

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1429 Session of  
1999

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HARHAI, SERAFINI, TRICH, LESCOVITZ AND PETRARCA, MAY 4, 1999

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 17, 2000

## AN ACT

1 Amending the act of August 23, 1961 (P.L.1068, No.484),  
2 entitled, as reenacted and amended, "An act to provide for  
3 the creation and administration of a Coal and Clay Mine  
4 Subsidence Insurance Fund within the Department of  
5 Environmental Resources for the insurance of compensation for  
6 damages to subscribers thereto; declaring false oaths by the  
7 subscribers to be misdemeanors; providing penalties for the  
8 violation thereof; and making an appropriation," further  
9 providing for purpose, for definitions, for disbursements,  
10 for inflation protection, for audits by the Insurance  
11 Department and for subrogation; establishing the Mine  
12 Subsidence Assistance Program; PROVIDING FOR SUBSIDENCE  
13 INSURANCE; and making editorial changes. <—

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

16 Section 1. The title and sections 1, 2, 3, 4, 5, 7 and 9 of  
17 the act of August 23, 1961 (P.L.1068, No.484), entitled, as  
18 reenacted and amended, "An act to provide for the creation and  
19 administration of a Coal and Clay Mine Subsidence Insurance Fund  
20 within the Department of Environmental Resources for the  
21 insurance of compensation for damages to subscribers thereto;

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

5 AN ACT

6 To provide for the creation and administration of a Coal and  
7 Clay Mine Subsidence Insurance Fund within the Department of  
8 Environmental [Resources] Protection for the insurance of  
9 compensation for damages to subscribers thereto; declaring  
10 false oaths by the subscribers to be misdemeanors; providing  
11 penalties for the violation thereof; and making an  
12 appropriation.

13 Section 1. Purposes.--Whereas, the anthracite and bituminous  
14 coal and clay mine areas have been faced with the grave problem  
15 of subsidence for many years, and

16 Whereas, these problems are becoming more widespread, and

17 Whereas, these conditions cause undue hardship upon a  
18 multitude of persons, and

19 [Whereas, studies reveal that the subsidence is traceable  
20 primarily to mining of thirty or more years ago and not  
21 necessarily to present day mining so that effective measures  
22 cannot readily be taken at this late date for the elimination of  
23 the problem, and]

24 Whereas, it would be to the advantage of residents of the  
25 anthracite and bituminous coal and clay mining regions to form a  
26 common bond to combat distress resulting from subsidence;

27 Now therefore, there shall be established a Coal and Clay  
28 Mine Subsidence Insurance Fund and a Coal and Clay Mine  
29 Subsidence Insurance Board with the powers and duties as herein  
30 set out.

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

"Board." The Coal and Clay Mine Subsidence Insurance Board established in section 3.

"Department." The Department of Environmental Protection of the Commonwealth.

"Dwelling." A structure the primary purpose of which is residential.

"Fund." The Coal and Clay Mine Subsidence Insurance Fund established in section 4.

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

"Mine subsidence emergency." A condition in which a dwelling sustains mine subsidence damage sufficient to render the structure unsafe for human occupancy.

"Mine subsidence insurance policy." An insurance certificate, an insuring agreement or an application for mine subsidence insurance. The term includes an endorsement to the certificate, agreement or application.

"Owner of structure." A person, corporation, organization or association holding title to a structure within the anthracite or bituminous coal or clay mine regions as defined by the board.

"Program." The Mine Subsidence Assistance Program

1 established in section 20.

2 "Secretary." The Secretary of Environmental Protection of  
3 the Commonwealth.

4 "Structure." A complete building which contains a roof,  
5 walls and a foundation which firmly attaches the structure to  
6 the earth.

7 Section 3. The Coal and Clay Mine Subsidence Insurance  
8 Board.--The Coal and Clay Mine Subsidence Insurance Board is  
9 hereby created consisting of the [Secretary of Environmental  
10 Resources] secretary, as chairman, and the Commissioner of  
11 Insurance and the State Treasurer.

