
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2914 Session of
2022

INTRODUCED BY GAYDOS, KINKEAD, HENNESSEY, STAMBAUGH,
PISCIOTTANO, HOHENSTEIN, BENHAM, O'NEAL, ORTITAY, DEASY,
COOK, MIHALEK AND KAIL, NOVEMBER 2, 2022

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
NOVEMBER 2, 2022

AN ACT

1 Establishing the Coal and Clay Mine Subsidence and Landslide
2 Insurance and Assistance Program within the Department of
3 Environmental Protection; providing for related powers and
4 duties of the Department of Environmental Protection;
5 establishing and providing for the powers and duties of the
6 Coal and Clay Mine Subsidence and Landslide Insurance Board;
7 providing for duties of the Auditor General; establishing the
8 Coal and Clay Mine Subsidence and Landslide Insurance Fund
9 and the Coal and Clay Mine Subsidence and Landslide
10 Assistance Fund; imposing a penalty; making appropriations
11 and transfers; and making a related repeal.

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16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 CHAPTER 1

19 PRELIMINARY PROVISIONS

20 Section 101. Declarations.

21 The General Assembly finds and declares as follows:

22 (1) The anthracite and bituminous coal and clay mine
23 areas of this Commonwealth have been faced with the grave
24 problem of subsidence for many years.

25 (2) These problems are becoming more widespread.

26 (3) These conditions cause undue hardship upon a
27 multitude of persons.

28 (4) Geologists have studied with increasing concern the
29 underground movement of the geological formations in this
30 Commonwealth and its impeding effects on vertical and

1 horizontal natural and manmade surfaces.

2 (5) Landslides and slope movement have historically been
3 the norm throughout most parts of this Commonwealth.

4 (6) Landslides and slope movement occur without regard
5 for municipal boundaries, ordinances, planning codes,
6 politics and economies, making it difficult for local
7 officials to deal effectively with the development and
8 implementation of methods and standards to control the
9 devastation that these natural forces can cause.

10 (7) Landslides and slope movement have caused an
11 enormous amount of damage to homes and roadways in this
12 Commonwealth, particularly the southwestern region of the
13 State.

14 (8) Landslides and slope movement will continue to
15 plague southwestern Pennsylvania.

16 (9) Landslides affect every state in the nation, causing
17 an estimated \$2,000,000,000 to \$4,000,000,000 in damages per
18 year.

19 (10) Landslide damage caused by flooding is not covered
20 by the National Flood Insurance Program.

21 (11) Problems associated with landslide damage are
22 becoming more widespread.

23 (12) It would be to the advantage of residents of the
24 anthracite and bituminous coal and clay mining regions and
25 landslide prone regions of this Commonwealth to form a common
26 bond to combat distress resulting from mine subsidence and
27 landslide damage.

28 Section 102. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Anthracite and Bituminous Coal Mine Subsidence Fund Act."

3 The former act of August 23, 1961 (P.L.1068, No.484), entitled

4 "An act to provide for the creation and administration of a Coal

5 and Clay Mine Subsidence Insurance Fund within the Department of

6 Environmental Protection for the insurance of compensation for

7 damages to subscribers thereto; declaring false oaths by the

8 subscribers to be misdemeanors; providing penalties for the

9 violation thereof; and making an appropriation."

10 "Assistance fund." The Coal and Clay Mine Subsidence and

11 Landslide Assistance Fund established under section 710.

12 "Board." The Coal and Clay Mine Subsidence and Landslide

13 Insurance Board established under section 305.

14 "Community." Either of the following:

15 (1) A political subdivision that has zoning and building

16 code jurisdiction over an area having coal and clay mine

17 subsidence or landslide features as determined by the

18 department.

19 (2) A political subdivision that is designated to

20 develop and administer a mitigation plan by the department.

21 "Department." The Department of Environmental Protection of

22 the Commonwealth.

23 "Extremely hazardous area." An area where the department

24 determines that multiple environmental factors contribute to

25 high risk of damage to structures from coal and clay mine

26 subsidence and landslide features.

27 "GIS." Geographic information systems.

28 "Insurance fund." The Coal and Clay Mine Subsidence and

29 Landslide Insurance Fund established under section 501.

30 "Landslide." A detached mass of soil, rock, earth or debris

1 that moves down a slope and is of sufficient size to cause
2 damage. The term includes sinkholes.

3 "Landslide features." The term includes rockfall areas,
4 creep, red beds and historic landslides.

