
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 799 Session of
2005

INTRODUCED BY SOLOBAY, BELARDI, BELFANTI, BIANCUCCI,
CALTAGIRONE, CAPPELLI, CRAHALLA, DALEY, DeLUCA, DeWEESE,
FAIRCHILD, GEORGE, GRUCELA, HERMAN, JAMES, LEVDANSKY,
MARKOSEK, PISTELLA, READSHAW, SCAVELLO, STABACK, SURRA,
TIGUE, WHEATLEY, YOUNGBLOOD, GINGRICH, HENNESSEY, HESS,
KOTIK, MANN, PETRARCA, PRESTON, REICHLEY, SHANER,
R. STEVENSON, TANGRETTI, WALKO, WOJNAROSKI AND FRANKEL,
MARCH 14, 2005

REFERRED TO COMMITTEE ON INSURANCE, MARCH 14, 2005

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," providing for coverage for
9 water supply replacement; establishing a mine subsidence
10 assistance program; and imposing duties on the Department of
11 Environmental Protection.

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

14 Section 1. Section 2 of the act of August 23, 1961
15 (P.L.1068, No.484), entitled, as amended, "An act to provide for
16 the creation and administration of a Coal and Clay Mine
17 Subsidence Insurance Fund within the Department of Environmental
18 Protection for the insurance of compensation for damages to
19 subscribers thereto; declaring false oaths by the subscribers to

1 be misdemeanors; providing penalties for the violation thereof;
2 and making an appropriation," reenacted and amended November 27,
3 1972 (P.L.1243, No.278), is amended to read:

4 Section 2. Terms.--The Coal and Clay Mine Subsidence
5 Insurance Board is hereinafter called the board, the Coal and
6 Clay Mine Subsidence Insurance Fund is hereinafter called the
7 fund, [and] the Department of Environmental Resources is
8 hereinafter called the department[.], and a domestic or
9 residential water supply is hereinafter called a water supply
10 and is water received from a well or spring and any appurtenant
11 delivery system that provides water for direct human consumption
12 or household use and does not include wells and springs that
13 serve only agricultural, commercial or industrial enterprises,
14 except to the extent the water supply is for direct human
15 consumption or human sanitation, or domestic use.

16 Section 2. The act is amended by adding sections to read:

17 Section 12.4. Water supply replacement coverage.--The board
18 shall, at its discretion, make available to all subscribers and
19 applicants coverage for damage caused by underground coal or
20 clay mine subsidence to a domestic or residential water supply.
21 The total amount of coverage provided by a mine subsidence
22 insurance policy, including its riders, cannot exceed the
23 replacement cost of the structure or policy limit, whichever is
24 less. The applicant for a rider must identify the current and
25 reasonably foreseeable uses of the water supply including the
26 number of persons using the water supply. The department will
27 determine the quantity and quality of the water supply to be
28 covered. A fee, as determined by the board, will be charged with
29 the initial premium for that work. The rider will take effect
30 upon the receipt of the fee and the rider's premium, in full,

1 once the structure is covered by mine subsidence insurance. All
2 the other provisions of this act are applicable to this section
3 and to the rider. The loss covered by this rider is the cost to
4 the insured to replace or restore, whichever is less, the
5 domestic or residential water supply in the quantity and quality
6 covered by the rider as previously determined by the department
7 when the policy rider was issued. This rider will cover the cost
8 to the insured for tapping into a public water supply system but
9 not any assessment costs for extending or creating a public
10 water system. The rider will also cover the cost to purchase and
11 install treatment facilities, if needed, but not the cost to
12 maintain or operate such facilities; nor will it cover the fees
13 charged by an entity to provide the public water.

14 Section 19.1. Program.--(a) If a homeowner believes that
15 the homeowner's dwelling has sustained mine subsidence damage,
16 the homeowner may apply to the department for mine subsidence
17 assistance. The application must be on a form prepared by the
18 department and must provide for inspection of the dwelling to
19 determine the nature, extent and time of the damage. Upon a
20 determination that a dwelling has sustained mine subsidence
21 damage and that an application for assistance was submitted to
22 the department within forty-five days of the time when the
23 dwelling was damaged by such subsidence, the department shall,
24 to the extent funds are made available, grant assistance, as
25 follows:

26 (1) Grants may be awarded only to persons whose dwellings
27 are unsafe for occupancy as determined by the department as a
28 result of a mine subsidence emergency and may be awarded to move
29 and provide temporary housing for persons whose dwellings are
30 destroyed or endangered until the homes are repaired, until

1 there is no further danger of subsidence or until a new
2 permanent residence is found, provided that grants shall not be
3 used to pay for temporary housing for more than one year and the
4 total amount of a grant shall not exceed twelve thousand dollars
5 (\$12,000). A person may receive grant assistance only one time
6 for a specific damaged dwelling.

