

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1438 Session of
1990

INTRODUCED BY BRIGHTBILL, PUNT, CORMAN, HOPPER, LEMMOND,
AFFLERBACH, JUBELIRER, SHUMAKER, WENGER, HELFRICK, O'PAKE,
BAKER AND RHOADES, JANUARY 31, 1990

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
MAY 21, 1990

AN ACT

1 Establishing a sinkhole damage assistance program; providing for
2 grants and loans; and making an appropriation.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Pennsylvania
7 Sinkhole Damage Assistance Act.

8 Section 2. Statement of purpose.

9 By this act, the General Assembly of the Commonwealth
10 recognizes that the presence of sinkholes and the potential for
11 sinkhole development in many areas of this Commonwealth poses a
12 continued threat to the health and welfare of the residents of
13 those areas, and further recognizes that sinkholes damage
14 property, jeopardize public safety and cause economic hardship
15 to property owners. Accordingly, it is the purpose of this act:

16 (1) to establish a program to authorize financial
17 assistance in the form of grants and loans in the event of

1 sinkhole damage to property;

2 (2) to develop recommendations for controlling
3 development which may exacerbate sinkhole damage; and

4 (3) to provide for the surveying and mapping of areas of
5 this Commonwealth subject to sinkhole development.

6 Section 3. Definitions.

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

10 "Commercial property." A building or structure which is
11 occupied primarily for the purpose of operating a business, an
12 office, a manufactory or a public accommodation or for any other
13 lawful nonresidential purpose. THE TERM SHALL NOT INCLUDE <—
14 BUILDINGS AND STRUCTURES OWNED BY THE FEDERAL GOVERNMENT, THE
15 COMMONWEALTH OR ANY OF ITS POLITICAL SUBDIVISIONS.

16 "Department." The Department of Environmental Resources of
17 the Commonwealth.

18 "Dwelling." A building or structure whose primary use is
19 residential.

20 "Property." A dwelling or commercial property.

21 "Qualified property." Property containing a business, an
22 office, a manufactory, a public accommodation or other lawful
23 nonresidential enterprise with fewer than 25 employees, provided
24 that the owner can demonstrate hardship in obtaining and
25 repaying a conventional loan and provided that other criteria
26 which may be established by the department are met. The term <—

27 ~~shall include a public school building.~~ THE TERM SHALL NOT <—
28 INCLUDE BUILDINGS AND STRUCTURES OWNED BY THE FEDERAL
29 GOVERNMENT, THE COMMONWEALTH OR ANY OF ITS POLITICAL
30 SUBDIVISIONS, EXCEPT FOR BUILDINGS AND STRUCTURES OF SCHOOL

1 DISTRICTS USED AS PUBLIC SCHOOL BUILDINGS.

2 "Sinkhole." A hole in the land surface which results from
3 the collapse of the roof of a cave, or from the subsidence of
4 surface material into a subsurface opening which has been
5 created specifically by the chemical weatherization of carbonate
6 rock.

7 "Sinkhole damage." Actual physical damage to property
8 arising out of or caused by sudden settlement or collapse of the
9 earth supporting such property, provided that such settlement or
10 collapse results from a sinkhole.

11 "Sinkhole emergency." When, as a result of sinkhole damage,
12 property is rendered unsafe for human occupancy.

13 Section 4. Sinkhole Damage Revolving Loan Fund.

14 There is hereby established in the State Treasury a special
15 fund to be known as the Sinkhole Damage Revolving Loan Fund,
16 which shall be comprised of all money appropriated, allocated or
17 made available to this fund from any source, the repayment of
18 principal and interest on loans made from this fund, and all
19 interest, earnings, increment and additions thereto. The assets
20 of this fund shall be used solely for the purposes of the
21 sinkhole damage assistance program, as set forth in section 5.

22 Section 5. Sinkhole damage assistance program.

23 (a) Application for assistance.--Whenever property has
24 sustained sinkhole damage, the owner of the property may apply
25 to the department for financial assistance. The application
26 shall be on a form prepared by the department and shall provide
27 for inspection of the property to determine the nature and
28 extent of the damage. Upon a determination by the department
29 that property has sustained sinkhole damage, the department
30 shall, to the extent funds are made available, grant assistance,

1 as hereinafter provided.

2 (b) Grants.--Grants may be awarded only to those homeowners
3 whose dwellings are unsafe for occupancy as a result of a
4 sinkhole emergency, as defined in this act and may be awarded to
5 move persons whose dwellings are destroyed or endangered until
6 the homes are repaired, until there is no further danger from
7 sinkhole subsidence or until a new permanent replacement
8 residence is found.

