

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART III. COAL AND CLAY MINE SUBSIDENCE INSURANCE BOARD

CHAPTER 401. MINE SUBSIDENCE FUND

GENERAL PROVISIONS

§ 401.1. Definitions.

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Association - The unit owners' association organized under the Real Estate Condominium Act, 68 Pa.C.S. §3301 (relating to organization of unit owners' association) or the proprietary lessees' association organized under the Real Estate Cooperative Act, 68 Pa.C.S. §4301 (relating to organization of association).

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Commissions - Fees paid to insurance producers as compensation for the applications they submit to the Board.

Common Elements - All portions of a Condominium or Cooperative other than the units.

Condominium - Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners and the ownership of the real estate is in accordance with the requirements of the Real Estate Condominium Act, 68 Pa.C.S. §§ 3101 – 3414.

Cooperative – Real estate owned by an association whose members have exclusive possession of units through their ownership interests in the association. The association’s ownership of the real estate and its members’ interest in the association are required to be in accordance with provisions of the Real Estate Cooperative Act, 68 Pa.C.S. §§ 4101 – 5100.

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Insurance Producer - A person that sells, solicits or negotiates contracts of insurance.

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Mine subsidence - The movement of the ground's surface as a result of the [partial or complete cave-in or the] collapse of underground coal or clay mine workings.

Structure - A complete building, [**that**] **which** contains a roof, walls and a foundation [**which**] **that** firmly attaches the structure to the earth, **and its appurtenances as defined in the insurance policy.**

Units - Specific areas of a structure that are separate and distinct from other areas of the structure and have an individual entrance accessed either from a common entry or the structure's exterior. Units located within a structure owned as a condominium are portions of the condominium designated for separate ownership that have boundaries described in the condominium declaration. Units located within a structure owned as a cooperative are physical portions of the cooperative that are designated under a proprietary lease.

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§ 401.11. Eligibility for insurance.

(a) [To be eligible for a mine subsidence insurance policy, the insured shall be the owner of a structure within the anthracite or bituminous coal or clay mine regions, the territorial extent of which will be designated by the Board. The Board may add to, subtract from or change the territorial classifications.] **Structures located within the coal and clay regions of Pennsylvania are eligible for coverage.**

(b) Only [a title] **an** owner of a structure may be named as the [insured in an insurance policy and an insurance policy will not be issued to another person] **policyholder.**

(1) [If there are several owners of one structure they,] For structures with multiple owners, the owners shall designate one **owner** whose name shall appear on the insurance policy. The other [owners] **policyholders** shall be listed in the application for insurance.

(2) For structures owned as a condominium or a cooperative:

(i) The Association is the policyholder when the policy covers all common elements and units.

(ii) A unit owner shall be the policyholder when the policy only covers the unit and there is a separate policy covering the common elements.

(iii) A unit owner may purchase coverage for the unit and common elements when the Association will not purchase insurance, however, the Unit Association shall be the named policyholder with the unit owner being listed in the application. Renewals will be sent to the unit owner.

(c) [An individual, corporation or group of individuals holding title to more than one structure within the anthracite or bituminous coal or clay mine regions may insure these structures.] Structures which are at least 50% residential [and have at most four residential units] are eligible for residential rates. [Other structures shall be insured at commercial rates.]

(d) **[A double home shall be considered one structure if both sides of the home are owned by the same person.]**

(e) **The Board, or its agents, may refuse to issue an insurance policy for] If a structure [previously] is damaged by mine subsidence or by another cause, [if this] and the Board determines that the damage could not be separated or apportioned from subsequent damage, [until the previous damage has been repaired to the satisfaction of the Board, or its agents.] the Board will issue a policy if the applicant either:**

(1) First repairs the damages to the Board's satisfaction.

(2) Submits to the Board an estimate, prepared by a reputable expert, of the cost to repair the damages to the Board's satisfaction. The cost to repair, adjusted for inflation, would be excluded from any damage claim settlement. However, a policy would not be issued if the cost to repair exceeded the replacement cost of the structure or the policy limit, which ever is less, because the policy would have no value.

(e) The Board may refuse to issue a policy while the structure to be covered is being damaged by mine subsidence or by another cause, until the Board determines that the cause of damage has ceased.

(f) Multiple unit structures are insured as follows:

(1) Structures comprised of vertically stacked units are only insurable under a single policy.

(2) Other unit configurations are insurable under a single or multiple policy at the owner's discretion.

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§ 401.13. Coverage limits and premiums for insurance.

(a) The maximum amount of insurance [**for a single covered structure**], the term or duration of the policy, and the premium rate shall be determined by the Board.

(b) An insurance policy is effective upon the date a complete application **and its premium** is received by the Board or its agent [**provided the premium associated with that Application is received by the Board or its agent within the next 80 days**] and provided that the applicant and structure meet the eligibility requirements in the act and in § 401.11 (relating to eligibility for insurance).

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§ 401.22. Loss deductible amount.

Every insurance policy shall include a loss deductible amount for which the Fund is not liable. The amount will be determined by the Board and may be changed as experience

may warrant, and will be included in the schedule of premium rates adopted by the Board. [The Fund will be liable for only a specified percentage of a loss in excess of the deductible amount as will be adopted in the schedule of premium rates.] The loss deductible will be waived if the cost to repair the damage exceeds the amount of coverage under the policy.

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INSURANCE PRODUCERS

§ 401.41. Submission of applications.

Insurance producers may only submit applications for mine subsidence insurance to the Board electronically from the Board's web site.

§ 401.42. Commission rates.

The board will annually establish commission rates.

§ 401.43. Payment of commissions.

The insurance producer shall retain the commission from the premium collected.

The Board may authorize other forms of payment.

§ 401.44. Repayment of commissions.

Commissions in excess of five dollars (\$5.00) that are unearned due to the Board's rejection of an MSI application or the cancellation of a policy shall be repaid to the Board upon its demand. Failure by an insurance producer to promptly repay commissions as directed by the Board may result in their exclusion from participation with the Fund. The Board's decision to exclude an insurance producer from participating with the Fund is appealable to the Environmental Hearing Board pursuant to the Environmental Hearing Board Act, (35 P.S. §§ 75.11 – 75.16).

§ 401.45. Confidentiality of policyholder information.

Insurance producers are responsible to safeguard all applicant and policyholder information and are responsible for the misuse of information that is under their control. Failure by an insurance producer to safeguard applicant and policyholder information may result in their exclusion from participation with the Fund. The Board's decision to exclude an insurance producer from participating with the Fund is appealable to the Environmental Hearing Board pursuant to the Environmental Hearing Board Act, (35 P.S. §§ 75.11 – 75.16).

LOANS AND GRANTS

§ 401.51. Loans and grants.

Each year the Board may authorize up to 1% of the Fund's Unreserved Fund Balance, as declared by the Board under section 10(c) of the Act (52 P.S. §3210(c)), to be used to provide loans and grants to entities that develop technologies, perform services or engage in other activities that benefit the Fund by improving its ability to provide mine subsidence insurance coverage or to improve the efficiency, economy and effectiveness of the Fund's operations.