

CHAPTER NO. 805

HOUSE BILL NO. 2447

By Representatives McDonald, McMillan, Ferguson, Bone, West, Hackworth

Substituted for: Senate Bill No. 3002

By Senators Herron, Black

AN ACT to amend Tennessee Code Annotated, Title 56, relative to property insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following language as an appropriately numbered new section:

Section 56-7-1__.

(a) Every insurer offering homeowner property insurance in this state shall make available coverage for insurable sinkhole losses on any dwelling, including contents of personal property contained therein, to the extent provided in the policy to which the sinkhole coverage attaches.

(b) Every insurer authorized to transact property insurance in this state shall make a proper filing with the department of commerce and insurance for the purpose of extending the appropriate policy of homeowner property insurance to include coverage for sinkhole losses. The insurer may make coverage available in the policy itself, by endorsement, or through other coverage that the insurer may arrange, and the insurer may make an additional charge for such coverage.

(c) As used in this section, unless the context otherwise indicates:

(1) "Engineer" means a person meeting the qualifications of title 62, chapter 2, part 4, who has a bachelor's degree or higher in engineering with a specialty in the geotechnical engineering field, and possesses geotechnical experience and expertise in the identification of sinkhole activity as well as other potential causes of damage to structures;

(2) "Professional geologist" means a person meeting the qualifications of title 62, chapter 36, part 1, who has a bachelor's degree or higher in geology or related earth science with expertise in the geology of Tennessee, and possesses geological experience and expertise in the identification of sinkhole activity as well as other potential geologic causes of damage to structures;

(3) "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater which may form by collapse into subterranean voids created by

dissolution of limestone or dolostone or by subsidence as these strata are dissolved;

(4) "Sinkhole activity" means settlement or systematic weakening of the earth supporting 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; and

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

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

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

(2) If, upon the investigation pursuant to subdivision (d)(1), the insurer discovers damages 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 engineer, a professional geologist, or other qualified individual 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; and

(3) If the insurer obtains, pursuant to subdivision (d)(2), 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 fifty percent (50%) of the cost of the analysis under subdivision (d)(2); provided, however, a policyholder is not required to reimburse an insurer more than two thousand five hundred dollars (\$2,500) with respect to any claim. A policyholder is required to pay reimbursement under this subdivision only if the insurer, prior to ordering the analysis pursuant to subdivision (d)(2), informs the policyholder of the policyholder's potential liability for reimbursement and gives the policyholder the opportunity to withdraw the claim.

(e) No insurer shall fail to 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; provided that the insured has

repaired the structure in accordance with the engineering recommendations upon which any payment or policy proceeds were based.

(f) The commissioner may promulgate rules and regulations for the purpose of administering and enforcing this section.

SECTION 2. This act shall take effect for policies issued or renewed on or after January 7, 2007, the public welfare requiring it.

PASSED: May 17, 2006


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 2nd day of June 2006


PHIL BREDESEEN, GOVERNOR