12 Section 4. The Coal and Clay Mine Subsidence Insurance  
13 Fund.--The premiums to be paid by owners of structures, as  
14 hereinafter described, are hereby constituted a Coal and Clay  
15 Mine Subsidence Insurance Fund, [hereinafter called fund,] for  
16 the purpose of insuring from the moneys in the fund such owners  
17 against the damages resulting from subsidence, of coal or clay  
18 mines. Such fund shall be administered by a board without  
19 liability on the part of the State except as hereinafter  
20 provided beyond the amount thereof and shall be applied to the  
21 payment of such damages.

22 Section 5. The Initial Source of Fund.--The expenses of the  
23 administration of the fund shall after July 1, 1972, be paid out  
24 of the general appropriation of the [Department of Environmental  
25 Resources] department.

26 Section 7. Schedule of Premiums.--At any time during each  
27 year, the [said] board shall prepare and publish a schedule of  
28 premiums or rates of insurance for subscribers, which schedule  
29 shall be printed and distributed free of charge to such persons  
30 who shall make application therefor, and any such subscriber

1 may, at his option as hereinafter provided, pay to the fund the  
2 amount of premium appropriate, and upon payment thereof, shall  
3 be insured, as hereinafter provided, for the year for which such  
4 premium is paid, and such insurance shall cover all payments  
5 becoming due for which said premium is paid. The premium is  
6 fixed and shall be adequate to enable payment of all sums which  
7 may become due and payable under the provisions of this act, and  
8 adequate reserve sufficient to carry all policies and claims to  
9 maturity. In fixing the premiums payable by any subscriber, the  
10 board may take into account the condition of the premises of  
11 such subscriber in respect to the possibility of subsidence as  
12 shown by the report of any inspector appointed by the board or  
13 by the department, and they may from time to time change the  
14 amount of premiums payable by any of the subscribers as  
15 circumstances may require and the condition of the premises of  
16 such subscribers in respect to the possibility of subsidence may  
17 justify, and they may increase the premiums of any subscriber  
18 whose loss experience warrants such change. The insurance of any  
19 subscriber shall not be effective until he shall have paid in  
20 full the premium so fixed and determined.

21 Section 9. Investment of Surplus.--The [said] board may  
22 invest any of the surplus or reserve belonging to the fund in  
23 such securities and investments as are authorized for investment  
24 by savings banks. All such securities or evidences of  
25 indebtedness shall be placed in the hands of the State Treasurer  
26 who shall be the custodian thereof. He shall collect the  
27 principal and interest thereof when due and pay the same into  
28 the fund. The State Treasurer shall pay for all such securities  
29 or evidences of indebtedness by check issued upon requisition of  
30 the board. All such payments shall be made only upon delivery of

1 such securities or evidences of indebtedness to the State  
2 Treasurer. To all requisitions calling upon the State Treasurer  
3 to pay for any securities or evidences of indebtedness, there  
4 shall be attached a certified copy of the resolution of the  
5 board authorizing the investment. The [said] board may upon like  
6 resolution sell any of such securities.

7 Section 2. Section 10 of the act, amended November 20, 1981  
8 (P.L.350, No.127), is amended to read:

9 Section 10. Disbursements from Fund.--(a) Moneys from the  
10 general appropriation of the [Department of Environmental  
11 Resources] department are hereby made available for the expense  
12 of administering the fund including the purchase through the  
13 Department of General Services of surety bonds for such officers  
14 or employees of the board as may be required to furnish them  
15 supplies, materials, motor vehicles, workmen's insurance  
16 covering the officers and employees of the board, and liability  
17 insurance covering vehicles operated by the officers and  
18 employees of the board.

19 (b) Moneys from the general appropriation of the [Department  
20 of Environmental Resources] department shall also be available  
21 [for payment, to the Insurance Department, of the cost incurred  
22 by that department in examining and auditing the fund in such  
23 amounts as the Insurance Department shall determine, and] for  
24 payment, to the Treasury Department, of the cost of making  
25 disbursements out of the fund on behalf of the fund at such  
26 amounts as the Treasury Department, with the approval of the  
27 Executive Board, shall determine.

