
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 148 Session of
2003

INTRODUCED BY SOLOBAY, ALLEN, BELARDI, BELFANTI, BLAUM,
CAPPELLI, DALEY, DeWEESE, FRANKEL, GEORGE, HARHAI, HERMAN,
JAMES, KOTIK, LAUGHLIN, LEVDANSKY, MARKOSEK, READSHAW,
SHANER, STERN, SURRA, TIGUE, WANSACZ, YEWIC, YUDICHAK,
BROWNE, COSTA, DeLUCA, FAIRCHILD, GEIST, GRUCELA, HENNESSEY,
HORSEY, KELLER, LaGROTTA, LEACH, MANN, PRESTON, SAINATO,
STABACK, R. STEVENSON, TANGRETTI, WALKO, WOJNAROSKI,
YOUNGBLOOD, PISTELLA, HARPER, GERGELY, REICHLEY AND PALLONE,
FEBRUARY 6, 2003

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE,
AS AMENDED, NOVEMBER 9, 2004

AN ACT

1 Amending the act of August 23, 1961 (P.L.1068, No.484),
2 entitled, as amended, "An act to provide for the creation and
3 administration of a Coal and Clay Mine Subsidence Insurance
4 Fund within the Department of Environmental Protection for
5 the insurance of compensation for damages to subscribers
6 thereto; declaring false oaths by the subscribers to be
7 misdemeanors; providing penalties for the violation thereof;
8 and making an appropriation," ~~further providing for~~ <—
9 ~~definitions;~~ PROVIDING FOR COVERAGE FOR WATER SUPPLY <—
10 REPLACEMENT; establishing a mine subsidence assistance
11 program; and imposing duties on the Department of
12 Environmental Protection.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 2 of the act of August 23, 1961
16 (P.L.1068, No.484), entitled, as amended, "An act to provide for
17 the creation and administration of a Coal and Clay Mine
18 Subsidence Insurance Fund within the Department of Environmental

1 Protection for the insurance of compensation for damages to
2 subscribers thereto; declaring false oaths by the subscribers to
3 be misdemeanors; providing penalties for the violation thereof;
4 and making an appropriation," reenacted and amended November 27,
5 1972 (P.L.1243, No.278), is amended to read:

6 Section 2. ~~{Terms.--The Coal and Clay Mine Subsidence~~ <—
7 Insurance Board is hereinafter called the board, the Coal and
8 Clay Mine Subsidence Insurance Fund is hereinafter called the
9 fund, [and] the Department of Environmental Resources is <—
10 hereinafter called the department[.] ~~Definitions.--The following~~ <—
11 ~~words and phrases when used in this act shall have the meanings~~
12 ~~given to them in this section unless the context clearly~~
13 ~~indicates otherwise:~~

14 ~~"Abandoned underground mining area."--An area determined by~~
15 ~~the Department of Environmental Protection to be either above or~~
16 ~~in close proximity to abandoned underground mine workings and~~
17 ~~periodically published in the Pennsylvania Bulletin.~~

18 ~~"Board."--The Coal and Clay Mine Subsidence Insurance Board~~
19 ~~established in section 3.~~

20 ~~"Department."--The Department of Environmental Protection of~~
21 ~~the Commonwealth.~~

22 ~~"Dwelling."--A single family structure the primary purpose of~~
23 ~~which is residential.~~

24 ~~"Fund."--The Coal and Clay Mine Subsidence Insurance Fund~~
25 ~~established in section 4.~~

26 ~~"Mine subsidence."--The lateral or vertical movement of the~~
27 ~~earth resulting from past or present underground coal or clay~~
28 ~~mining operations.~~

29 ~~"Mine subsidence emergency."--A condition in which a dwelling~~
30 ~~sustains mine subsidence damage sufficient to render the~~

1 ~~structure unsafe for human occupancy as determined by the~~
2 ~~Department of Environmental Protection.~~

3 ~~"Mine subsidence insurance policy." An insurance agreement,~~
4 ~~as defined by department regulation, which is issued by the~~
5 ~~Department of Environmental Protection.~~

6 ~~"Owner of structure." A person, corporation, organization or~~
7 ~~association holding title to a structure within the anthracite~~
8 ~~or bituminous coal or clay mine regions as defined by the Coal~~
9 ~~and Clay Mine Subsidence Insurance Board.~~

10 ~~"Program." The Mine Subsidence Assistance Program~~
11 ~~established in section 19.1.~~

12 ~~"Secretary." The Secretary of Environmental Protection of~~
13 ~~the Commonwealth.~~

14 ~~"Structure." A complete building which contains a roof,~~
15 ~~walls and a foundation which firmly attaches the structure to~~
16 ~~the earth., AND A DOMESTIC OR RESIDENTIAL WATER SUPPLY IS~~ <—