5 "Mitigation." An activity relative to landslides and coal
6 and clay mine subsidence that prevents an emergency from
7 occurring, reduces the likelihood of an emergency occurring or
8 lessens the damaging effects of unavoidable emergencies.

9 "Mitigation plan." A plan designed by a community that, when
10 implemented, provides mitigation.

11 "Program." The Coal and Clay Mine Subsidence and Landslide
12 Insurance and Assistance Program established under section 302.

13 "Secretary." The Secretary of Environmental Protection of
14 the Commonwealth.

15 "Sinkhole." A closed topographic depression or basin,
16 generally draining underground, including, but not restricted
17 to, a doline, uvala, blind valley or sink.

18 CHAPTER 3

19 COAL AND CLAY MINE SUBSIDENCE AND

20 LANDSLIDE INSURANCE AND ASSISTANCE PROGRAM

21 Section 301. Program goals.

22 The goals of the program shall be to:

23 (1) Provide actuarially sound insurance coverage.

24 (2) Make program policies universally available and
25 competitively priced.

26 (3) Make use of the most effective scientific and
27 technological advances available, including, but not limited
28 to, technology such as GIS.

29 (4) Process claims promptly, fairly and consistently.

30 (5) Provide tools and incentives for coal and clay mine

1 subsidence and landslide loss reduction, including the
2 insurance fund.

3 (6) Collaborate with other organizations that operate in
4 the public interest to assist in achieving the program's
5 goals.

6 Section 302. Coal and Clay Mine Subsidence and Landslide
7 Insurance and Assistance Program.

8 (a) Establishment.--The Coal and Clay Mine Subsidence and
9 Landslide Insurance and Assistance Program is established within
10 the department. The program shall be administered by the board.

11 (b) Program components.--The program shall consist of the
12 following components:

13 (1) A grant program.

14 (2) A revolving loan program.

15 (3) An insurance program.

16 (c) Purposes of program components.--The grant program under
17 subsection (b) (1) and the revolving loan program under
18 subsection (b) (2) are established for the purposes of mitigating
19 and repairing minor structural damage. The board shall use the
20 grant program and the revolving loan program as tools to aid in
21 the success of the insurance fund.

22 Section 303. Program authority.

23 (a) Intergovernmental cooperation.--The board shall:

24 (1) Work closely with Federal, State and local agencies
25 and any other government agencies, including those of other
26 states, to accomplish program goals.

27 (2) Create and implement a Statewide coal and clay mine
28 subsidence and landslide mitigation plan in accordance with
29 section 709 that would encourage and support local mitigation
30 efforts.

1 (3) Investigate sites to define landslide features.

2 (4) Recommend legislation, regulations, ordinances and
3 zoning to mitigate slope instability contributed by
4 excavation and drainage.

5 (5) Work with local governments to evaluate risk
6 associated with certain homesite development.

7 (6) Share the most up-to-date geological surveys in the
8 form of maps, GIS data or other useful forms and related
9 information free of charge to government agencies and
10 appropriate representatives of communities and at a
11 reasonable cost to all other persons. Receipts under this
12 paragraph shall be deposited into the assistance fund.

13 (7) Inform the Department of Transportation of which
14 highways are at greatest risk from coal and clay mine
15 subsidence and landslides.

16 (8) Notify local governments in areas with the greatest
17 risk from coal and clay mine subsidence and landslides.

18 (9) Have the authority to consult, receive information
19 and enter into any agreements or other arrangements in order
20 to identify and publish information with respect to all coal
21 and clay mine subsidence and landslide-prone areas, establish
22 or update coal and clay mine subsidence and landslide-risk
23 zone data and make estimates with respect to the rates of
24 probable coal and clay mine subsidence and landslide-caused
25 loss for the various coal and clay mine subsidence and
26 landslide-risk zones for each of these areas.

27 (10) Publish any change to coal and clay mine subsidence
28 and landslide insurance map panels.

29 (11) Ensure that the program is consistent in coal and
30 clay mine subsidence and landslide control, forecasting and

1 damage prevention.

2 (b) Studies and investigations.--

3 (1) The board is authorized to carry out necessary
4 studies and investigations, utilizing to the maximum extent
5 practicable the existing facilities and services of other
6 Federal and State departments or agencies, local government
7 agencies and any other organizations, with respect to the
8 adequacy of State and local measures in landslide-prone areas
9 as to:

10 (i) Land management and use.

11 (ii) Coal and clay mine subsidence and landslide
12 control.

13 (iii) Zoning.

14 (iv) Coal and clay mine subsidence and landslide
15 damage prevention.

