

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 240 Session of  
2001

INTRODUCED BY STOUT, WAGNER, BOSCOLA, COSTA, WOZNIAK, MELLOW,  
MUSTO, RHOADES, LOGAN, HUGHES AND KITCHEN, FEBRUARY 5, 2001

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 5, 2001

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;  
22 declaring false oaths by the subscribers to be misdemeanors;  
23 providing penalties for the violation thereof; and making an

1 appropriation," reenacted and amended November 27, 1972

2 (P.L.1243, No.278), are amended to read:

3 AN ACT

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

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

14 Whereas, these problems are becoming more widespread, and

15 Whereas, these conditions cause undue hardship upon a  
16 multitude of persons, and

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

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

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

29 Section 2. [Terms.--The Coal and Clay Mine Subsidence  
30 Insurance Board is hereinafter called the board, the Coal and

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

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

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

11 "Dwelling." A single-family structure the primary purpose of  
12 which is residential.

13 "Dwelling requiring mine subsidence insurance." A dwelling  
14 located above abandoned mine workings, which is within a one-  
15 half mile radius of an area where mine subsidence has been  
16 detected and which the department determines to be at risk for  
17 mine subsidence damage.

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

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

23 "Mine subsidence emergency." A condition in which a dwelling  
24 sustains mine subsidence damage sufficient to render the  
25 structure unsafe for human occupancy as determined by the  
26 department.

27 "Mine subsidence insurance policy." An insurance  
28 certificate, an insuring agreement, an application for mine  
29 subsidence insurance and endorsements to the insurance policy.

30 "Owner of structure." A person, corporation, organization or

1 association holding title to a structure within the anthracite  
2 or bituminous coal or clay mine regions as defined by the board.

3 "Program." The Mine Subsidence Assistance Program  
4 established in section 20.

5 "Secretary." The Secretary of Environmental Protection of  
6 the Commonwealth.

7 "Structure." A complete building which contains a roof,  
8 walls and a foundation which firmly attaches the structure to  
9 the earth.

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

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

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

29 Section 7. Schedule of Premiums.--At any time during each  
30 year, the [said] board shall prepare and publish a schedule of

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

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

1 the fund. The State Treasurer shall pay for all such securities  
2 or evidences of indebtedness by check issued upon requisition of  
3 the board. All such payments shall be made only upon delivery of  
4 such securities or evidences of indebtedness to the State  
5 Treasurer. To all requisitions calling upon the State Treasurer  
6 to pay for any securities or evidences of indebtedness, there  
7 shall be attached a certified copy of the resolution of the  
8 board authorizing the investment. The [said] board may upon like  
9 resolution sell any of such securities.

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

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

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

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

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

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

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

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

29 (1) The insurance may be subjected to later reductions, and  
30 premiums adjusted accordingly, if the board determines that the



1 amount of insurance coverage requested is in excess of the  
2 current market value of the structure or current statutory  
3 limits, whichever is less.

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

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

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

1 increase shall not be subject to a reinspection of the  
2 structure.

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

12 Section 4. Sections 13, 14, 15 and 17 of the act are amended  
13 to read:

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

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

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

29 [Section 14. Audit by Insurance Department.--The Insurance  
30 Department at least once each year shall make a complete

1 examination and audit of the affairs of the fund including all  
2 receipts and expenditures, cash on hand and securities,  
3 investments or property held representing cash or cash  
4 disbursements to ascertain its financial condition and its  
5 ability to fulfill its obligations, whether the board in  
6 managing the fund has complied with the provisions of law  
7 relating to the fund and the equity of the board's plans and  
8 dealings with its policyholders.

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

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

22 Section 15. Claims against Fund.--Any subscriber to the fund  
23 must file with the board a true statement of his claim for any  
24 subsidence and shall give to the board an opportunity to  
25 investigate and to determine whether the board will pay the  
26 claim. For any claim to be considered valid the department must  
27 determine that a mine subsidence event occurred during the term  
28 of the mine subsidence insurance policy.