17 ~~HEREINAFTER CALLED A WATER SUPPLY AND IS WATER RECEIVED FROM A~~
18 ~~WELL OR SPRING AND ANY APPURTENANT DELIVERY SYSTEM THAT PROVIDES~~
19 ~~WATER FOR DIRECT HUMAN CONSUMPTION OR HOUSEHOLD USE AND DOES NOT~~
20 ~~INCLUDE WELLS AND SPRINGS THAT SERVE ONLY AGRICULTURAL,~~
21 ~~COMMERCIAL OR INDUSTRIAL ENTERPRISES, EXCEPT TO THE EXTENT THE~~
22 ~~WATER SUPPLY IS FOR DIRECT HUMAN CONSUMPTION OR HUMAN~~
23 ~~SANITATION, OR DOMESTIC USE.~~

24 Section 2. The act is amended by adding a ~~section~~ SECTIONS <—
25 to read:

26 ~~SECTION 12.4. WATER SUPPLY REPLACEMENT COVERAGE.--THE BOARD~~ <—
27 ~~SHALL, AT ITS DISCRETION, MAKE AVAILABLE TO ALL SUBSCRIBERS AND~~
28 ~~APPLICANTS COVERAGE FOR DAMAGE CAUSED BY UNDERGROUND COAL OR~~
29 ~~CLAY MINE SUBSIDENCE TO A DOMESTIC OR RESIDENTIAL WATER SUPPLY.~~
30 ~~THE TOTAL AMOUNT OF COVERAGE PROVIDED BY AN MSI POLICY,~~

1 INCLUDING ITS RIDERS, CANNOT EXCEED THE REPLACEMENT COST OF THE
2 STRUCTURE OR POLICY LIMIT, WHICHEVER IS LESS. THE APPLICANT FOR
3 A RIDER MUST IDENTIFY THE CURRENT AND REASONABLY FORESEEABLE
4 USES OF THE WATER SUPPLY INCLUDING THE NUMBER OF PERSONS USING
5 THE WATER SUPPLY. THE DEPARTMENT WILL DETERMINE THE QUANTITY AND
6 QUALITY OF THE WATER SUPPLY TO BE COVERED. A FEE, AS DETERMINED
7 BY THE BOARD, WILL BE CHARGED WITH THE INITIAL PREMIUM FOR THAT
8 WORK. THE RIDER WILL TAKE EFFECT UPON THE RECEIPT OF THE FEE AND
9 THE RIDER'S PREMIUM, IN FULL, ONCE THE STRUCTURE IS COVERED BY
10 MINE SUBSIDENCE INSURANCE. ALL THE OTHER PROVISIONS OF THIS ACT
11 ARE APPLICABLE TO THIS SECTION AND TO THE RIDER. THE LOSS
12 COVERED BY THIS RIDER IS THE COST TO THE INSURED TO REPLACE OR
13 RESTORE, WHICHEVER IS LESS, THE DOMESTIC OR RESIDENTIAL WATER
14 SUPPLY IN THE QUANTITY AND QUALITY COVERED BY THE RIDER AS
15 PREVIOUSLY DETERMINED BY THE DEPARTMENT WHEN THE POLICY RIDER
16 WAS ISSUED. THIS RIDER WILL COVER THE COST TO THE INSURED FOR
17 TAPPING INTO A PUBLIC WATER SUPPLY SYSTEM BUT NOT ANY ASSESSMENT
18 COSTS FOR EXTENDING OR CREATING A PUBLIC WATER SYSTEM. THE RIDER
19 WILL ALSO COVER THE COST TO PURCHASE AND INSTALL TREATMENT
20 FACILITIES, IF NEEDED, BUT NOT THE COST TO MAINTAIN OR OPERATE
21 SUCH FACILITIES; NOR WILL IT COVER THE FEES CHARGED BY AN ENTITY
22 TO PROVIDE THE PUBLIC WATER.

23 Section 19.1. Program.--(a) If a homeowner believes that
24 the homeowner's dwelling has sustained mine subsidence damage,
25 the homeowner may apply to the department for mine subsidence
26 assistance. The application must be on a form prepared by the
27 department and must provide for inspection of the dwelling to
28 determine the nature, extent and time of the damage. Upon a
29 determination that a dwelling has sustained mine subsidence
30 damage and that an application for assistance was submitted to

1 the department within forty-five days of the time when the
2 dwelling was damaged by such subsidence, the department shall,
3 to the extent funds are made available, grant assistance, as
4 follows:

5 (1) Grants may be awarded only to persons whose dwellings
6 are unsafe for occupancy AS DETERMINED BY THE DEPARTMENT as a ←
7 result of a mine subsidence emergency and may be awarded to move
8 and provide temporary housing for persons whose dwellings are
9 destroyed or endangered until the homes are repaired, until
10 there is no further danger of subsidence or until a new
11 permanent residence is found, provided that grants shall not be
12 used to pay for temporary housing for more than one year and the
13 total amount of a grant shall not exceed twelve thousand dollars
14 (\$12,000). A person may receive grant assistance only one time
15 for a specific damaged dwelling.