28 (c) The board shall keep an accurate account of the money  
29 paid in premiums by the subscribers and the disbursements on  
30 account of damages to the premises thereof, and if at the

1 expiration of any year there shall be a balance remaining after  
2 deducting such disbursements, the unearned premiums on  
3 undetermined risks and the percentage of premiums paid or  
4 payable to create or maintain the surplus provided herein, and  
5 after setting aside an adequate reserve, so much of the balance  
6 as the board may determine to be safely distributable may either  
7 be allocated to the cost of administering the fund or be  
8 distributed among the subscribers in proportion to the premiums  
9 paid by them and the proportionate share of such subscribers as  
10 shall remain subscribers to the fund shall be credited to the  
11 installment of premiums next due by them and the proportionate  
12 share of such subscribers as shall have ceased to be subscribers  
13 in the fund shall be refunded to them out of the fund in the  
14 manner hereinafter provided.

15 Section 3. Sections 12 and 12.2 of the act, amended or added  
16 July 10, 1984 (P.L.711, No.151), are amended to read:

17 Section 12. Application for Insurance; Terms of Insurance;  
18 Penalty for False Statement.--(a) Any owner of a structure  
19 located within the anthracite or bituminous coal or clay mine  
20 region and who desires to become a subscriber to [said] the fund  
21 for the purpose of insuring such a structure therein against  
22 damages from coal or clay mine subsidences, shall make a written  
23 request for an application for such insurance to the [said]  
24 board or any of its agents. The board shall then send to the  
25 owner of the structure an application in which application the  
26 applicant shall state the name, address, date of ownership of  
27 the premises to be insured, the condition of the premises, prior  
28 subsidence experience, if any, nature of title whether it  
29 includes any subsurface support, whether any agreement exists  
30 concerning surface support. Thereupon, the board shall make such

1 investigation as may be necessary if such application complies  
2 with the rules and regulations of the board and within sixty  
3 days after the request for an application is received shall  
4 issue a certificate showing the acceptance of the application  
5 and the amount of premium payable by such applicant for the year  
6 for which premium is sought. Policies may be issued for one  
7 year, for two years or for three years as the board may  
8 establish. Except as provided in subsection (b), no insurance  
9 shall become effective until the premiums have been paid. All  
10 premiums shall be payable to the State Treasurer whereupon a  
11 receipt shall be issued therefor. The receipt for premium  
12 together with a certificate of the board shall be evidence that  
13 the applicant has become a subscriber to the fund and is  
14 insured.

15 (b) If the board fails to make the necessary investigations  
16 or inspection and fails to approve or deny an application for  
17 insurance within sixty days of receipt of the written request  
18 for an application by the board or any of its agents, in  
19 accordance with this section, the insurance requested by the  
20 applicant shall be deemed granted. The insurance shall be  
21 effective from the date the written request for an application  
22 was received by the board or any of its agents, but the coverage  
23 will be null and void if the applicant fails to remit the  
24 premium payment within twenty days from the day the bill for the  
25 premium was postmarked.

26 (1) The insurance may be subjected to later reductions, and  
27 premiums adjusted accordingly, if the board determines that the  
28 amount of insurance coverage requested is in excess of the  
29 current market value of the structure or current statutory  
30 limits, whichever is less.



1 (2) The insurance shall be void if, upon inspection of the  
2 structure, the board determines that either (i) mine subsidence  
3 damage occurred prior to the request by the applicant for  
4 insurance, or (ii) the applicant by his unreasonable actions or  
5 in actions is responsible for the failure of the board to  
6 inspect the structure within sixty days of receipt of the  
7 written request for an application in accordance with this  
8 section.

9 (c) Whoever shall knowingly furnish or make any false  
10 certificate, application or statement herein required shall be  
11 guilty of a misdemeanor, and upon conviction thereof, shall be  
12 sentenced to pay a fine not exceeding one thousand five hundred  
13 dollars (\$1,500) and shall undergo imprisonment not exceeding  
14 one year.

15 Section 12.2. Automatic Inflation Protection Increase.--(a)  
16 The board shall make available to all subscribers an annual  
17 inflation protection option on the anniversary date of each  
18 policy to uniformly increase subscribers' coverage, and shall  
19 allow thirty days for subscribers to elect this option. In any  
20 case, the option shall not be made available more than once  
21 annually[.], unless the board shall increase the maximum level  
22 of insurance coverage available pursuant to subsection (b), in  
23 which case, the board shall notify all subscribers of the  
24 revised maximum level of insurance available and shall allow  
25 thirty days for subscribers to apply for an increased level of  
26 insurance. An application for an increased level of insurance  
27 shall be governed by section 12.1. An inflation protection  
28 increase shall not be subject to a reinspection of the  
29 structure.