29 Section 17. Subrogation to Rights of Claimants.--Nothing  
30 herein shall relieve any person, partnership, or corporation

otherwise liable therefor from any liability for damages sustained; and the fund and the program shall be subrogated to the rights of any property owners' insurance herein.

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

Section 20. Program.--(a) If a homeowner believes that the homeowner's dwelling has sustained mine subsidence damage, the homeowner may apply to the department for mine subsidence assistance. The application must be on a form prepared by the department and must provide for inspection of the dwelling to determine the nature, extent and time of the damage. Upon a determination that a dwelling has sustained mine subsidence damage and that an application for assistance was submitted to the department within forty-five days of occurrence of the mine subsidence event, the department shall, to the extent funds are made available, grant assistance, as follows:

(1) Grants may be awarded only to persons whose dwelling are unsafe for occupancy as a result of a mine subsidence emergency and may be awarded to move and provide temporary housing for persons whose dwellings are destroyed or endangered until the homes are repaired, until there is no further danger of subsidence or until a new permanent residence is found, provided that grants shall not be used to pay for temporary housing for more than one year and the total amount of a grant shall not exceed twelve thousand dollars (\$12,000).

(2) Loans may be approved at an interest rate equal to the current rate of return being earned by the fund, or five percent, whichever is lower for the repair or replacement of dwellings damaged by mine subsidence. Loans shall be awarded on a priority basis according to severity of damages sustained, but a dwelling need not be rendered unsafe for human occupancy as a

result of a mine subsidence emergency to qualify for a loan. The loan shall be for a period of time not exceeding fifteen years in duration and shall be in an amount sufficient to cover the cost of repairing the structural damage to the dwelling, but in no event shall be greater than the replacement cost of the dwelling as determined by an appraiser, as provided for in regulations promulgated under this act. Loans shall be administered by the department and shall be secured by a lien upon the dwelling being repaired or replaced.

(3) In addition to repairing or replacing structural damage to a dwelling, loans may also be made to repair or replace dwelling-related driveways, septic systems, sidewalks, fences, sewer laterals, water lines, gas lines, wells and inground pools, located on the property on which the dwelling is located, provided that the damage has been caused by the same mine subsidence that damaged the dwelling.

(4) Loans shall only be made for the amount not covered by insurance or other sources of remuneration, including amounts for which a mine operator is liable under the act of April 27, 1966 (1st Sp. Sess., P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act," unless it is determined that the operator is unable to meet his obligations under that act.

(b) If a person receiving assistance under this section does not have mine subsidence insurance, the person shall be required to purchase a mine subsidence insurance policy when the structural damage for which assistance was granted has been repaired. Persons receiving a loan under this section must maintain mine subsidence insurance coverage for the duration of the loan and persons receiving a grant under this section must

1 maintain mine subsidence insurance coverage for as long as it is  
2 determined by the department that the dwelling is in danger of  
3 further damage from mine subsidence. If a person receiving mine  
4 subsidence assistance fails to maintain the required mine  
5 subsidence insurance, the person shall immediately pay the fund  
6 the outstanding balance due on the loan or repay the amount of  
7 grant assistance received under this section.

8 (c) Repairs for which grants or loans are provided under  
9 this section must be completed within one year of the receipt of  
10 grant or loan assistance, unless an extension is approved by the  
11 department. If the department determines that repairs have not  
12 been made within one year and that no extension should be  
13 granted, the person who received the grant or loan assistance  
14 shall repay the fund for the amount of the grant or loan not  
15 expended on repairs for which the grant or loan was provided.

16 (d) Up to five percent of the money in the fund which is not  
17 committed to reserves, claims or other fund expenses, plus  
18 repayment of principal and interest on loans under this section,  
19 shall be used to fund assistance under this section.

20 Section 20.1. Subsidence Insurance Purchase and Compliance  
21 Requirements.--(a) Every purchaser of a dwelling requiring mine  
22 subsidence insurance shall purchase subsidence insurance in an  
23 amount at least equal to the appraised value of the dwelling  
24 purchased or to the maximum amount of coverage available with  
25 respect to the particular dwelling, whichever is less; provided,  
26 however, that the amount of subsidence insurance required need  
27 not exceed the outstanding principal balance of a loan against  
28 the dwelling and need not be required beyond the term of the  
29 loan.