16 (2) Loans may be approved at an interest rate equal to the
17 average rate of return earned by the fund during the previous
18 five fiscal years or six percent, whichever is lower for the
19 repair or replacement of dwellings damaged by mine subsidence.
20 The loan shall be for a period of time not exceeding fifteen
21 years in duration and shall be in an amount sufficient to cover
22 the cost of repairing the structural damage to the dwelling, but
23 in no event shall be more than the ~~market~~ REPLACEMENT value of ←
24 the dwelling as determined by ~~an appraiser~~ THE DEPARTMENT, or ←
25 the maximum amount of coverage established by the fund,
26 whichever is less, as provided for in regulations promulgated
27 under this act. Loans shall be administered by the department
28 pursuant to standard criteria utilized by the mortgage banking
29 industry in issuing conventional mortgages, provided that the
30 department may consider other equity interests in real property

1 available to the borrower in addition to the equity in the
2 dwelling for which the loan is applied and shall be secured by a
3 lien upon the dwelling being repaired or replaced OR OTHER REAL ←
4 PROPERTY AS MAY BE USED TO SECURE THE LOAN.

5 (3) In addition to repairing or replacing structural damage
6 to a dwelling, loans may also be made to repair or replace
7 dwelling-related driveways, septic systems, sidewalks, fences,
8 sewer laterals, water lines, gas lines, wells and inground
9 pools, located on the property on which the dwelling is located,
10 provided that the damage has been caused by the same mine
11 subsidence event that damaged the dwelling.

12 (4) Loans shall be made for only the amount not covered by
13 insurance or other sources of remuneration, including amounts
14 for which a mine operator is liable under the act of April 27,
15 1966 (1st Sp. Sess., P.L.31, No.1), known as "The Bituminous
16 Mine Subsidence and Land Conservation Act," unless it is
17 determined that the operator is unable to meet his obligations
18 under that act.

19 (5) Any homeowner who has carried mine subsidence insurance
20 in the past on a dwelling for which assistance under this
21 section is applied shall not be eligible for such assistance if
22 the homeowner has failed to maintain the insurance and coverage
23 is not in effect at the time of the mine subsidence event that
24 caused the damage for which assistance is applied. This
25 paragraph does not apply to homeowners who may apply for
26 assistance as a result of the failure of a mine operator to meet
27 his obligations under "The Bituminous Mine Subsidence and Land
28 Conservation Act."

29 (b) If a person receiving assistance under this section does
30 not have mine subsidence insurance and is not ineligible to

1 receive such assistance under subsection (a)(5), the person
2 shall be required to purchase a mine subsidence insurance policy
3 when the structural damage for which assistance was granted has
4 been repaired. A person receiving a loan under this section must
5 maintain mine subsidence insurance coverage for the duration of
6 the loan in an amount equal to the lesser of eighty percent of
7 the value of the repaired dwelling or the maximum amount of mine
8 subsidence insurance available. If a person receiving a loan
9 under this section fails to maintain the required mine
10 subsidence insurance, the person shall immediately pay the fund
11 the outstanding balance due on the loan.

12 (c) Repairs for which loans are provided under this section
13 must be completed within one year of the receipt of the loan
14 unless an extension is approved by the department. If the
15 department determines that repairs have not been made within one
16 year and that no extension should be granted, the person who
17 received the loan shall repay the fund for the amount of the
18 loan not expended on repairs for which the loan was provided.

19 (d) Loans provided pursuant to this section are not
20 transferable. If a person receiving a loan under this section
21 sells or transfers ownership of the dwelling for which loan
22 assistance has been provided, the person shall pay the fund the
23 outstanding balance due on the loan at the time title to the
24 dwelling is transferred.

25 (e) Up to five percent of the money in the fund which is not
26 committed to ~~reserves~~ SURPLUS, claims or other fund expenses, ←
27 plus repayment of principal and interest on loans under this
28 section, shall be used to fund assistance under this section.

29 Section 3. Section 20 of the act, added December 9, 2002,
30 (P.L.1323, No.155), is amended to read:

1 Section 20. Department Report.--The department shall make an
2 annual report on the program [and on experience with mine
3 subsidence insurance sales through producers] to the
4 Environmental Resources and Energy Committee of the Senate and
5 the Environmental Resources and Energy Committee of the House of
6 Representatives.

7 Section 4. The addition of section 19.1 of the act shall
8 apply retroactively to mine subsidence damage:

9 (1) which was incurred after December 31, 1999, and
10 before the effective date of this section.

11 (2) for which mine subsidence assistance is applied, is
12 reported to the department prior to the effective date of
13 this section; and

14 (3) for which an application for assistance is filed
15 with the department within 90 days of the effective date of
16 this section.

17 Section 5. This act shall take effect in ~~90~~ 270 days.

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