30 (b) The board shall annually review the premiums charged and

1 the maximum levels of insurance offered by the fund. If  
2 inflation, loss experience and other relevant factors indicate  
3 that a change may be warranted in the amount of premiums charged  
4 or in the maximum levels of insurance offered, the board shall  
5 determine a revised schedule of premiums and establish new  
6 maximum levels of insurance available and notify all  
7 subscribers, within sixty days, of the revised schedule of  
8 premiums and new maximum levels of insurance available.

9       Section 4. Sections 13, 14 and 17 of the act are amended to  
10 read:

11       Section 13. Audit by Auditor General.--The Auditor General  
12 through such agents as he may select shall, at least once each  
13 year, make a complete examination and audit of the fund  
14 including all receipts and expenditures, cash on hand and  
15 securities, investments or property held representing cash or  
16 cash disbursements, and for these purposes the Auditor General  
17 is hereby authorized to employ such consultants, experts,  
18 accountants or investigators as he may deem advisable.

19       The expense incurred in making said examination and audit  
20 shall be certified to the fund by the Auditor General and shall  
21 be paid from the general appropriation of the [Department of  
22 Environmental Resources] department.

23       The first audit of such fund may, in the discretion of the  
24 Auditor General, extend back to the creation of such fund or to  
25 any other period in its life.

26       [Section 14. Audit by Insurance Department.--The Insurance  
27 Department at least once each year shall make a complete  
28 examination and audit of the affairs of the fund including all  
29 receipts and expenditures, cash on hand and securities,  
30 investments or property held representing cash or cash

1 disbursements to ascertain its financial condition and its  
2 ability to fulfill its obligations, whether the board in  
3 managing the fund has complied with the provisions of law  
4 relating to the fund and the equity of the board's plans and  
5 dealings with its policyholders.

6 For the purpose of any examination and audit authorized by  
7 this act, the Commissioner of Insurance, his deputy or his  
8 examiners shall have free access to all the books, records and  
9 papers pertaining to the fund, and all persons charged with the  
10 management of the fund or connected therewith as employees are  
11 hereby directed and required to give to the Commissioner of  
12 Insurance, his deputy or officers the means, facilities and  
13 opportunity for such examination and audit.

14 The expenses incurred by the Insurance Department in making  
15 any examination and audit under the provisions of this act shall  
16 be ascertained by the department, certified to the fund, and  
17 paid from the general appropriation of the Department of  
18 Environmental Resources.]

19 Section 17. Subrogation to Rights of Claimants.--Nothing  
20 herein shall relieve any person, partnership, or corporation  
21 otherwise liable therefor from any liability for damages  
22 sustained; and the fund and the program shall be subrogated to  
23 the rights of any property owners' insurance herein.

24 Section 5. The act is amended by adding sections to read:

25 Section 20. Program.--(a) If a homeowner believes that the  
26 homeowner's dwelling has sustained mine subsidence damage,  
27 except as provided in subsection (c), the homeowner may apply to  
28 the department for mine subsidence assistance. The application  
29 must be on a form prepared by the department and must provide  
30 for inspection of the dwelling to determine the nature and

1 extent of the damage. Upon a determination that a dwelling has  
2 sustained mine subsidence damage, the department shall, to the  
3 extent funds are made available, grant assistance, as follows:

4 (1) Grants may be awarded only to those homeowners whose  
5 dwellings are unsafe for occupancy as a result of a mine  
6 subsidence emergency and may be awarded to move persons whose  
7 dwellings are destroyed or endangered until the homes are  
8 repaired, until there is no further danger of subsidence or  
9 until a new permanent residence is found.

10 (2) Loans may be approved at interest rates not to exceed  
11 three percent for the repair or replacement of dwellings damaged  
12 by mine subsidence. Loans shall be awarded on a priority basis  
13 according to severity of damages sustained, but a dwelling need  
14 not be rendered unsafe for human occupancy as a result of a mine  
15 subsidence emergency to qualify for a loan. The loan shall be in  
16 an amount sufficient to cover the cost of repairing the  
17 structural damage to the dwelling, but in no event shall be  
18 greater than the replacement cost of the dwelling as determined  
19 by an appraiser, as provided for in regulations promulgated  
20 under this act. Loans shall be administered by the department  
21 and shall be secured by a lien upon the dwelling being repaired  
22 or replaced.

