

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **SINKHOLE LOSS COVERAGE – FLORIDA**

**FOR USE WITH FORM HO 00 06**

### **Definitions**

The following definitions are added:

**"Sinkhole"** means a landform created by subsidence of soil, sediment or rock as underlying strata are dissolved by groundwater. A "sinkhole" forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

**"Sinkhole activity"** means settlement or systematic weakening of the earth supporting the "covered building" only if the settlement or systematic weakening results from contemporaneous movement or raveling of soils, sediments, or rock material into subterranean voids created by the effect of water on a limestone or similar rock formation.

**"Sinkhole loss"** means "structural damage" to the "covered building" insured under **Section I**, including the foundation, caused by "sinkhole activity".

**"Structural damage"** means a "covered building", regardless of the date of its construction, has experienced the following:

- a. Interior floor displacement or deflection in excess of acceptable variances as defined in ACI 117-90 or the Florida Building Code, which results in settlement related damage to the interior such that the interior building structure or members become unfit for service or represents a safety hazard as defined within the Florida Building Code;
- b. Foundation displacement or deflection in excess of acceptable variances as defined in ACI 318-95 or the Florida Building Code, which results in settlement related damage to the "primary structural members" or "primary structural systems" that prevents those members or systems from supporting the loads and forces they were designed to support to the extent that stresses in those "primary structural members" or "primary structural systems" exceeds one and one-third the nominal strength allowed under the Florida Building Code for new buildings of similar structure, purpose, or location;

c. Damage that results in listing, leaning, or buckling of the exterior load bearing walls or other vertical "primary structural members" to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base as defined within the Florida Building Code;

d. Damage that results in the building, or any portion of the building containing "primary structural members" or "primary structural systems", being significantly likely to imminently collapse because of movement or instability of the ground within the influence zone of the supporting ground within the shear plane necessary for the purpose of supporting such building as defined within the Florida Building Code; or

e. Damage occurring on or after October 15, 2005, that qualifies as "substantial structural damage" as defined in the Florida Building Code.

**"Primary structural member"** means a structural element designed to provide support and stability for the vertical or lateral loads of the overall structure.

**"Primary structural system"** means an assemblage of "primary structural members".

**"Neutral evaluation"** means Florida's alternative procedure for resolution of disputed "sinkhole loss" claims.

**"Neutral evaluator"** means an engineer licensed under Chapter 471, Florida Statutes, who has experience and expertise in the identification of sinkhole activity as well as other potential causes of "structural damage" or a "professional geologist". The licensed engineer or "professional geologist" must have completed a course of study in alternative dispute resolution designed or approved by the Florida Department of Financial Services (hereinafter referred to as the "Department") for use in the "neutral evaluation" process, must be determined by the Department to be fair and impartial, and may not otherwise be eligible for certification under 627.7074, Florida Statutes.

“Professional engineer” means a person as defined in Section 471.005, Florida Statutes, who has a bachelor’s degree or higher in engineering. A “professional engineer” must also have experience and expertise in the identification of “sinkhole activity” or other potential causes of “structural damage”.

“Professional geologist” means a person as defined in Section 492.102, Florida Statutes, who as a bachelor’s degree or higher in geology or related earth science and experience and expertise in the identification of “sinkhole activity” as well as other potential geologic causes of “structural damage”.

“Covered building” means the “principal building” on the “insured location”.

“Principal building” means the primary residential structure at the insured location that is listed on the Declarations and covered under Coverage A, Dwelling. This definition does not extend to any structures that are attached to the livable square footage of the condominium unit, including, but not limited to driveways, sidewalks, pavers, curbing, edging, patios, porches, decks, swimming pools and their decking, screened enclosures of any type of construction, greenhouses, barns, storage buildings, sheds, gazebos, pergolas, irrigation systems whether above or below the ground, fences, flagpoles, satellite receivers and antennas, etc., unless the structure is under the same roofline or foundation line and depth as the “principal building”. Water wells, water storage tanks, pumping equipment, plumbing from water well to the “principal building”, water conditioning and/or filtration systems, any other types of well or water storage tanks, are not covered unless the systems are required for legal habitation of the “principal building” and there is “structural damage” to the “principal building”.

**SECTION I - PERILS INSURED AGAINST:**

The following is added to SECTION I - PERILS INSURED AGAINST:

**Sinkhole Loss**

We insure for direct physical loss to the “covered building” under **Section I** caused by a “sinkhole loss”. This includes costs incurred to:

- a. Stabilize the portion of the land and building; and
- b. Repair the foundation;

which is your insurance responsibility under a corporation or association of property owners’ agreement in accordance with the recommendations of the professional engineer who verifies the presence of a “sinkhole loss” in

compliance with Florida “sinkhole” testing standards and in consultation with you.

Personal Property Coverage and Additional Living Expenses apply only if there is “structural damage” to that part of the building which contains the “residence premises”, caused by “sinkhole activity”.

Coverage is restricted to the “covered building”. Coverage is secondary to all commercial insurance written on the property.

The SECTION I Earth Movement and Settlement exclusion 2. does not apply to a “sinkhole loss”.

**Deductible**

A deductible applies to covered property, when loss is caused by the peril of “sinkhole loss”.

Subject to the policy limits that apply, we will pay only that part of the total of all “sinkhole loss” that exceeds the deductible.

This deductible will apply separately to each “sinkhole loss”.

The “All Other Perils” deductible will apply to the Sinkhole Loss Coverage Endorsement. No other deductible applies to “sinkhole loss”.