16 (2) The board may enter into any contracts, agreements
17 or other appropriate arrangements to carry out its authority
18 under this subsection. Studies and investigations under
19 paragraph (1) shall include analysis of the following:

20 (i) Laws.

21 (ii) Regulations.

22 (iii) Ordinances.

23 (iv) Zoning.

24 (v) Building codes.

25 (vi) Building permits.

26 (vii) Subdivision or other building restrictions.

27 (c) State and local measures.--On the basis of studies and
28 investigations under subsection (b) and other information as the
29 department deems necessary, the board shall develop
30 comprehensive criteria designed to encourage, where necessary,

1 the adoption of adequate State and local measures which, to the
2 maximum extent feasible, will:

3 (1) Constrict the development of land that is exposed to
4 coal and clay mine subsidence and landslide damage, where
5 appropriate.

6 (2) Guide the development of proposed construction away
7 from locations that are threatened by coal and clay mine
8 subsidence and landslide features.

9 (3) Assist in reducing damage caused by coal and clay
10 mine subsidence and landslides.

11 (4) Otherwise improve the long-term land management and
12 use of coal and clay mine subsidence and landslide-prone
13 areas.

14 (d) Technical assistance.--The board shall work closely with
15 and provide any necessary technical assistance to State and
16 local government agencies to encourage the application of the
17 criteria and the adoption and enforcement of the measures under
18 this section.

19 Section 304. Land-use controls and rate structure.

20 A local government may adopt land-use controls for the
21 benefit of the local government's residents. The following shall
22 apply:

23 (1) No new coal and clay mine subsidence and landslide
24 insurance coverage shall be provided to new construction
25 without preapproval by an appropriate local public body,
26 which shall have the option of adopting adequate land use and
27 control measures with effective enforcement provisions.

28 (2) A community rating system shall be employed by the
29 board as an incentive for community coal and clay mine and
30 landslide management. The rating system shall consider where

1 coal and clay mine subsidence and landslide damage is more
2 likely to occur and give higher ratings to those communities
3 that have lower risk of damage either due to low risk of the
4 damage occurring due to the natural characteristics of the
5 community or due to steps taken by the community to prevent
6 the damage. This rating system shall be reflected by the
7 rates assigned to communities.

8 (3) Rate structures shall provide incentives for
9 measures that reduce the risk of coal and clay mine
10 subsidence and landslide damage and evaluate the measures.
11 The program shall provide incentives in the form of credits
12 on premium rates for coal and clay mine subsidence and
13 landslide insurance coverage in communities that the
14 department determines have adopted and enforced measures that
15 reduce the risk of coal and clay mine subsidence and
16 landslide damage.

17 (4) A credit on premium rates for flood insurance
18 coverage shall be based on the estimated reduction in flood
19 and erosion damage risks resulting from the measures adopted
20 by a community under the program. If a community has received
21 mitigation or other assistance under the program, the credits
22 may be used in a manner determined by the department to
23 recover the amount of assistance provided for the community.

24 Section 305. Coal and Clay Mine Subsidence and Landslide
25 Insurance Board.

26 The Coal and Clay Mine Subsidence and Landslide Insurance
27 Board is established and shall be a continuation of the Coal and
28 Clay Mine Subsidence Insurance Board established under section 3
29 of the Anthracite and Bituminous Coal Mine Subsidence Fund Act.
30 The board shall retain the structure and members of the Coal and

1 Clay Mine Subsidence Insurance Board and shall also include the
2 following additional members:

3 (1) The Director of the Pennsylvania Emergency
4 Management Agency or a designee.

5 (2) The Secretary of Conservation and Natural Resources
6 or a designee.

7 CHAPTER 5

8 COAL AND CLAY MINE SUBSIDENCE AND

9 LANDSLIDE INSURANCE FUND

10 Section 501. Coal and Clay Mine Subsidence and Landslide
11 Insurance Fund.

12 (a) Establishment.--The Coal and Clay Mine Subsidence and
13 Landslide Insurance Fund is established and shall be a
14 continuation of the Coal and Clay Mine Subsidence Insurance Fund
15 established under section 4 of the Anthracite and Bituminous
16 Coal Mine Subsidence Fund Act.

17 (b) Purpose.--The insurance fund shall be used to insure
18 against damages resulting from coal and clay mine subsidence and
19 landslide damage.

20 (c) Claim or liability.--A claim against or a liability of
21 the insurance fund shall not be deemed to constitute a debt or
22 liability of the Commonwealth or a charge against the General
23 Fund.