23 (3) In addition to repairing or replacing structural damage  
24 to a dwelling, loans may also be made to repair or replace  
25 foundations, driveways, septic tanks, sidewalks, fences, sewer  
26 laterals, water lines, gas lines, wells and inground pools,  
27 located on the property on which the dwelling is located.

28 (4) Loans shall only be made for the amount not covered by  
29 insurance or other sources of remuneration, including amounts  
30 for which a mine operator is liable under the act of April 27,

1 1966 (1st Sp. Sess., P.L.31, No.1), known as "The Bituminous  
2 Mine Subsidence and Land Conservation Act," unless it is  
3 determined that the operator is unable to meet his obligations  
4 under that act.

5 (b) If a person receiving assistance under this section does  
6 not have mine subsidence insurance, the person shall be required  
7 to purchase a mine subsidence insurance policy when the  
8 structural damage for which assistance was granted has been  
9 repaired if it is deemed by the department that the dwelling is  
10 in danger of further damage from mine subsidence.

11 (c) Subsection (a)(1) is not applicable to a homeowner  
12 holding a mine subsidence insurance policy.

13 (d) Up to ~~ten~~ FIVE percent of the ~~reserves~~ MONEY in the fund <—  
14 WHICH IS NOT COMMITTED TO RESERVES, CLAIMS OR OTHER FUND <—  
15 EXPENSES, plus repayment of principal and interest on loans  
16 under this section, shall be used to fund assistance under this  
17 section.

18 SECTION 20.1. SUBSIDENCE INSURANCE PURCHASE AND COMPLIANCE <—  
19 REQUIREMENTS.--(A) EVERY PURCHASER OF A DWELLING IN AN AREA  
20 IDENTIFIED BY THE DEPARTMENT AS AN AREA LOCATED ABOVE ABANDONED  
21 MINES SHALL PURCHASE SUBSIDENCE INSURANCE IN AN AMOUNT AT LEAST  
22 EQUAL TO THE APPRAISED VALUE OF THE DWELLING PURCHASED OR TO THE  
23 MAXIMUM AMOUNT OF COVERAGE AVAILABLE WITH RESPECT TO THE  
24 PARTICULAR DWELLING, WHICHEVER IS LESS; PROVIDED, HOWEVER, THAT  
25 THE AMOUNT OF SUBSIDENCE INSURANCE REQUIRED NEED NOT EXCEED THE  
26 OUTSTANDING PRINCIPAL BALANCE OF A LOAN AGAINST THE DWELLING AND  
27 NEED NOT BE REQUIRED BEYOND THE TERM OF THE LOAN. THE  
28 REQUIREMENT OF MAINTAINING SUBSIDENCE INSURANCE SHALL APPLY  
29 DURING THE LIFE OF THE PROPERTY, REGARDLESS OF TRANSFER OF  
30 OWNERSHIP OF THE PROPERTY.

1       (B) NOTIFICATION OF MORTGAGE LENDING INSTITUTION SHALL BE AS  
2 FOLLOWS:

3       (1) THE DEPARTMENT SHALL NOTIFY MORTGAGE LENDING  
4 INSTITUTIONS IN AREAS IDENTIFIED BY THE DEPARTMENT AS BEING  
5 LOCATED ABOVE ABANDONED MINES OF THE REQUIREMENTS FOR SUBSIDENCE  
6 INSURANCE. NOTIFIED LENDERS SHALL DIRECT PERSONS APPLYING FOR  
7 LOANS FOR THE PURCHASE OF DWELLINGS IN THESE AREAS TO CONTACT  
8 THE DEPARTMENT TO PURCHASE SUBSIDENCE INSURANCE AND TO PROVIDE  
9 THE LENDER WITH A RECEIPT FROM THE DEPARTMENT VERIFYING THAT  
10 INSURANCE HAS BEEN OBTAINED AS A CONDITION OF RECEIVING AND  
11 MAINTAINING THE LOAN.