30 (b) Notification of mortgage lending institution shall be as

1 follows:

2 (1) The department shall notify mortgage lending  
3 institutions in areas identified by the department as being  
4 located above abandoned mine workings of the requirements for  
5 subsidence insurance. Notified lenders shall direct persons  
6 applying for loans for the purchase of dwellings in these areas  
7 to contact the department to determine if the dwelling requires  
8 mine subsidence insurance and to provide the lender with a  
9 certificate from the department stating one of the following:

10 (i) That subsidence insurance is necessary under the  
11 provisions of this section and has been obtained as a condition  
12 of receiving and maintaining the loan.

13 (ii) That subsidence insurance may be necessary under the  
14 provisions of this section but is not being provided for reasons  
15 set forth in the certificate by the department.

16 (iii) That subsidence insurance is not necessary under the  
17 provisions of this section.

18 (2) Each State agency participating in providing mortgage  
19 loan assistance for the purchase of a dwelling in an area  
20 identified by the department as being located above abandoned  
21 mine workings shall, by regulations, require borrowers to obtain  
22 subsidence insurance under the circumstances and in the manner  
23 provided in subsection (a).

24 (c) Notwithstanding any other provision of this section,  
25 subsections (a) and (b) shall not apply to any loan having an  
26 original outstanding principal balance of \$5,000 or less and a  
27 repayment term of one year or less.

28 (d) If a lender subject to this act requires the escrowing  
29 of taxes, insurance premiums, fees or any other charges for a  
30 loan secured by a dwelling, then all premiums and fees for

1 subsidence insurance for the dwelling shall be paid to the  
2 lender or servicer for the loan in a manner sufficient to make  
3 payments as due for the duration of the loan. Upon receipt of  
4 the premiums, the lender or other servicer of the loan shall  
5 deposit the premiums in an escrow account on behalf of the  
6 borrower. Upon receipt of a notice from the department that  
7 subsidence insurance premiums are due, the lender or servicer  
8 shall pay from the escrow account to the department the amount  
9 of insurance premiums owed. Escrow accounts established pursuant  
10 to this subsection shall be subject to the provisions of section  
11 10 of the Real Estate Settlement Procedures Act of 1974 (Public  
12 law 93-533, 12 U.S.C. § 2609).

13 (e) Placement of subsidence insurance by lender shall be as  
14 follows:

15 (1) If, at the time of origination or at any time during the  
16 term of a loan secured by a dwelling requiring mine subsidence  
17 insurance, a lender or servicer for the loan determines that the  
18 dwelling is not covered by subsidence insurance or is covered by  
19 such insurance in an amount less than the amount required for  
20 the property pursuant to subsection (a), the lender or servicer  
21 for the loan shall notify the borrower that the borrower should  
22 obtain, at the borrower's expense, the required amount of  
23 subsidence insurance for the term of the loan and provide the  
24 lender or servicer for the loan with a certificate from the  
25 department as provided in subsection (b)(1).

26 (2) If the borrower fails to purchase the required  
27 subsidence insurance within forty-five days after notification  
28 under paragraph (1), the lender or servicer for the loan shall  
29 purchase the insurance on behalf of the borrower and may charge  
30 the borrower for the cost of premiums and fees incurred by the



1 lender in purchasing the insurance.

2 (3) Review of determination that subsidence insurance is  
3 required:

4 (i) The borrower and lender for a loan secured by a dwelling  
5 may jointly request the department to review a determination  
6 that the dwelling requires mine subsidence insurance. The  
7 request must be supported by technical information relating to  
8 the dwelling and its location. Within forty-five days of  
9 receiving the request for review, the department shall provide  
10 the borrower and the lender with a written redetermination  
11 stating whether or not the dwelling requires mine subsidence  
12 insurance. The redetermination of the department shall be final.

