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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1858 Session of  
1989

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INTRODUCED BY FREIND, MORRIS, TRELLO, BRANDT, BUNT,  
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ITKIN, HALUSKA, MICOZZIE, JOHNSON, SAURMAN AND JAMES,  
SEPTEMBER 18, 1989

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REFERRED TO COMMITTEE ON APPROPRIATIONS, SEPTEMBER 18, 1989

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AN ACT

1 Establishing the criteria and procedures for the expenditure of  
2 Commonwealth funds to correct housing problems caused by non-  
3 mine subsidence in a municipality; and making an  
4 appropriation.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Department." The Department of Community Affairs of the  
12 Commonwealth.

13 "Municipality." Any city of the first, second, second class  
14 A or third class, borough, incorporated town, township of the  
15 first or second class, county of the first, second, second class  
16 A through eighth class, or any similar general purpose unit of  
17 government which shall hereafter be created by the General

1 Assembly.

2 Section 2. Terms and conditions.

3 Any funds of the Commonwealth paid to any municipality  
4 following the effective date of this act to resolve housing  
5 problems caused by non-mine subsidence, including funds  
6 appropriated by the General Assembly to the Department of  
7 Environmental Resources and to the Department of Community  
8 Affairs for housing and redevelopment assistance by the act of  
9 July 3, 1987 (P.L.459, No.9A), known as the General  
10 Appropriation Act of 1987, shall be paid to the municipality  
11 only on the condition that the municipality meets the following  
12 terms and conditions:

13 (1) All expenditures of Commonwealth funds shall be  
14 approved, supervised and monitored by the department.

15 (2) Prior to the expenditure of any funds for the  
16 acquisition of property imminently dangerous due to  
17 structural damage caused by subsidence or property located in  
18 an area affected by such imminently dangerous property, two  
19 independent engineering studies of the affected area shall be  
20 prepared, one by an engineer or engineering firm selected by  
21 the municipality in which the affected area is located and  
22 one by an engineer or engineering firm selected by the  
23 department. The studies shall establish, by street address,  
24 those properties which:

25 (i) Must be razed due to the severity of the  
26 structural damage or subsoil conditions.

27 (ii) Must be razed due to their being located in an  
28 area affected by such property.

29 (iii) Need not be acquired and razed, but need  
30 rehabilitation and structural improvements such as

1 shoring, etc., to give added support to existing  
2 foundations and walls.

3 (iv) Need not be acquired and razed but show signs  
4 of extensive damage as a result of roof collapse or the  
5 failure of the heating, plumbing and/or sewer systems.

6 (v) Need not be acquired and razed and need only  
7 minimal rehabilitation.

8 At least two public hearings, at times convenient to  
9 residents, shall be held by the municipality and  
10 representatives of the department in the areas affected by  
11 non-mine subsidence to discuss the results of the engineering  
12 studies with residents and neighborhood organizations.

13 (3) Moneys provided shall be used solely for:

14 (i) Reasonable costs associated with the phased  
15 acquisition of property imminently dangerous due to  
16 structural damage caused by subsidence, or located in an  
17 area affected by such property.

18 (ii) Reasonable costs associated with relocating  
19 residents owning or occupying such property. For the  
20 purposes of this subparagraph, minimum reasonable costs  
21 associated with relocating residents shall be determined  
22 by compliance with the Uniform Relocation Assistance and  
23 Real Property Acquisition Policies Act of 1970 (Public  
24 Law 91-646; 84 Stat. 1894).

25 (iii) Reasonable costs of the phased construction of  
26 new single-family or multifamily rental housing to  
27 replace the homes acquired and razed, with owner-  
28 occupants whose homes are acquired and razed being given  
29 the first opportunity to purchase or rent the new housing  
30 constructed.

1 (iv) Reasonable costs of the phased construction of  
2 new neighborhood commercial development needed to support  
3 the new housing constructed.

4 (v) Reasonable costs associated with rehabilitating  
5 properties which, based on an engineering report, need  
6 not be acquired and razed but need rehabilitative  
7 construction in the form of shoring, etc., to stabilize  
8 foundations and walls.

9 Moneys provided shall not be used to acquire any property  
10 which, based on engineering studies, need not be acquired and  
11 razed, unless the owner of such property agrees to sell.

12 (4) A land reuse plan shall be developed by the  
13 municipality according to guidelines developed by the  
14 department. Such plan shall be approved by the department and  
15 by a majority of the residents and neighborhood organizations  
16 in the area affected by non-mine subsidence prior to any  
17 moneys being provided by the department to the municipality  
18 and shall include, but not be limited to, the following:

19 (i) Based on the two engineering studies, a drawing  
20 indicating, by street address, each property to be  
21 acquired and razed, as well as an indication, by street  
22 address, of those properties that are not to be razed but  
23 which are in need of rehabilitative construction.

24 (ii) An annual property acquisition schedule  
25 indicating the properties to be acquired and razed during  
26 a given year, both residential and commercial, etc., and  
27 monthly progress reports.