12       (2) EACH STATE AGENCY PARTICIPATING IN PROVIDING MORTGAGE  
13 LOAN ASSISTANCE FOR THE PURCHASE OF A DWELLING IN AN AREA  
14 IDENTIFIED BY THE DEPARTMENT AS BEING LOCATED ABOVE ABANDONED  
15 MINES SHALL, BY REGULATIONS, REQUIRE BORROWERS TO OBTAIN  
16 SUBSIDENCE INSURANCE UNDER THE CIRCUMSTANCES AND IN THE MANNER  
17 PROVIDED IN SUBSECTION (B).

18       (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
19 SUBSECTIONS (A) AND (B) SHALL NOT APPLY TO ANY LOAN HAVING AN  
20 ORIGINAL OUTSTANDING PRINCIPAL BALANCE OF \$5,000 OR LESS AND A  
21 REPAYMENT TERM OF ONE YEAR OR LESS.

22       (D) IF A LENDER SUBJECT TO THIS ACT REQUIRES THE ESCROWING  
23 OF TAXES, INSURANCE PREMIUMS, FEES OR ANY OTHER CHARGES FOR A  
24 LOAN SECURED BY A DWELLING, THEN ALL PREMIUMS AND FEES FOR  
25 SUBSIDENCE INSURANCE FOR THE DWELLING SHALL BE PAID TO THE  
26 LENDER OR SERVICER FOR THE LOAN IN A MANNER SUFFICIENT TO MAKE  
27 PAYMENTS AS DUE FOR THE DURATION OF THE LOAN. UPON RECEIPT OF  
28 THE PREMIUMS, THE LENDER OR OTHER SERVICER OF THE LOAN SHALL  
29 DEPOSIT THE PREMIUMS IN AN ESCROW ACCOUNT ON BEHALF OF THE  
30 BORROWER. UPON RECEIPT OF A NOTICE FROM THE DEPARTMENT THAT

1 SUBSIDENCE INSURANCE PREMIUMS ARE DUE, THE LENDER OR SERVICER  
2 SHALL PAY FROM THE ESCROW ACCOUNT TO THE DEPARTMENT THE AMOUNT  
3 OF INSURANCE PREMIUMS OWED. ESCROW ACCOUNTS ESTABLISHED PURSUANT  
4 TO THIS SUBSECTION SHALL BE SUBJECT TO THE PROVISIONS OF SECTION  
5 10 OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 (PUBLIC  
6 LAW 93-533, 12 U.S.C. § 2609).

7 (E) PLACEMENT OF SUBSIDENCE INSURANCE BY LENDER SHALL BE AS  
8 FOLLOWS:

9 (1) IF, AT THE TIME OF ORIGINATION OR AT ANY TIME DURING THE  
10 TERM OF A LOAN SECURED BY A DWELLING LOCATED IN AREA DETERMINED  
11 BY THE DEPARTMENT TO BE ABOVE ABANDONED MINES, A LENDER OR  
12 SERVICER FOR THE LOAN DETERMINES THAT THE DWELLING IS NOT  
13 COVERED BY SUBSIDENCE INSURANCE OR IS COVERED BY SUCH INSURANCE  
14 IN AN AMOUNT LESS THAN THE AMOUNT REQUIRED FOR THE PROPERTY  
15 PURSUANT TO SUBSECTION (A), THE LENDER OR SERVICER FOR THE LOAN  
16 SHALL NOTIFY THE BORROWER THAT THE BORROWER SHOULD OBTAIN, AT  
17 THE BORROWER'S EXPENSE, THE REQUIRED AMOUNT OF SUBSIDENCE  
18 INSURANCE FOR THE TERM OF THE LOAN AND PROVIDE THE LENDER OR  
19 SERVICER FOR THE LOAN WITH A RECEIPT FROM THE DEPARTMENT  
20 VERIFYING THE PURCHASE OF THE INSURANCE.

21 (2) IF THE BORROWER FAILS TO PURCHASE THE REQUIRED  
22 SUBSIDENCE INSURANCE WITHIN FORTY-FIVE DAYS AFTER NOTIFICATION  
23 UNDER PARAGRAPH (1), THE LENDER OR SERVICER FOR THE LOAN SHALL  
24 PURCHASE THE INSURANCE ON BEHALF OF THE BORROWER AND MAY CHARGE  
25 THE BORROWER FOR THE COST OF PREMIUMS AND FEES INCURRED BY THE  
26 LENDER IN PURCHASING THE INSURANCE.

