

1 A bill to be entitled
2 An act relating to sinkhole insurance; amending s.
3 624.407, F.S.; specifying the amount of surplus funds
4 required for domestic insurers applying for a
5 certificate of authority to provide sinkhole
6 insurance; amending s. 624.408, F.S.; specifying the
7 minimum surplus that must be maintained by insurers
8 that provide sinkhole insurance; amending s. 627.062,
9 F.S.; adding projected sinkhole losses to the factors
10 that must be considered by the Office of Insurance
11 Regulation in reviewing certain rate filings; amending
12 s. 627.0628, F.S.; requiring the Florida Commission on
13 Hurricane Loss Projection Methodology to adopt
14 standards and guidelines relating to personal lines
15 residential sinkhole loss by a specified date;
16 creating s. 627.7151, F.S.; authorizing certain
17 insurers to offer sinkhole insurance in this state;
18 requiring that certain limitations be noted on the
19 policy declarations or face page; providing an insurer
20 with rate options; authorizing a surplus lines agent
21 to export a contract or endorsement for sinkhole
22 coverage to a surplus lines insurer without meeting
23 certain requirements; requiring the insurer to notify
24 the office before writing sinkhole insurance and to
25 file a plan of operation with the office; requiring
26 Citizens Property Insurance Corporation to provide

27 coverage for catastrophic ground cover collapse;
 28 providing construction; providing an effective date.

29

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

31

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

34 624.407 Surplus required; new insurers.—

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

40 (a) For a property and casualty insurer, \$5 million, or
 41 \$2.5 million for any other insurer;

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

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

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

49 ~~or~~

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

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

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

57 (f) Notwithstanding paragraphs (a), (d), and (e), for a
 58 domestic insurer that only transacts sinkhole insurance for
 59 personal lines residential property pursuant to s. 627.7151,
 60 \$2.5 million.

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

63 624.408 Surplus required; current insurers.—

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

69 (h) Notwithstanding paragraphs (e), (f), and (g), for a
 70 domestic insurer that only transacts sinkhole insurance for
 71 personal lines residential property pursuant to s. 627.7151,
 72 \$1.5 million.

73
 74 The office may reduce the surplus requirement in paragraphs (f)
 75 and (g) if the insurer is not writing new business, has premiums
 76 in force of less than \$1 million per year in residential
 77 property insurance, or is a mutual insurance company.

78 Section 3. Paragraph (b) of subsection (2) of section

79 | 627.062, Florida Statutes, is amended to read:

80 | 627.062 Rate standards.—

81 | (2) As to all such classes of insurance:

82 | (b) Upon receiving a rate filing, the office shall review
83 | the filing to determine whether ~~if~~ a rate is excessive,
84 | inadequate, or unfairly discriminatory. In making that
85 | determination, the office shall, in accordance with generally
86 | accepted and reasonable actuarial techniques, consider the
87 | following factors:

88 | 1. Past and prospective loss experience within and without
89 | this state.

90 | 2. Past and prospective expenses.

91 | 3. The degree of competition among insurers for the risk
92 | insured.

93 | 4. Investment income reasonably expected by the insurer,
94 | consistent with the insurer's investment practices, from
95 | investable premiums anticipated in the filing, plus any other
96 | expected income from currently invested assets representing the
97 | amount expected on unearned premium reserves and loss reserves.
98 | The commission may adopt rules using reasonable techniques of
99 | actuarial science and economics to specify the manner in which
100 | insurers calculate investment income attributable to classes of
101 | insurance written in this state and the manner in which
102 | investment income is used to calculate insurance rates. Such
103 | manner must contemplate allowances for an underwriting profit
104 | factor and full consideration of investment income that produces

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105 a reasonable rate of return; however, investment income from
106 invested surplus may not be considered.

107 5. The reasonableness of the judgment reflected in the
108 filing.

109 6. Dividends, savings, or unabsorbed premium deposits
110 allowed or returned to policyholders, members, or subscribers in
111 this state.

112 7. The adequacy of loss reserves.

113 8. The cost of reinsurance. The office may not disapprove
114 a rate as excessive solely due to the insurer having obtained
115 catastrophic reinsurance to cover the insurer's estimated 250-
116 year probable maximum loss or any lower level of loss.

117 9. Trend factors, including trends in actual losses per
118 insured unit for the insurer making the filing.

119 10. Conflagration and catastrophe hazards, if applicable.

120 11. Projected hurricane losses, if applicable, which must
121 be estimated using a model or method found to be acceptable or
122 reliable by the Florida Commission on Hurricane Loss Projection
123 Methodology, and as further provided in s. 627.0628.

124 12. Projected flood and sinkhole losses for personal
125 residential property insurance, if applicable, which may be
126 estimated using a model or method, or a straight average of
127 model results or output ranges, independently found to be
128 acceptable or reliable by the Florida Commission on Hurricane
129 Loss Projection Methodology and as further provided in s.
130 627.0628.

131 13. A reasonable margin for underwriting profit and
 132 contingencies.

133 14. The cost of medical services, if applicable.

134 15. Other relevant factors that affect the frequency or
 135 severity of claims or expenses.