**SECTION I - CONDITIONS**

**3. Loss Settlement**

Loss Settlement paragraph 3.b. (2). is replaced by the following:

(2) In the event of “sinkhole loss”,:

- a. We will pay for “sinkhole loss”, subject to (c) through (m) below, up to the applicable Section I – Property Coverage Limit of Liability shown in your Declarations. Any claim, including, but not limited to, initial claim, “supplemental claim”, and “reopened claim” under an insurance policy that provides sinkhole coverage is barred unless notice of the claim was given to us in accordance with the terms and conditions of the policy within two (2) years after you knew or reasonably should have known about the “sinkhole loss”.
- b. The applicable Section I Limit of Liability, subject to (c) through (m) below, is the most we will pay until all repairs, including building and land stabilization are completed in accordance with the recommendations of the professional engineer hired by us who verifies the presence of a “sinkhole loss” in compliance with Florida sinkhole testing standards.

- c. We will pay no more than the actual cash value of the damaged property; which does not include underpinning or grouting or any other repair technique performed below the existing foundation of the building, until you enter into a contract for the performance of building stabilization or foundations repairs.
- d. You must enter into a contract for the performance of building stabilization and foundation repairs within 90 days after the date we confirm coverage for the “sinkhole loss” and notify you of such confirmation. This time period is tolled if you or we invoke the neutral evaluation process, and begins again 10 days after the conclusion of the neutral evaluation process.
- e. Once you enter into such contract, we will pay the amounts necessary to begin and perform such repairs as the work is performed and as the expenses are incurred.
- f. We may at our option, and with written approval of any lienholder, make payment directly to the persons selected by you to perform the land and building stabilization and foundation repairs. Our decision to make payment to such persons does not hold us liable for the work performed.
- g. If repair has begun and the professional engineer selected or approved by us determines that the repairs will exceed the applicable Limit of Insurance, we must either:
  - (1) Pay to complete the professional engineer’s recommended repairs; or
  - (2) Tender the policy limits to you without a reduction for the repair expenses incurred.
- h. The stabilization and all other repairs to the “covered building” on the “residence premises” under Coverage **A**, as defined under the Definitions of the homeowners policy, that you reside in as your residence, must be completed within 12 months after entering into the contract for repairs unless:
  - (1) There is a mutual agreement between us and you;
  - (2) The claim is involved with the neutral evaluation process;
  - (3) The claim is in litigation; or
  - (4) The claim is under mediation.
- i. If coverage for “sinkhole loss” is available and we denied your claim without performing testing under Florida Statute 627.7072, you may demand testing in writing within 60 days after you receive our denial of the claim. You must pay 50 percent of the actual costs of the analyses and services provided or \$2,500, whichever is less. If the engineer or geologist we have chosen to do the testing provides written certification that there is “sinkhole loss”, we will reimburse you for the cost of the testing.
- j. If you have submitted a “sinkhole” claim without good faith grounds, you are required, after we obtain written certification that there is no “sinkhole activity”, to reimburse us for 50% of the actual costs, up to \$2500, of the analysis and services provided by a professional engineer or professional geologist to conduct testing to determine the cause of loss; pursuant to Florida Statutes 627.7072 and 627.7073. You are required to pay this reimbursement only if you requested the analysis and services provided and we inform you, in writing, of your potential liability for reimbursement and give you the opportunity to withdraw the claim.
- k. You may not accept a rebate from any person performing the repairs. If you do receive a rebate, coverage is void and you must refund the amount of the rebate to us.
- l. The respective findings, opinions, and recommendations of the professional engineer or professional geologist hired by us as to the cause of distress to the property and the findings, opinions, and recommendations of the professional engineer hired by us as to land and building stabilization and foundation repair set forth by Florida Statute 627.7072 shall be presumed correct.
- m. As a precondition to accepting payment for a “sinkhole loss”, you must file with the county clerk of court, a copy of any sinkhole report, prepared at your request or on your behalf, regarding the insured property. You shall bear the cost of filing and recording the sinkhole report.

**6. Mediation**

Condition **6. Mediation** is deleted and replaced with the following:

**6. Neutral Evaluation Program**

With respect to a claim for alleged “Sinkhole loss”, the “neutral evaluation” program is available as follows:

- a. If there is coverage available under the policy and the claim was submitted within the two (2) year timeframe provided in 627.706(5), Florida Statutes and following receipt by us of a report from a “professional engineer” or “professional geologist” on the cause of loss and recommendations for stabilizing the land and building and for making repairs to the foundation or if we deny your claim, we will notify you of your right to participate in a “neutral evaluation” program administered by the Florida Department of Financial Services (hereinafter referred to as the Department).
- b. For alleged “Sinkhole loss” to property, this program applies instead of the Mediation Or Appraisal condition set forth elsewhere in this policy.
- c. You or we may file a request with the Department for “neutral evaluation”; the other party must comply with such request.
- d. We shall pay reasonable costs associated with the neutral evaluation regardless of which party makes the request. However, if you choose to hire a court reporter or stenographer to contemporaneously record and document the neutral evaluation, we will not pay for such costs.
- e. The neutral evaluator will be selected from a list maintained by the Department. The recommendation of the neutral evaluator will not be binding on you or us.
- f. Participation in the neutral evaluation program does not change your right to file suit against us in accordance with the Suit Against Us Condition **8**. In this policy.

**8. Suit Against Us** is deleted and replaced with the following:

**8. Suit Against Us**

No action can be brought against us; unless:

- a. There has been full compliance with all of the terms under Section I of this policy; and
- b. The claim giving rise to the action has been made within two years from the date you knew or reasonably should have known of the “sinkhole loss”; and
- c. The action is filed within 5 years from the date of the loss;

Except that the time for filing suit is extended for a period of 60 days following the conclusion of the neutral evaluation process or 5 years from the date of loss, whichever is later.

All other provisions of this policy apply.