27 (3) REVIEW OF DETERMINATION THAT SUBSIDENCE INSURANCE IS  
28 REQUIRED:

29 (I) THE BORROWER AND LENDER FOR A LOAN SECURED BY A DWELLING  
30 MAY JOINTLY REQUEST THE DEPARTMENT TO REVIEW A DETERMINATION

1 THAT THE DWELLING IS LOCATED ABOVE ABANDONED MINES. THE REQUEST  
2 MUST BE SUPPORTED BY TECHNICAL INFORMATION RELATING TO THE  
3 DWELLING AND ITS LOCATION. WITHIN FORTY-FIVE DAYS OF RECEIVING  
4 THE REQUEST FOR REVIEW, THE DEPARTMENT SHALL PROVIDE THE  
5 BORROWER AND THE LENDER WITH A WRITTEN REDETERMINATION STATING  
6 WHETHER OR NOT THE DWELLING IS LOCATED IN AN AREA ABOVE  
7 ABANDONED MINES. THE REDETERMINATION OF THE DEPARTMENT SHALL BE  
8 FINAL.

9 (II) IF THE DEPARTMENT REDETERMINES THAT THE DWELLING  
10 SECURING THE LOAN OF THE BORROWER IS NOT LOCATED IN AN AREA  
11 ABOVE ABANDONED MINES, THE BORROWER SHALL NOT BE OBLIGATED TO  
12 PURCHASE SUBSIDENCE INSURANCE FOR THE DWELLING DURING THE PERIOD  
13 DETERMINED BY THE DEPARTMENT, WHICH SHALL BE STATED IN THE  
14 REDETERMINATION UNDER SUBPARAGRAPH (I) AND SHALL BEGIN ON THE  
15 DATE ON WHICH THE LETTER IS PROVIDED.

16 (III) THE BORROWER SHALL NOT BE REQUIRED TO PURCHASE  
17 SUBSIDENCE INSURANCE FOR THE DWELLING SECURING THE LOAN UNTIL A  
18 REDETERMINATION UNDER SUBPARAGRAPH (I) IS PROVIDED IF A REQUEST  
19 FOR REDETERMINATION IS MADE UNDER SUBPARAGRAPH (I) AND THE  
20 DEPARTMENT DOES NOT PROVIDE THE REDETERMINATION BEFORE THE LATER  
21 OF:

22 (A) THE EXPIRATION OF THE TIME PERIOD UNDER SUBPARAGRAPH  
23 (I); OR

24 (B) CLOSING OF THE LOAN.

25 (IV) A LENDER OR ANY SERVICER FOR A LOAN MAY CHARGE THE  
26 BORROWER A REASONABLE FEE FOR THE COSTS OF DETERMINING WHETHER  
27 THE DWELLING SECURING THE LOAN IS LOCATED IN AN AREA ABOVE  
28 ABANDONED MINES IF ANY OF THE FOLLOWING APPLY:

29 (A) THE DETERMINATION IS MADE PURSUANT TO THE MAKING,  
30 INCREASING, EXTENDING OR RENEWING OF THE LOAN THAT IS INITIATED



1 BY THE BORROWER.

2 (B) THE LOAN FOR THE DWELLING MAY REASONABLY BE CONSIDERED  
3 TO REQUIRE THE DETERMINATION.

4 (C) THE DETERMINATION RESULTS IN THE PURCHASE OF SUBSIDENCE  
5 INSURANCE PURSUANT TO PARAGRAPH (2).

6 (V) THE PURCHASER OR TRANSFEREE OF SUCH A LOAN MAY BE  
7 CHARGED THE FEE IN THE CASE OF SALE OR TRANSFER OF THE LOAN.

8 (F) PENALTIES FOR FAILURE TO REQUIRE SUBSIDENCE INSURANCE  
9 SHALL BE AS FOLLOWS:

10 (1) MONETARY PENALTY SHALL BE AS FOLLOWS:

11 (I) THE DEPARTMENT MAY ASSESS A PENALTY IN THE AMOUNT OF  
12 THREE HUNDRED DOLLARS (\$300) FOR EACH VIOLATION AGAINST ANY  
13 LENDER THAT FAILS TO REQUIRE SUBSIDENCE INSURANCE PURSUANT TO  
14 SUBSECTION (B)(1) OR FAILS TO NOTIFY A BORROWER OF LACK OF  
15 COVERAGE PURSUANT TO SUBSECTION (E)(1).