28 (iii) An annual construction plan indicating the  
29 type of residential housing and/or neighborhood  
30 commercial development to be constructed on vacant land

1 during a given year and monthly progress reports.

2 (iv) An annual rehabilitation plan indicating those  
3 properties to undergo rehabilitative construction during  
4 a given year and monthly progress reports.

5 (5) The land reuse plan developed shall phase the  
6 construction of new housing and coordinate the relocation of  
7 owner-occupants, as well as other residents living in housing  
8 which is imminently dangerous due to structural damage caused  
9 by subsidence or located in an area affected by such  
10 imminently dangerous property, in order that residents of  
11 such housing may be relocated into the new housing as it is  
12 constructed and becomes available for occupancy.

13 (6) A relocation plan shall be developed by the  
14 municipality according to guidelines developed by the  
15 department. Such plan shall be approved by the department and  
16 by a majority of the residents and neighborhood organizations  
17 in the area affected by non-mine subsidence and shall include  
18 what constitutes reasonable relocation expenses, before any  
19 moneys may be provided by the department to the municipality.  
20 Such plan shall also include, but not be limited to, the  
21 following:

22 (i) A list of all individuals already relocated and  
23 those to be relocated, based on a priority schedule  
24 developed by the municipality and approved by the  
25 department and by a majority of the residents and  
26 neighborhood organizations. The relocation schedule shall  
27 prioritize those individuals to be relocated based on the  
28 severity of the dangerous condition of the homes which  
29 they own, or in which they reside, due to subsidence,  
30 according to inspections and a designation by the

1           municipality.

2           (ii) A list of new single-family and/or multifamily  
3           rental housing units to be constructed each year,  
4           including monthly progress reports, and the names of  
5           those individuals scheduled to be relocated and actually  
6           relocated into the new housing constructed. Such schedule  
7           shall insure that owner-occupants whose property has been  
8           acquired are given the first opportunity to purchase or  
9           rent the new housing which is constructed.

10          (7) An annual financial plan and monthly progress  
11       reports shall be developed by the municipality for each  
12       fiscal year that funds are requested from the department, and  
13       such plan shall be approved by the department and by a  
14       majority of the residents and neighborhood organizations  
15       before any moneys may be provided by the department to the  
16       municipality. The guidelines for the preparation of the  
17       annual financial plan shall be developed by the department  
18       and shall include, but not be limited to, the following:

19               (i) An annual budget which shall include:

20                       (A) A detailed breakdown of all property  
21                       acquisition costs.

22                       (B) A detailed breakdown of all relocation  
23                       expenditures.

24                       (C) A detailed breakdown of all costs associated  
25                       with the construction of new single-family and  
26                       multifamily rental housing.

27                       (D) A detailed breakdown of all costs associated  
28                       with the construction of new neighborhood commercial  
29                       development.

30                       (E) A detailed breakdown of all rehabilitative

1 construction costs.

2 (F) A detailed breakdown of all overhead and  
3 administrative costs, including administrative costs  
4 incurred by the department.

5 (ii) A separate annual property acquisition report  
6 and monthly progress reports which shall include:

7 (A) A listing of all property to be acquired  
8 during the year and/or acquired to date.

9 (B) A physical and deed description of each  
10 parcel.

11 (C) The name of the legal owner and date  
12 purchased, for each parcel.

13 (D) A statement by the municipality indicating  
14 that the property to be acquired is imminently  
15 dangerous due to structural damage caused by  
16 subsidence or is located in an area affected by  
17 imminently dangerous property and, based on  
18 engineering studies, must be acquired and razed; and  
19 the date of the physical inspection which established  
20 that.

21 (E) The agreed-to acquisition price for each  
22 parcel to be acquired. This price shall be approved  
23 by the department based on an appraisal of each  
24 parcel by a certified appraiser or appraisal firm  
25 approved by the department. The appraisal of each  
26 property shall be the fair market value irrespective  
27 of the property's current assessment, as if the  
28 property were not damaged as a result of subsidence.  
29 No payment shall be made with Commonwealth funds for  
30 the acquisition of any property at a price other than

1           that approved by the department based on their review  
2           of the independent appraisal. Where any question  
3           exists with respect to the fair market value  
4           established by the appraisal, the department may  
5           order a second appraisal and based on the two  
6           appraisals shall establish the fair market value for  
7           the property.

8           (F) The total property acquisition costs for  
9           that fiscal year.

10          (8) When preparing the plans and reports required by  
11          this act, the municipality shall consult, on a monthly basis,  
12          or more frequently as is necessary, with neighborhood  
13          residents and neighborhood organizations in the area affected  
14          by subsidence.

15          (9) The municipality shall annually apply to the  
16          department for moneys proposed to be spent during the next  
17          fiscal year, as provided in the annual financial plan  
18          approved by the department, whether or not such funds have  
19          been appropriated to the department or to another agency of  
20          the Commonwealth. Where such funds have initially been  
21          appropriated to another agency, the funds shall be  
22          transferred to the department upon request as needed. The  
23          department shall prepare guidelines and procedures for  
24          applying for such moneys, including the date by which an  
25          application from a municipality must be received.