136

137 The provisions of this subsection do not apply to workers'
 138 compensation, employer's liability insurance, and motor vehicle
 139 insurance.

140 Section 4. Paragraphs (a), (d), and (e) of subsection (3)
 141 of section 627.0628, Florida Statutes, are amended to read:

142 627.0628 Florida Commission on Hurricane Loss Projection
 143 Methodology; public records exemption; public meetings
 144 exemption.—

145 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

146 (a) The commission shall consider any actuarial methods,
 147 principles, standards, models, or output ranges that have the
 148 potential for improving the accuracy of or reliability of the
 149 hurricane loss projections used in residential property
 150 insurance rate filings, ~~and~~ flood loss projections used in rate
 151 filings for personal lines residential flood insurance coverage,
 152 and sinkhole loss projections used in rate filings for personal
 153 lines residential sinkhole insurance coverage. The commission
 154 shall, from time to time, adopt findings as to the accuracy or
 155 reliability of particular methods, principles, standards,
 156 models, or output ranges.

157 (d) With respect to a rate filing under s. 627.062, an
 158 insurer shall employ and may not modify or adjust actuarial
 159 methods, principles, standards, models, or output ranges found
 160 by the commission to be accurate or reliable in determining
 161 hurricane loss factors and probable maximum loss levels for use
 162 in a rate filing under s. 627.062. An insurer may employ a model
 163 in a rate filing until 120 days after the expiration of the
 164 commission's acceptance of that model and may not modify or
 165 adjust models found by the commission to be accurate or reliable
 166 in determining probable maximum loss levels. This paragraph does
 167 not prohibit an insurer from using a straight average of model
 168 results or output ranges for the purposes of a rate filing for
 169 personal lines residential flood insurance coverage or personal
 170 lines residential sinkhole insurance coverage under s. 627.062.

171 (e)1. The commission shall adopt actuarial methods,
 172 principles, standards, models, or output ranges for personal
 173 lines residential flood loss no later than July 1, 2017.

174 2. The commission shall adopt actuarial methods,
 175 principles, standards, models, or output ranges for personal
 176 lines residential sinkhole loss no later than July 1, 2018.

177 Section 5. Section 627.7151, Florida Statutes, is created
 178 to read:

179 627.7151 Sinkhole insurance.—

180 (1) An authorized insurer may issue an insurance policy
 181 providing personal lines residential coverage for the peril of
 182 sinkholes on any structure or the contents of personal property

183 contained therein, subject to this section and s. 627.706. This
184 section does not apply to commercial lines residential or
185 commercial lines nonresidential coverage for the peril of
186 sinkholes. This section also does not apply to coverage for the
187 peril of sinkholes that is excess coverage over any other
188 insurance covering the peril of sinkholes.

189 (2) Sinkhole insurance must:

190 (a) Cover only losses from the peril of sinkholes, as
191 defined in s. 627.706(2)(h).

192 (b) Include coverage for additional living expenses.

193 (c) Require that any loss under personal property or
194 contents coverage that is repaired or replaced be adjusted only
195 on the basis of replacement costs up to the policy limits.

196 (3) Any limitations on sinkhole coverage or policy limits,
197 including, but not limited to, deductibles, must be prominently
198 noted on the policy declarations page or face page.

199 (4) (a) An insurer may establish and use sinkhole coverage
200 rates in accordance with the rate standards provided in s.
201 627.062.

202 (b) For sinkhole coverage rates filed with the office
203 before October 1, 2019, the insurer may also establish and use
204 such rates in accordance with the rates, rating schedules, or
205 rating manuals filed by the insurer with the office which allow
206 the insurer a reasonable rate of return on sinkhole coverage
207 written in this state. Sinkhole coverage rates established
208 pursuant to this paragraph are not subject to s. 627.062(2)(a)

209 or (f). An insurer shall notify the office of any change to such
210 rates within 30 days after the effective date of the change. The
211 notice must include the name of the insurer and the average
212 statewide percentage change in rates. Actuarial data with regard
213 to such rates for sinkhole coverage must be maintained by the
214 insurer for 2 years after the effective date of such rate change
215 and is subject to examination by the office. The office may
216 require the insurer to incur the costs associated with an
217 examination. Upon examination, the office, in accordance with
218 generally accepted and reasonable actuarial techniques, shall
219 consider the rate factors in s. 627.062(2)(b) and (d), and the
220 standards in s. 627.062(2)(e), to determine whether the rate is
221 excessive, inadequate, or unfairly discriminatory.

222 (5) A surplus lines agent may export sinkhole insurance to
223 an eligible surplus lines insurer without making a diligent
224 effort to seek such coverage from three or more authorized
225 insurers under s. 626.916(1)(a). This subsection expires July 1,
226 2020.

227 (6) In addition to any other applicable requirements, an
228 insurer providing sinkhole coverage in this state must:

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

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

233 (7) Citizens Property Insurance Corporation shall provide
234 coverage for catastrophic ground cover collapse as defined in s.

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235 627.706(2)(a).

236 (8) With respect to the regulation of sinkhole coverage
237 written in this state by authorized insurers, this section
238 supersedes any other provision of the Florida Insurance Code in
239 the event of a conflict.

240 Section 6. This act shall take effect upon becoming a law.