



# PERSONAL

# INSURANCE PROTECTION

## SINKHOLE COVERAGE BASICS & RECENT LEGISLATION

Sinkholes have been a serious risk for Florida residents in areas such as Pasco County and Hernando County for decades. In recent years such losses have become a problem in other areas including South Florida. In fact, sinkhole losses are such a concern that the topic seems to trail only the state's exposure to monster hurricanes as one of the top property issues facing insurers, consumers and our legislature.

In 2007, and further in 2011, the Florida Legislature made changes to Florida law related to insurance and sinkholes that you need to know about. Prior to these changes losses increased dramatically; sinkhole losses in one county increased from \$2 million in 2005 to \$30 million in 2006.

### CURRENT COVERAGE OPTIONS

Florida homeowners have the option to purchase sinkhole insurance as an added option and pay the additional premium. Prior to the 2007 legislative changes, sinkhole coverage was automatically included at a minimal cost.

In place of sinkhole coverage, Florida policies now include a more restrictive coverage called "*catastrophic ground cover collapse*".

### CHANGES IN SINKHOLE LEGISLATION

The 2007 legislature changed the laws relating to sinkhole coverage for property policies of admitted insurers. Prior to the change, Florida required admitted insurers to issue property policies (commercial and personal) with the peril of sinkhole included

Since most standard property policies normally exclude coverage for damage caused by sinkhole, the coverage was added back by an endorsement. The insurer could charge a premium for the endorsement, but the policy could not be issued without sinkhole coverage.



The 2007 legislation added a new definition, "catastrophic ground cover collapse", and changed the options that insurers have in issuing property policies. As a result of this statute, insurers must now issue property policies that include coverage for catastrophic ground cover collapse at a minimum. There is no longer a requirement that property policies be issued with sinkhole coverage. If a policy is issued without sinkhole coverage, two things must happen:

1. The insurer must offer sinkhole coverage, and may charge an additional premium.
2. A large bold-font notice specified in the statute must appear on the policy.

Catastrophic ground cover collapse coverage is more limited than sinkhole coverage and a claim that would be covered under the sinkhole coverage may not be covered. For example, mere cracks in walls or foundation of a structure could be covered by sinkhole coverage, but not covered by catastrophic ground cover collapse.

### CITIZENS COVERAGE

Citizens Property Insurance, Florida's largest property insurer and the state's own insurer of last resort, paid \$247 million in residential sinkhole claims in 2007. Such claims have become so costly that the insurer is planning on inspecting homes for pre-existing damage before writing new policies, a change other insurers are expected to follow. Other changes include:

1. The peril of sinkhole will no longer automatically be included in Citizens homeowners and dwelling policies, it will be an added endorsement known as the *Sinkhole Loss Coverage Endorsement*.
2. Since October 2007, renewal policies in Hernando & Pasco Counties do not have the sinkhole endorsement included.
3. Renewal policies for **all other counties** on and after October 2007 automatically include the sinkhole endorsement, but policyholders may request it be removed.
4. **Citizens is planning to increase rates for sinkhole coverage by an average of 430% statewide** and much more in counties where claims have exploded. Orange County has a proposed rate increase of 2,226% and Jackson County located in Florida's panhandle is looking at a **6,461% increase**.
5. New policyholders can choose whether or not to purchase the *Sinkhole Loss Coverage Endorsement* at the time of application.

### "SINKHOLE" SUMMARY

- The sinkhole and catastrophic ground cover collapse coverage issue deals with property policies of admitted insurers.
- Insurers may issue a property policy without the peril of sinkhole coverage.
- Policies without the peril of sinkhole included must have the statutorily-prescribed 14-point notice.
- Insurers must issue policies with the peril of *catastrophic ground collapse* included and must offer *sinkhole* coverage if requested by the policyholder.
- Catastrophic ground cover collapse coverage is more limited than sinkhole coverage.



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### FLORIDA STATUTE 627.706

#### **627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.**

(1) Every insurer authorized to transact property insurance in this state shall provide coverage for a catastrophic ground cover collapse and shall make available, for an appropriate additional premium, coverage for sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the coverage attaches. A policy for residential property insurance may include a deductible amount applicable to sinkhole losses equal to 1%, 2%, 5% or 10 % of the policy dwelling limits, with appropriate premium discounts offered with each deductible amount.

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for a catastrophic ground cover collapse or for sinkhole losses:

(a) **Catastrophic ground cover collapse** means geological activity that results in all the following:

1. The abrupt collapse of the ground cover;
2. A depression in the ground cover clearly visible to the naked eye;
3. Structural damage to the building, including the foundation; and
4. The insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure. Contents coverage applies if there is a loss resulting from a catastrophic ground cover collapse. Structural damage consisting merely of the settling or cracking of a foundation, structure, or building does not constitute a loss



resulting from a catastrophic ground cover collapse.

(b) Sinkhole means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

(c) "Sinkhole loss" means structural damage to the building, including the foundation, caused by sinkhole activity. Contents coverage shall apply only if there is structural damage to the building caused by sinkhole activity.

(d) Sinkhole activity means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

(3) On or before June 1, 2007, every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for catastrophic ground cover collapse or for sinkhole loss-

es. Coverage for catastrophic ground cover collapse may not go into effect until the effective date provided for in the filing approved by the office.

(4) Insurers offering policies that exclude coverage for sinkhole losses shall inform policyholders in bold type of not less than 14 points as follows:

**YOUR POLICY PROVIDES COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE, YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN ADDITIONAL PREMIUM."**

Thanks to our friend, David Thompson, CPCU at the Florida Association of Insurance Agents for his contribution to this article.

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