26          (10) Moneys provided to the municipality by the  
27          department under provisions of this act may not be used to  
28          acquire residential real property designated by the  
29          municipality as imminently dangerous due to structural damage  
30          caused by subsidence, or property in or around the affected



1 property, unless the homeowner had purchased the property  
2 prior to a date established by the department. The homeowner  
3 shall determine whether the acquisition price paid for the  
4 property shall be in the form of a certificate or certified  
5 check. Moneys provided to the municipality by the department  
6 under provisions of this act may not be used to acquire  
7 commercial property designated by the municipality as  
8 imminently dangerous due to structural damage caused by  
9 subsidence or property located in an area affected by such  
10 imminently dangerous property unless the commercial property  
11 was owned by the present owner on or before a date  
12 established by the department. Moneys provided to the  
13 municipality by the department under provisions of this act  
14 may not be used to acquire property owned by relators,  
15 agents, banks or other investors.

16 (11) No money provided to the municipality by the  
17 department under provisions of this act may be used to  
18 acquire real property which is imminently dangerous due to  
19 structural damage caused by subsidence if there is reason to  
20 believe that representations were fraudulently made  
21 concerning the soundness of the structure as an inducement  
22 for securing a mortgage or mortgage insurance, unless the  
23 municipality has first demonstrated to the satisfaction of  
24 the department that it has exhausted all efforts to  
25 investigate and prosecute those individuals responsible for  
26 any alleged fraudulent certification of the property and has  
27 also initiated such appropriate legal actions as it deems  
28 necessary to seek restitution for damages relating to the  
29 diminished value of property from any institutions or other  
30 parties which may have been a party to the fraudulent act or

1       legally responsible for the mortgage or mortgage insurance  
2       having been approved as a result of such criminal conduct on  
3       their part. This shall not prevent the acquisition and  
4       settlement with the present owner of such property, if the  
5       present owner is not involved with any fraudulent  
6       misrepresentation prior to or during such litigation.

7       (12) The municipality may provide to a nonprofit  
8       corporation any moneys it is provided by the Commonwealth to  
9       carry out provisions of this act on behalf of the  
10      municipality, provided the requirements of this act are met  
11      by the housing assistance corporation receiving the  
12      Commonwealth moneys provided by the municipality.

13      (13) No Commonwealth funds administered by the  
14      municipality shall be used for the rehabilitation of  
15      properties:

16           (i) Which are determined to be imminently dangerous  
17           due to structural damage caused by subsidence in any  
18           given year.

19           (ii) Which will subsequently be acquired and razed  
20           during the next year according to the land reuse plan  
21           developed by the municipality, as required by this act.

22           (iii) Whose acquisition and demolition costs are to  
23           be paid for from moneys provided by the Commonwealth.

24      (14) An audit of all expenditures of moneys provided to  
25      a municipality by the department under provisions of this act  
26      shall be made annually by a CPA (Certified Public Accountant)  
27      or CPA firm to be designated by the department. This shall  
28      include an audit of moneys which a municipality received from  
29      the department and reloaned to a housing assistance  
30      corporation. In such case, all expenditures made by the

housing assistance corporation from funds received from the municipality shall be included in the audit. The costs of this outside annual CPA audit shall be paid for from funds provided by the Commonwealth to a municipality to resolve non-mine housing subsidence problems. Copies of the annual CPA audit shall be made available to members of the General Assembly and to neighborhood organizations in the area affected by subsidence.

Section 3. Administrative costs.

Administrative costs incurred by the department in monitoring and supervising Commonwealth funds provided to a municipality to resolve non-mine housing subsidence problems, as required by this act, shall be considered eligible project costs and deducted from any funds the Commonwealth provides to a municipality for this purpose and shall be accounted for accordingly.

Section 4. Assistance.

The Pennsylvania Housing Finance Agency shall assist the municipality in the financing of any new housing constructed to replace housing which is acquired and razed due to it being determined to be imminently dangerous due to structural damage caused by subsidence or due to its being located in an area affected by such imminently dangerous housing.

Section 5. Non-Mine Subsidence Loan Program.

(a) Fund.--The department shall establish a Non-Mine Subsidence Rehabilitation Loan Fund for the purpose of providing financial assistance in the form of low interest loans, grants and loan guarantees, etc., to homeowners to repair or prevent structural damage caused by non-mine subsidence.

(b) Regulations.--The department shall promulgate such rules

1 and regulations necessary to carry out the objectives of this  
2 section.

3 (c) Appropriation.--The sum of \$10,000,000 is hereby  
4 appropriated to the department for deposit into the Non-Mine  
5 Subsidence Rehabilitation Loan Fund.

6 Section 6. Effective date.

7 This act shall take effect immediately.