

FIRST REGULAR SESSION

# SENATE BILL NO. 445

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1398S.01I

## AN ACT

To amend chapter 379, RSMo, by adding thereto one new section relating to sinkhole insurance coverage for property damage caused by sinkhole activity.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 379, RSMo, is amended by adding thereto one new  
2 section, to be known as section 379.1600, to read as follows:

**379.1600. 1. On or after January 1, 2014, every insurer  
2 authorized by the director to write homeowners' insurance or  
3 dwelling-owners' insurance upon property within this state shall make  
4 available, for an appropriate additional premium, coverage for sinkhole  
5 losses on any structure, including contents of personal property  
6 contained therein, to the extent provided in the policy to which the  
7 sinkhole coverage attaches. Such sinkhole insurance coverage may be  
8 offered as part of the underlying insurance policy or as an endorsement  
9 or rider.**

10 **2. Insurers offering policies that exclude coverage for sinkhole  
11 losses shall inform policyholders in bold type of not less than fourteen  
12 points as follows: "YOUR POLICY DOES NOT PROVIDE COVERAGE  
13 FOR SINKHOLE LOSSES. YOU MAY PURCHASE ADDITIONAL  
14 COVERAGE FOR SINKHOLE LOSSES FOR AN ADDITIONAL  
15 PREMIUM."**

16 **3. As used in this section, unless otherwise clearly indicated by  
17 the context, the following words mean:**

18 **(1) "Dwelling-owners' insurance", shall have the same meaning  
19 assigned to it in section 374.400;**

20 **(2) "Homeowners' insurance", shall have the same meaning  
21 assigned to it in section 374.400;**

22           (3) "Insurer", any insurance company, reciprocal or  
23 inter-insurance exchange, licensed and authorized by the director to  
24 write homeowners' insurance or dwelling-owners' insurance upon  
25 property located within this state;

26           (4) "Sinkhole", a landform created by subsidence of soil,  
27 sediment, or rock as underlying strata are dissolved by groundwater. A  
28 sinkhole may form by collapse into subterranean voids created by  
29 dissolution of limestone or dolostone or by subsidence as these strata  
30 are dissolved;

31           (5) "Sinkhole activity", settlement or systematic weakening of the  
32 earth supporting such property only when such settlement or  
33 systematic weakening results from movement or raveling of soils,  
34 sediments, or rock materials into subterranean voids created by the  
35 effect of water on a limestone or similar rock formation;

36           (6) "Sinkhole loss", actual physical damage to a building or  
37 property within, arising out of, or caused by sudden settlement or  
38 collapse of the earth supporting the building, and only when the  
39 sudden settlement or collapse results directly from subterranean voids  
40 created by the action of water on limestone or similar rock  
41 formation. Contents coverage shall apply only if there is structural  
42 damage to the building caused by sinkhole activity.

43           4. Upon receipt of a claim for a sinkhole loss, an insurer shall  
44 meet the following minimum standards in investigating a claim:

45           (1) The insurer shall make an inspection of the insured's  
46 premises to determine if there has been physical damage to the  
47 structure that might be the result of sinkhole activity;

48           (2) If, upon the investigation pursuant to subdivision (1) of this  
49 subsection, the insurer confirms that physical damage to the structure  
50 exists but the insurer is unable to identify a valid cause of such damage  
51 or discovers that such damage to the structure is consistent with  
52 sinkhole activity, or if the structure is located in close proximity to a  
53 structure in which sinkhole damage has been verified, then prior to  
54 denying a claim, the insurer shall obtain a written certification from  
55 a professional engineer, a professional geologist, or other qualified  
56 individual approved by the director stating that the cause of the claim  
57 is not sinkhole activity, and that the analysis conducted was of  
58 sufficient scope to eliminate sinkhole activity as the cause of damage

59 within a reasonable professional probability; and

60       (3) If the insurer obtains, pursuant to subdivision (2) of this  
61 subsection, written certification that the cause of the claim was not  
62 sinkhole activity, and if the insured has submitted the sinkhole claim  
63 without good faith grounds for submitting the claim, the policyholder  
64 shall reimburse the insurer for fifty percent of the actual costs of the  
65 analysis provided under subdivision (2) of this subsection or two  
66 thousand five hundred dollars, whichever is less. An insured is  
67 required to pay reimbursement under this subdivision only if the  
68 insurer, prior to ordering the analysis pursuant to subdivision (2) of  
69 this subsection, informs the insured of the insured's potential liability  
70 for reimbursement and gives the insured the opportunity to withdraw  
71 the claim.

72       5. The director may promulgate rules and regulations for the  
73 purposes of administering and enforcing the provisions of this  
74 section. Any rule or portion of a rule, as that term is defined in section  
75 536.010 that is created under the authority delegated in this section  
76 shall become effective only if it complies with and is subject to all of  
77 the provisions of chapter 536, and, if applicable, section 536.028. This  
78 section and chapter 536 are nonseverable and if any of the powers  
79 vested with the general assembly pursuant to chapter 536, to review, to  
80 delay the effective date, or to disapprove and annul a rule are  
81 subsequently held unconstitutional, then the grant of rulemaking  
82 authority and any rule proposed or adopted after August 28, 2013, shall  
83 be invalid and void.

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