13 (ii) If the department redetermines that the dwelling  
14 securing the loan of the borrower does not require mine  
15 subsidence insurance, the borrower shall not be obligated to  
16 purchase subsidence insurance for the dwelling during the period  
17 determined by the department, which shall be stated in the  
18 redetermination under subparagraph (i) and shall begin on the  
19 date on which the letter is provided.

20 (iii) The borrower shall not be required to purchase  
21 subsidence insurance for the dwelling securing the loan until a  
22 redetermination under subparagraph (i) is provided if a request  
23 for redetermination is made under subparagraph (i) and the  
24 department does not provide the redetermination before the later  
25 of:

26 (A) the expiration of the time period under subparagraph  
27 (i); or

28 (B) closing of the loan.

29 (iv) A lender or any servicer for a loan may charge the  
30 borrower a reasonable fee for the costs of determining whether

the dwelling securing the loan requires mine subsidence insurance if any of the following apply:

(A) The determination is made pursuant to the making, increasing, extending or renewing of the loan that is initiated by the borrower.

(B) The loan for the dwelling may reasonably be considered to require the determination.

(C) The determination results in the purchase of subsidence insurance pursuant to paragraph (2).

(v) The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.

(f) Penalties for failure to require subsidence insurance shall be as follows:

(1) Monetary penalty shall be as follows:

(i) The department may assess a penalty in the amount of three hundred dollars (\$300) for each violation against any lender that fails to require subsidence insurance pursuant to subsection (b)(1) or fails to notify a borrower of lack of coverage pursuant to subsection (e)(1).

(ii) Each State agency providing mortgage loan assistance for dwellings located above abandoned mine workings pursuant to subsection (b)(2) may assess a penalty in the amount of three hundred dollars (\$300) for each violation against any lender participating in the program that fails to require subsidence insurance pursuant to agency regulations or fails to notify a borrower of lack of coverage pursuant to subsection (e)(1).

(iii) This paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

1     (2) Any lender that purchases or renews subsidence insurance  
2     on behalf of or as an agent of a borrower of a loan for which  
3     subsidence insurance is required shall be considered to be in  
4     compliance with this section.

5     (3) Sale or other transfer of a loan by a lender that has  
6     committed a violation of this section which occurs subsequent to  
7     the violation shall not affect the liability of the transferring  
8     lender regarding any penalty under this subsection. A lender  
9     shall not be liable for any violations by another lender that  
10    previously held the loan.

11    (4) Penalties collected under this subsection shall be paid  
12    into the fund.

13    (5) No penalty may be imposed under this subsection after  
14    the expiration of the four-year period beginning on the date of  
15    the violation for which the penalty is authorized under this  
16    subsection.

17    (g) This section shall apply with respect to any loan made,  
18    increased, extended or renewed on or after the effective date of  
19    this section.

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

22    (b) The department shall provide for public notice of the  
23    program and the requirements for mine subsidence insurance.

24    (c) The department shall make an annual report on the  
25    program and on compliance and experience with mine subsidence  
26    insurance requirements to the Environmental Resources and Energy  
27    Committee of the Senate and the Environmental Resources and  
28    Energy Committee of the House of Representatives.

29    Section 6. Sections 22 and 24.1 of the act are amended to  
30    read:

1       Section 22.   Employees of the Board to Be Part of the  
2   Department [of Environmental Resources].--All employees of the  
3   board shall be employed by and located in the [Department of  
4   Environmental Resources] department and shall be subject to the  
5   administrative jurisdiction and authority of the [Secretary of  
6   Environmental Resources] secretary.

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

10      Section 7.   The addition of section 20 of the act shall apply  
11   to mine subsidence damage incurred after December 31, 1998,  
12   provided that mine subsidence damage which occurred between  
13   January 1, 2001, and the effective date of this act and for  
14   which mine subsidence assistance is applied must have been  
15   reported to the department prior to the effective date of this  
16   act, and an application for assistance for such damage must be  
17   filed with the department within 90 days of the effective date  
18   of this act.

19      Section 8.   This act shall take effect as follows:

20      (1)   The addition of section 20.1 of the act shall take  
21   effect in 180 days.

22      (2)   The remainder of this act shall take effect immediately.