7 (2) Loans may be approved at an interest rate equal to the
8 average rate of return earned by the fund during the previous
9 five fiscal years or six per centum, whichever is lower, for the
10 repair or replacement of dwellings damaged by mine subsidence.
11 The loan shall be for a period of time not exceeding fifteen
12 years in duration and shall be in an amount sufficient to cover
13 the cost of repairing the structural damage to the dwelling, but
14 in no event shall be more than the replacement value of the
15 dwelling as determined by the department, or the maximum amount
16 of coverage established by the fund, whichever is less, as
17 provided for in regulations promulgated under this act. Loans
18 shall be administered by the department pursuant to standard
19 criteria utilized by the mortgage banking industry in issuing
20 conventional mortgages, provided that the department may
21 consider other equity interests in real property available to
22 the borrower in addition to the equity in the dwelling for which
23 the loan is applied and shall be secured by a lien upon the
24 dwelling being repaired or replaced or other real property as
25 may be used to secure the loan.

26 (3) In addition to repairing or replacing structural damage
27 to a dwelling, loans may also be made to repair or replace
28 dwelling-related driveways, septic systems, sidewalks, fences,
29 sewer laterals, water lines, gas lines, wells and inground
30 pools, located on the property on which the dwelling is located,

1 provided that the damage has been caused by the same mine
2 subsidence event that damaged the dwelling.

3 (4) Loans shall be made for only the amount not covered by
4 insurance or other sources of remuneration, including amounts
5 for which a mine operator is liable under the act of April 27,
6 1966 (1st Sp. Sess., P.L.31, No.1), known as "The Bituminous
7 Mine Subsidence and Land Conservation Act," unless it is
8 determined that the operator is unable to meet his obligations
9 under that act.

10 (5) Any homeowner who has carried mine subsidence insurance
11 in the past on a dwelling for which assistance under this
12 section is applied shall not be eligible for such assistance if
13 the homeowner has failed to maintain the insurance and coverage
14 is not in effect at the time of the mine subsidence event that
15 caused the damage for which assistance is applied. This
16 paragraph does not apply to homeowners who may apply for
17 assistance as a result of the failure of a mine operator to meet
18 his obligations under "The Bituminous Mine Subsidence and Land
19 Conservation Act."

20 (b) If a person receiving assistance under this section does
21 not have mine subsidence insurance and is eligible to receive
22 such assistance under subsection (a)(5), the person shall be
23 required to purchase a mine subsidence insurance policy when the
24 structural damage for which assistance was granted has been
25 repaired. A person receiving a loan under this section must
26 maintain mine subsidence insurance coverage for the duration of
27 the loan in an amount equal to the lesser of eighty per centum
28 of the value of the repaired dwelling or the maximum amount of
29 mine subsidence insurance available. If a person receiving a
30 loan under this section fails to maintain the required mine

1 subsidence insurance, the person shall immediately pay the fund
2 the outstanding balance due on the loan.

3 (c) Repairs for which loans are provided under this section
4 must be completed within one year of the receipt of the loan
5 unless an extension is approved by the department. If the
6 department determines that repairs have not been made within one
7 year and that no extension should be granted, the person who
8 received the loan shall repay the fund for the amount of the
9 loan not expended on repairs for which the loan was provided.

10 (d) Loans provided pursuant to this section are not
11 transferable. If a person receiving a loan under this section
12 sells or transfers ownership of the dwelling for which loan
13 assistance has been provided, the person shall pay the fund the
14 outstanding balance due on the loan at the time title to the
15 dwelling is transferred.

16 (e) Up to five per centum of the money in the fund which is
17 not committed to surplus, claims or other fund expenses, plus
18 repayment of principal and interest on loans under this section,
19 shall be used to fund assistance under this section.

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

22 Section 20. Department Report.--The department shall make an
23 annual report on the program [and on experience with mine
24 subsidence insurance sales through producers] to the
25 Environmental Resources and Energy Committee of the Senate and
26 the Environmental Resources and Energy Committee of the House of
27 Representatives.

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

30 (1) which was incurred after December 31, 1999, and

1 before the effective date of this section;

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

5 (3) for which an application for assistance is filed
6 with the department within 90 days of the effective date of
7 this section.

8 Section 5. This act shall take effect in 270 days.