9 (c) Loans.--Loans may be approved at interest rates not to
10 exceed 3% for the repair or replacement of sinkhole-damaged
11 property. Property need not be rendered unsafe for human
12 occupancy as a result of a sinkhole emergency, as defined in
13 this act, to qualify for a loan under this subsection. The loan
14 shall be in an amount sufficient to cover the cost of repairing
15 the structural damage to the property, but in no event shall be
16 greater than the replacement cost of the property as determined
17 by an appraiser, as provided for in regulations promulgated
18 pursuant to this act. Loans shall be administered by the
19 department and shall be secured by a lien on the property being
20 repaired or replaced.

21 (d) Priority.--The department shall give preference to
22 grants and loans based on the following:

23 (1) Grants awarded pursuant to subsection (b) shall be
24 made on a priority basis, in accordance with regulations
25 promulgated as provided for in section 6, and considering
26 both the severity of damages and whether the person applying
27 for the grant demonstrates hardship in obtaining and repaying
28 a loan.

29 (2) Loans awarded pursuant to subsection (c) shall be
30 made on a priority basis, in accordance with regulations

promulgated as provided for in section 6, and considering the following:

(i) That preference shall be given to loans for dwellings.

(ii) That, in the case of loans for dwellings, preference shall be given to persons who demonstrate hardship in obtaining and repaying a conventional loan.

(iii) That, in the case of loans for commercial property, preference shall be given to qualified property as defined herein.

(iv) That, after establishing priority in accordance with subparagraphs (i), (ii) and (iii), loans shall be made on a priority basis according to the severity of damages.

(e) Thresholds.--A grant or loan shall not be awarded pursuant to this section unless the following damage thresholds are met or exceeded:

(1) A dwelling must have incurred sinkhole damage of \$1,000.

(2) Commercial property must have incurred sinkhole damage as follows:

(i) \$2,000 in the case of qualified property.

(ii) \$10,000 in the case of commercial property other than qualified property.

(F) MUNICIPAL ORDINANCE.--IN ORDER FOR AN OWNER OF PROPERTY WHICH HAS SUSTAINED SINKHOLE DAMAGE TO BE ELIGIBLE FOR GRANTS OR LOANS UNDER THIS ACT, AN ORDINANCE DEVELOPED AND PUBLISHED BY THE DEPARTMENT PURSUANT TO SECTION 7, TO CONTROL AND REGULATE LAND DEVELOPMENT TO REDUCE SINKHOLE DAMAGE, MUST BE ADOPTED BY THE COUNTY OR OTHER MUNICIPALITY IN WHICH THE PROPERTY IS

<—

1 LOCATED.

2 Section 6. Rulemaking.

3 The department shall propose rules and regulations which it
4 deems necessary to accomplish the purposes and carry out the
5 provisions of this act, and the Environmental Quality Board
6 shall have the power and its duty shall be to adopt any such
7 rules and regulations which it deems necessary to accomplish the
8 purposes and carry out the provisions of this act.

9 Section 7. Guidelines and model ordinances.

10 The department shall also develop and publish ~~nonbinding~~ <—
11 guidelines and model ordinances for use by counties and other
12 municipalities in addressing the control and regulation of land
13 development in order to reduce property damage caused by
14 sinkholes.

15 Section 8. Geologic survey.

16 Within three years of the effective date of this act, the
17 department shall complete its ongoing survey and mapping of
18 those areas of this Commonwealth subject to sinkhole
19 development.

20 Section 9. Annual appropriation estimate.

21 The department shall submit to the Governor and General
22 Assembly an annual estimate of the amount needed to be
23 appropriated to the department for allocation to the Sinkhole
24 Damage Revolving Loan Fund to insure its fiscal sufficiency to
25 meet the needs of the sinkhole damage assistance program.

26 Section 10. Appropriation.

27 (a) Appropriation.--The sum of \$1,150,000, or as much
28 thereof as may be necessary, is hereby appropriated to the
29 Department of Environmental Resources for the fiscal year July
30 1, 1990, to June 30, 1991, to be allocated as follows:

1 (1) The sum of \$1,000,000 is allocated to the Sinkhole
2 Damage Revolving Loan Fund. NO MORE THAN 10% OF THIS SUM <—
3 SHALL BE USED FOR ADMINISTRATIVE COSTS.

4 (2) The sum of \$150,000 is allocated for the ongoing
5 survey and mapping of areas of this Commonwealth subject to
6 sinkhole development.

7 (b) Nonlapsing.--The appropriation made in subsection (a)
8 shall be a continuing appropriation and shall not lapse.

9 Section 11. Effective date.

10 This act shall take effect immediately.