

## CHAPTER 2016-197

### Committee Substitute for Committee Substitute for Senate Bill No. 1274

An act relating to limited sinkhole coverage insurance; amending s. 624.407, F.S.; specifying the amount of surplus funds required for domestic insurers applying for a certificate of authority to provide limited sinkhole coverage insurance; amending s. 624.408, F.S.; specifying the minimum surplus funds that must be maintained by insurers that provide limited sinkhole coverage insurance; creating s. 627.7151, F.S.; authorizing certain insurers to offer limited sinkhole coverage insurance in this state; providing requirements and applicability; prohibiting Citizens Property Insurance Corporation from issuing limited sinkhole coverage insurance; requiring signed acknowledgment of certain statements; specifying loss payment requirements; authorizing use of certain insurance forms; exempting such forms from approval; providing an insurer with rate options; requiring the insurer to notify the Office of Insurance Regulation before writing limited sinkhole coverage insurance and to file a plan of operation with the office; providing an effective date.

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

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 policyholders at least the greater of:

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

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

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

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

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

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

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

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

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

624.408 Surplus required; current insurers.—

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

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

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

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

627.7151 Limited sinkhole coverage insurance.—

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

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

(3) Citizens Property Insurance Corporation may not issue limited sinkhole coverage insurance.

(4) Limited sinkhole coverage insurance may:

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

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

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

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

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

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

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

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

(b) Pay the cost, not to exceed the policy limits, to complete the repairs upon the insured’s entering into a contract to repair the sinkhole loss in

accordance with the repairs recommended by the insurer's professional engineer.

However, if the insured obtains a lower-cost alternative repair recommendation from a professional engineer for stabilizing the land or the building and repairing the foundation, the insurer must pay the cost, not to exceed the policy limits, to complete the lower-cost alternative repair upon the insured's entering into a contract to repair the sinkhole loss in accordance with the lower-cost alternative repair recommendation by the insured's professional engineer. Such lower-cost alternative repair shall be subject to reasonable cost adjustment by the insurer; however, the insurer may not depart from the engineering requirements of the insured's professional engineer's lower-cost alternative repair recommendation. Except when payment for sinkhole loss is made under paragraph (a), the insured is responsible for the amount of the repair costs in excess of policy limits, if any.

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

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

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

(b) For limited sinkhole coverage insurance rates filed with the office before October 1, 2019, the insurer may also establish and use rates in accordance with the rates, rating schedules, or rating manuals filed by the insurer with the office which allow the insurer a reasonable rate of return on limited sinkhole coverage insurance written in this state. Limited sinkhole coverage insurance rates established pursuant to this paragraph are not subject to s. 627.062(2)(a) or (f). An insurer shall notify the office of any change to such rates within 30 days after the effective date of the change. The notice must include the name of the insurer and the average statewide percentage change in rates. Actuarial data with regard to such rates for limited sinkhole coverage insurance must be maintained by the insurer for 2 years after the effective date of such rate change and is subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office, in accordance with generally accepted and reasonable actuarial techniques, shall consider the rate factors in s. 627.062(2)(b) and (d) and the standards in s. 627.062(2)(e) to determine whether the rate is excessive, inadequate, or unfairly discriminatory.

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

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

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

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

Approved by the Governor April 6, 2016.

Filed in Office Secretary of State April 6, 2016.