

First DCA Opinion on Sinkhole Loss Coverage May Impact Property Insurers in Florida

March 13, 2013

This opinion was issued today by the First District Court of Appeal (1st DCA). This opinion potentially impacts insurers authorized to transact property insurance in Florida in connection with existing and future sinkhole loss coverage endorsement filings. A link to the case is below.

Florida Farm Bureau Casualty Insurance Company and Florida Farm Bureau General Insurance Company v. State of Florida, Office of Insurance Regulation. Florida Office of Insurance Regulation (FOIR) order disapproving insurer's sinkhole loss coverage endorsement that limited sinkhole loss coverage to 25% of the overall coverage amount for the insured dwelling was affirmed. The FOIR concluded that section 627.706(1), Fla. Stat., which provides that insurers must "make available ... coverage for sinkhole losses on any structure ... to the extent provided in the form to which the coverage attaches," means that insurers must offer sinkhole loss coverage in an amount equal to the dwelling coverage limit, not at some lesser amount. The 1st DCA held that the FOIR's interpretation is not clearly erroneous, and therefore is entitled to deference. The Court noted that, when read as a whole, section 627.706(1) ties deductibles to coverage limits in the base policy, and therefore it is reasonable to interpret the statute as intending that the amount of sinkhole loss coverage be the same as the amount of coverage provided for in the base policy.

The opinion is not final until the time to file a motion for rehearing expires, which is 15 days from the date the opinion is issued, unless a motion for rehearing is filed and denied or decided.

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