16 (II) EACH STATE AGENCY PROVIDING MORTGAGE LOAN ASSISTANCE  
17 FOR DWELLINGS LOCATED ABOVE ABANDONED MINES PURSUANT TO  
18 SUBSECTION (B)(2) MAY ASSESS A PENALTY IN THE AMOUNT OF THREE  
19 HUNDRED DOLLARS (\$300) FOR EACH VIOLATION AGAINST ANY LENDER  
20 PARTICIPATING IN THE PROGRAM THAT FAILS TO REQUIRE SUBSIDENCE  
21 INSURANCE PURSUANT TO AGENCY REGULATIONS OR FAILS TO NOTIFY A  
22 BORROWER OF LACK OF COVERAGE PURSUANT TO SUBSECTION (E)(1).

23 (III) THIS PARAGRAPH IS SUBJECT TO 2 PA.C.S. CH. 5 SUBCH. A  
24 (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES)  
25 AND CH. 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH  
26 AGENCY ACTION).

27 (2) ANY LENDER THAT PURCHASES OR RENEWS SUBSIDENCE INSURANCE  
28 ON BEHALF OF OR AS AN AGENT OF A BORROWER OF A LOAN FOR WHICH  
29 SUBSIDENCE INSURANCE IS REQUIRED SHALL BE CONSIDERED TO BE IN  
30 COMPLIANCE WITH THIS SECTION.

1     (3) SALE OR OTHER TRANSFER OF A LOAN BY A LENDER THAT HAS  
2 COMMITTED A VIOLATION OF THIS SECTION WHICH OCCURS SUBSEQUENT TO  
3 THE VIOLATION SHALL NOT AFFECT THE LIABILITY OF THE TRANSFERRING  
4 LENDER REGARDING ANY PENALTY UNDER THIS SUBSECTION. A LENDER  
5 SHALL NOT BE LIABLE FOR ANY VIOLATIONS BY ANOTHER LENDER THAT  
6 PREVIOUSLY HELD THE LOAN.

7     (4) PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE PAID  
8 INTO THE FUND.

9     (5) NO PENALTY MAY BE IMPOSED UNDER THIS SUBSECTION AFTER  
10 THE EXPIRATION OF THE FOUR-YEAR PERIOD BEGINNING ON THE DATE OF  
11 THE VIOLATION FOR WHICH THE PENALTY IS AUTHORIZED UNDER THIS  
12 SUBSECTION.

13     (G) THIS SECTION SHALL APPLY WITH RESPECT TO ANY LOAN MADE,  
14 INCREASED, EXTENDED OR RENEWED ON OR AFTER THE EFFECTIVE DATE OF  
15 THIS SECTION.

16     Section 21. Department.--(a) The department may promulgate  
17 regulations to administer this act.

18     (b) The department shall provide for public notice of the  
19 program.

20     (c) The department shall make an annual report on the  
21 program to the Environmental Resources and Energy Committee of  
22 the Senate and the Environmental Resources and Energy Committee  
23 of the House of Representatives.

24     Section 6. Sections 22 and 24.1 of the act are amended to  
25 read:

26     Section 22. Employees of the Board to Be Part of the  
27 Department [of Environmental Resources].--All employees of the  
28 board shall be employed by and located in the [Department of  
29 Environmental Resources] department and shall be subject to the  
30 administrative jurisdiction and authority of the [Secretary of

1 Environmental Resources] secretary.

2 Section 24.1. Appeals.--Any party aggrieved by an action of  
3 the board [hereunder] shall have the right to appeal to the  
4 Environmental Hearing Board.

5 Section 7. The addition of section 20 of the act shall apply  
6 to mine subsidence damage incurred after December 31, 1998.

7 ~~Section 8. This act shall take effect immediately.~~

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8 SECTION 8. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

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9 (1) THE ADDITION OF SECTION 20.1 OF THE ACT SHALL TAKE  
10 EFFECT IN 180 DAYS.

11 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.