recommendation of the neutral~~
255 | ~~evaluator.~~

256 | Section 7. This act shall take effect July 1, 2013.