24 Section 502. Expenses.

25 The expenses of the administration of the insurance fund
26 shall be paid out entirely from the insurance fund.

27 Section 503. State Treasurer custodian of insurance fund.

28 The State Treasurer shall be the custodian of the insurance
29 fund and all disbursements from the insurance fund shall be paid
30 by the State Treasurer by check upon request by the board. The

1 following shall apply:

2 (1) The State Treasurer shall not be required to audit
3 accounts from which the board requests payments.

4 (2) The State Treasurer shall not be liable for any
5 payment made under this act.

6 (3) The State Treasurer may deposit any portion of the
7 insurance fund not needed for immediate use as other State
8 funds are lawfully deposited into the General Fund. Any
9 interest accrued by deposits under this paragraph shall be
10 placed to the credit of the insurance fund.

11 Section 504. Schedule of premiums.

12 (a) General rule.--At any time during each year, the board
13 shall prepare and publish on the department's publicly
14 accessible Internet website a schedule of premiums or rates of
15 insurance for subscribers. The following shall apply:

16 (1) The schedule shall be printed and distributed free
17 of charge to individuals who request a schedule.

18 (2) A subscriber may pay to the State Treasurer the
19 amount of premium appropriate, and upon payment, shall be
20 insured, in accordance with this act for the year for which
21 the premium is paid.

22 (3) The insurance acquired under paragraph (2) shall
23 cover all payments becoming due for which the premium is
24 paid.

25 (b) Amount of premium.--Each premium is fixed and shall be
26 adequate to enable payment of all sums that may become due and
27 payable under the provisions of this act, and adequate reserve
28 sufficient to carry all policies and claims to maturity.

29 (c) Fixing premiums.--In fixing a premium payable by a
30 subscriber, the board may:

1 (1) take into account the condition of the premises of
2 the subscriber in respect to the possibility of subsidence as
3 shown by the report of any inspector appointed by the board
4 or the department;

5 (2) from time to time change the amount of premiums
6 payable by any of the subscribers as circumstances may
7 require and the condition of the premises of the subscribers
8 in respect to the possibility of subsidence may justify; and

9 (3) increase the premiums of any subscriber whose loss
10 experience warrants the change.

11 (d) Effective date of insurance.--The insurance of any
12 subscriber shall not be effective until the subscriber shall
13 have paid in full the premium fixed and determined under this
14 section.

15 Section 505. Surplus.

16 The following shall apply:

17 (1) The board shall set aside 5% of all premiums
18 collected under this act until the board determines that the
19 surplus is large enough to cover the catastrophe hazard of
20 all the subscribers to the insurance fund and to guarantee
21 the solvency of the insurance fund.

22 (2) If the board determines that the surplus is large
23 enough under paragraph (1), the board shall reevaluate the
24 set aside under paragraph (1) and investment of the surplus
25 and make a recommendation to the General Assembly.

26 Section 506. Investment of surplus.

27 (a) General rule.--The board may invest any of the surplus
28 or reserve belonging to the insurance fund in securities and
29 investments that are authorized for investment by savings banks.

30 (b) State Treasurer custodian.--The State Treasurer shall be

1 custodian of all securities and evidences of indebtedness under
2 subsection (a), and the following shall apply:

3 (1) The State Treasurer shall collect the principal and
4 interest on the principal when due and pay that amount into
5 the insurance fund.

6 (2) The State Treasurer shall pay for all securities or
7 evidences of indebtedness under subsection (a) by check
8 issued upon requisition of the board.

9 (3) All payments under paragraph (2) shall be made only
10 upon delivery of the securities or evidences of indebtedness
11 to the State Treasurer.

12 (4) To all requisitions calling upon the State Treasurer
13 to pay for any securities or evidences of indebtedness, there
14 shall be attached a certified copy of the resolution of the
15 board authorizing the investment.

16 (5) The board may sell any security by resolution.
17 Section 507. Disbursements from insurance fund.

18 (a) Operation of insurance fund.--Money from the general
19 appropriation of the department shall be available for the
20 expense of administering the insurance fund, including the
21 purchase through the Department of General Services of surety
22 bonds for officers or employees of the board as may be required
23 to purchase supplies, materials, motor vehicles, workmen's
24 insurance covering the officers and employees of the board and
25 liability insurance covering vehicles operated by the officers
26 and employees of the board.

27 (b) Treasury Department.--Money from the general
28 appropriation of the department shall also be available for
29 payment to the Treasury Department for the cost of making
30 disbursements out of the insurance fund on behalf of the

1 insurance fund at amounts as the Treasury Department, with the
2 approval of the board, shall determine.

