

EXECUTIVE SUMMARY
25 Pa. Code Chapter 401
Mine Subsidence Fund

The proposed amendments to 25 Pa. Code Chapter 401 will modify the regulations concerning the administration of the Coal and Clay Mine Subsidence Insurance (MSI) Fund (Fund). The Coal and Clay Mine Subsidence Insurance Board (Board) is authorized by Section 19 of the Act of August 23, 1961 (P.L. 1068, No. 484), as amended, (52 P.S. §§ 3201-3225) (Act) to promulgate regulations for the administration of the Fund. There are no companion federal regulations. The proposed amendments will:

- Codify the Board's practices concerning the submission of MSI policy applications by insurance producers.
- Revise some definitions in § 401.1 to ensure consistency with the MSI insuring agreement. In particular the definition for "structure" is amended to expressly include appurtenances. This clarification ensures consistency between the regulations and the Board's 2006 amendment to the MSI insuring agreement to cover subsidence damage to certain appurtenances.
- Codify how MSI policies are to be issued to cover structures containing multiple units and structures owned as a condominium or a cooperative. There has been significant confusion regarding the issuance of MSI policies covering multiple unit structures and structures owned as condominium or a cooperative.
- Revise the provisions concerning the loss deductible to be consistent with the Board's practice of waiving the loss deductible when the amount of damages to a structure exceeds the amount of coverage under the MSI policy.
- Codify the recently adopted policy permitting the issuance of MSI policies for previously damaged structures. This ensures consistent implementation of the Board's commitment to provide MSI policies as broadly as possible.
- Authorize the Board to make loans and grants that fund projects that foster the development of new technologies that will assist the Board in determining areas that are at risk from mine subsidence and to assist in the investigation of claims. Grants and loans, rather than service purchase contracts, are the appropriate mechanism for funding these projects.
- Simplify and expand the criteria for covering multiple purpose structures at the residential rate.
- Reduce the amount of time insurance producers (individuals and businesses licensed to sell insurance in Pennsylvania) must wait to receive reimbursement from the state through a proposed amendment which will allow insurance producers to retain a portion of their premiums to cover commissions in lieu of invoicing the Board. The existing process requires the Commonwealth to pay for the commissions through the State Treasury.

There are currently more than 57,000 structures insured, 100,000 policyholders, 1,500 insurance producers authorized to accept MSI applications for the Board and approximately one million structures at risk for subsidence damage. MSI applicants, policy holders and insurance producers will all benefit from the certainty of consistent treatment due to the codification of the

Board's practices and procedures. Certain structures previously covered under nonresidential rates will be eligible to be insured under lower cost residential rates. These are structures that are no more than 50% residential in use and that contain more than four units. The residential rate is approximately 1/3 of the nonresidential rate.

The insurance producers will benefit from improved cash flow because commissions will be paid by retaining a portion of the premium payment rather than invoicing the Board, eliminating the current 3 month delay in receiving payment. This new method of payment will also save the Fund, Controller's office and the Treasurer's office significant processing costs. In addition, learning institutions and other entities developing technologies and services potentially valuable to the Board will benefit from the availability of grants or loans to foster those developments.

The effectiveness of the proposed amendments will be measured by increases in the number of subscriptions, premium income, and to the underwritten value of coverage. Other measures of effectiveness will be the savings in time and expense to the operations of the Fund and increased customer satisfaction.

No advisory boards or committees are involved in the administration of the MSI Fund. However, the Department received public input on the proposed regulatory changes. The Department, for example, has historically received complaints from owners of structures partially used for residential purposes about the unnecessary restrictions the regulations impose against insuring such structures at the lower residential rates. In addition, the Department consulted insurance producers via a survey concerning the proposed changes in commission compensation procedures. Those responding to the survey overwhelmingly support the Department's amendments, which will enhance efficiencies.

A thirty-day (30) public comment period is recommended. Due to the extensive communications that have already taken place with the Fund's stakeholders, including policyholders and insurance producers, public meetings are not recommended. The Small Business Ombudsman's Office was contacted about the proposed rulemaking as many of the insurance producers are associated with small businesses.