

Florida Sinkhole Statutes

Florida Statute 627.706 Sinkhole Insurance

(1) Every insurer authorized to transact property insurance in this state shall make available coverage for insurable sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the sinkhole coverage attaches.

(2) "Loss" means structural damage to the building. Contents coverage shall apply only if there is structural damage to the building.

(3) "Sinkhole loss" means actual physical damage to the property covered arising out of or caused by sudden settlement or collapse of the earth supporting such property only when such settlement or collapse results from subterranean voids created by the action of water on a limestone or similar rock formation.

(4) Every insurer authorized to transact property insurance in this state shall make a proper filing with the department for the purpose of extending the appropriate forms of property insurance to include coverage for insurable sinkhole losses.

(5) An insurer offering sinkhole coverage to policyholders before or after the adoption of s. 30, chapter 2007-1, Laws of Florida, may non-renew the policies of policyholders maintaining sinkhole coverage in Pasco County or Hernando County, at the option of the insurer, and provide an offer of coverage to such policyholders which includes catastrophic ground cover collapse and excludes sinkhole coverage. Insurers acting in accordance with this subsection are subject to the following requirements:

(a) Policyholders must be notified that a non-renewal is for purposes of removing sinkhole coverage, and that the policyholder is still being offered a policy that provides coverage for catastrophic ground cover collapse.

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

(c) Subject to the provisions of this subsection and the insurer's approved underwriting or insurability guidelines, the insurer shall provide each policy holder with the opportunity to purchase an endorsement to his or her policy providing sinkhole coverage and may require an inspection of the property before issuance of a sinkhole coverage endorsement.

(d) Section 624.4305 does not apply to non-renewal notices issued pursuant to this subsection.

Florida Statutes 627.707 Minimum Standards for Investigation of Sinkhole Claims by Insurers; Non-Renewals

(1) Upon receipt of a claim for a sinkhole loss, an insurer must meet the following minimum standards in investigating a claim:

(a) Upon receipt of a claim for a sinkhole loss, the insurer must make an inspection of the insured's premises to determine if there has been physical damage to the structure which might be the result of sinkhole activity.

(b) If, upon the investigation pursuant to paragraph (a), the insurer discovers damage to a structure which is consistent with sinkhole activity or if the structure is located in close proximity to a structure in which sinkhole damage has been verified, then prior to denying a claim, the insurer must obtain a written certification from an individual qualified to determine the existence of sinkhole activity, stating that the cause of the claim is not sinkhole activity, and that the analysis conducted was of sufficient scope to eliminate sinkhole activity as the cause of damage within a reasonable professional probability. The written certification must also specify the professional discipline and professional licensure or registration under which the analysis was conducted.

(c) If the insurer obtains, pursuant to paragraph (b), written certification that the cause of the claim was not sinkhole activity, and if the policyholder has submitted the sinkhole claim without good faith grounds for submitting such claim, the policyholder shall reimburse the insurer for 50 percent of the cost of the analysis under paragraph (b); however, a policyholder is not required to reimburse an insurer more than \$2,500 with respect to any claim. A policyholder is required

to pay reimbursement under this paragraph only if the insurer, prior to ordering the analysis under paragraph (b), informs the policyholder of the policyholder's potential liability for reimbursement and gives the policyholder the opportunity to withdraw the claim.

(2) No insurer shall non-renew any policy of property insurance on the basis of filing of claims for partial loss caused by sinkhole damage or clay shrinkage as long as the total of such payments does not exceed the current policy limits of coverage for property damage, and provided the insured has repaired the structure in accordance with the engineering recommendations upon which any payment or policy proceeds were based.

Additional Insurance Sinkhole Laws

F.S. §624.155(1)(a)1- Any person may bring a civil action against an insurer when such person is damaged: (a) by violation of any of the following provisions by the insurer: (1) Section 626.9541(1)(i), (o), or (x)

F.S. §624.155(b)1 - Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward the insured and with due regard for her or his interests.

F.S. §624.155(b)2 - Making claims payments to insured or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made.

F.S. §624.155(b)3 - Except as to liability coverage, failing to promptly settle claims, when the obligation to settle a claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

F.S. §626.9541(1)(i)1 - Attempting to settle claims on the basis of an application, when serving as a binder or intended to become a part of the policy, or any other material document which was altered without notice to, or knowledge or consent of, the insured.

F.S. §626.9541(1)(i)2 - A material misrepresentation made to an insured or any other person having an interest in the proceeds payable under such contract or policy, for the purpose and with the intent of effecting settlement of such claims, loss or damage under such contract or policy on less favorable terms than those provided in, and contemplated by, such contract or policy.

F.S. §626.9541(1)(i)3a - Failing to adopt and implement standards for the proper investigation of claims.

F.S. §626.9541(1)(i)3b - Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.

F.S. §626.9541(1)(i)3c - Failing to acknowledge and act promptly upon communications with respect to claims.

F.S. §626.9541(1)(i)3d - Denying claims without conducting reasonable investigations based upon available information.

F.S. §626.9531(1)(i)3e - Failing to affirm or deny full or partial coverage of claims, and, as to partial coverage, the dollar amount or extent of coverage, or failing to provide a written statement that the claim is being investigated, upon the written request of the insured within 30 days after proof-of-loss statements have been completed.

F.S. §626.9541(1)(i)3f - Failing to promptly provide a reasonable explanation in writing to the insured of the basis in the insurance policy, in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement.

F.S. §626.9541(1)(i)3g - Failing to promptly notify the insured of any additional information necessary for the processing of a claim.

F.S. §626.9541(1)(i)3h - Failing to clearly explain the nature of the requested information and the reasons why such information is necessary.

690-220.201(4) - The work of adjusting insurance claims engages the public trust. An adjuster must put the duty for fair and honest treatment of the claimant above the adjuster's own interest, in every instance.

690-220.201(4)(a) - An adjuster shall disclose all financial interest in any direct or indirect aspect of an adjusting transaction.

690-220.201(4)(b) - An adjuster shall treat all claimants equally. An adjuster shall not provide favored treatment to any claimant. An adjuster shall adjust all claims strictly in accordance with the insurance contract.

690-220.201(4)(c) - An adjuster shall never approach investigations, adjustments, and settlements in a manner prejudicial to the insured.

690-220.201(4)(d) - An adjuster shall make truthful and unbiased reports of the facts after making a complete investigation.

690-220.201(4)(e) - An adjuster shall handle every adjustment and settlement with honesty and integrity and allow a fair adjustment or settlement to all parties without any remuneration to himself except that to which he is legally entitled.

690-220.201(4)(f) - An adjuster, upon undertaking the handling of a claim, shall act with dispatch and due diligence in achieving a proper disposition thereof.

690-220.201(4)(g) - An adjuster shall promptly report to the Office any conduct by any licensed insurance representative of this state, which conduct violates any insurance law or Office rule or order.

690-220.201(4)(h) - An adjuster shall exercise extraordinary care when dealing with elderly clients, to assure that they are not disadvantaged in their claims transactions by failing memory or impaired cognitive processes.

690-220.201(4)(i) - An adjuster shall not negotiate or effect settlement directly or indirectly with any third party claimant represented by an attorney, if said adjuster has knowledge of such representation, except with the consent of the attorney. For purposes of this subsection, the term "third party claimant" does not include the insured or the insured's resident relatives.

690-220.201(4)(j) - An adjuster is permitted to interview any witness, or prospective witness, without the consent of opposing counsel or

party. In doing so, however, the adjuster shall scrupulously avoid any suggestion calculated to induce a witness to suppress or deviate from the truth, or in any degree affect their appearance or testimony at the trial or on the witness stand. If any witness making or giving a signed or recorded statement so requests, the witness shall be given a copy thereof.

69O-220.201(4)(k) - An adjuster shall not advise a claimant to refrain from seeking legal advice, nor advise against the retention of counsel to protect the claimant's interest.

69O-220.201(4)(l) - An adjuster shall not attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or would reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental or emotional trauma associated with a loss. Further, the adjuster shall not conclude a settlement when such settlement would be disadvantageous or to the detriment of a claimant who is in the traumatic or distressed state described above.

69O-220.201(4)(m) - An adjuster shall not knowingly fail to advise a claimant of their claim rights in accordance with the terms and conditions of the contract and of the applicable laws of this state. An adjuster shall exercise care not to engage in the unlicensed practice of law as prescribed by the Florida Bar.

69O-220.201(4)(n) - A company or independent adjuster shall not draft, unless approved in writing in advance by the insurer and such written communication can be demonstrated to the Office, special releases called for by the unusual circumstances of any settlement or otherwise draft any form of release. Except as provided above, a company or independent adjuster is only permitted to fill in the blanks of a release form approved by the insurer they represent.

F.S. §626.878 - An adjuster shall subscribe to the code of ethics specified in the rules of the Department (formerly the Department of Insurance).

F.S. §626.877 - Every adjuster shall adjust or investigate every claim, damage, or loss made or occurring under an insurance contract, in

accordance with the terms and conditions of the contract and of the applicable laws of this state.

F.S. §627.7063 - Building code effectiveness grading schedule.

(1) As used in this section, the term "sinkhole loss prevention ordinance" means a county ordinance that amends the Florida Building Code and that is intended to reduce the number of sinkhole claims and the severity of sinkhole losses.

(2) The commission shall adopt a building code effectiveness grading schedule by rule. The grading schedule shall evaluate the effectiveness of each sinkhole loss prevention ordinance in reducing the number of sinkhole claims and severity of sinkhole losses. Each ordinance shall be evaluated 4 years after the ordinance takes effect. The grading schedule shall be based on the effectiveness of code enforcement in each county and scientific, modeling, and engineering methodologies. The rules shall further mandate insurance premium discounts or surcharges on personal residential property insurance based on a property's compliance with an ordinance and the grade assigned to the applicable sinkhole loss prevention ordinance.