3 (c) Accounting.--The following shall apply:

4 (1) The board shall keep an accurate account of the
5 money paid in premiums by subscribers and the disbursements
6 on account of damages to the subscribers' premises.

7 (2) If at the expiration of any year there shall be a
8 balance remaining after deducting the disbursements, the
9 unearned premiums on undetermined risks and the percentage of
10 premiums paid or payable to create or maintain the surplus as
11 required under this section, and after setting aside an
12 adequate reserve, the balance, as the board may determine to
13 be safely distributable, may be allocated to the cost of
14 administering the insurance fund or distributed among the
15 subscribers in proportion to the premiums paid by them.

16 (3) For the proportionate share of the subscribers who
17 remain subscribers to the insurance fund, the premiums
18 distributed to subscribers under paragraph (2) shall be
19 credited to the installment of premiums next due by the
20 subscribers. The proportionate share of the subscribers who
21 have ceased to be subscribers in the insurance fund shall be
22 refunded to them out of the insurance fund in the manner
23 provided under this chapter.

24 (d) One-time commission payment.--Money from the general
25 appropriation of the department shall also be available to pay a
26 one-time commission as determined by the board to insurance
27 producers who submit applications for mine subsidence and
28 landslide insurance to the board under this chapter if a policy
29 is issued pursuant to an application submitted by an insurance
30 producer. The amount of the commission shall be determined by

1 the board on an annual basis.

2 Section 508. Application for insurance, terms of insurance,
3 penalty for false statement and list of mining areas.

4 (a) Application for insurance.--The following shall apply:

5 (1) An owner of a structure located within the
6 anthracite or bituminous coal or clay mine region or an
7 extremely hazardous area who desires to become a subscriber
8 to the insurance fund for the purpose of insuring the
9 structure against damages from coal or clay mine subsidences
10 or landslide damage shall make a complete application, as
11 prescribed by the board, to the board, its agents or
12 insurance producers.

13 (2) Upon receiving an application under paragraph (1),
14 the board shall:

15 (i) Make an investigation as may be necessary if the
16 application complies with the rules and regulations of
17 the board.

18 (ii) Within 60 days after receiving the application,
19 issue a certificate showing whether the board approved
20 the application and the amount of premium payable by the
21 applicant for the year for which the premium is sought.

22 (3) The amount of insurance coverage for which an
23 applicant is approved under paragraph (2) shall not exceed
24 the replacement cost of the insured structure or the maximum
25 amount of coverage established by the insurance fund,
26 whichever is less.

27 (4) Policies issued under this chapter may be issued for
28 one year, for two years or for three years as the board may
29 establish.

30 (5) Except as provided under subsection (b), no

1 insurance shall become effective until the premiums have been
2 paid. All premiums shall be payable to the State Treasurer,
3 who shall issue a receipt for payment. The receipt for
4 premium together with a certificate of the board shall be
5 evidence that the applicant has become a subscriber to the
6 insurance fund and is insured.

7 (b) Failure to approve or deny application.--If the board
8 fails to make the necessary investigations or inspection and
9 fails to approve or deny an application as required under
10 subsection (a), the insurance requested by the applicant shall
11 be deemed granted. The insurance shall be effective from the
12 date of the application's submission under subsection (a). The
13 following shall apply:

14 (1) The coverage shall be null and void if the applicant
15 fails to remit the premium payment within 20 days from the
16 day the bill for the premium was postmarked.

17 (2) The insurance may be subjected to later reductions,
18 and premiums adjusted accordingly, if the board determines
19 that the amount of insurance coverage requested is in excess
20 of the current replacement cost of the structure or the
21 maximum amount of coverage established by the insurance fund,
22 whichever is less.

23 (3) The insurance shall be void if, upon inspection of
24 the structure, the board determines that either:

25 (i) mine subsidence or landslide damage occurred
26 prior to the request by the applicant for insurance; or

27 (ii) the applicant, due to an unreasonable action or
28 inaction, is responsible for the failure of the board to
29 inspect the structure within 60 days of receipt of the
30 application in accordance with this section.

1 (c) Offense.--Whoever shall knowingly furnish or make any
2 false certificate, application or statement as required under
3 this section shall be guilty of a misdemeanor, and upon
4 conviction shall be sentenced to pay a fine not to exceed \$1,500
5 and shall be sentenced to a term of imprisonment not to exceed
6 one year.

7 (d) Identifying risk.--In order to assist insurance
8 producers and potential policyholders in identifying structures
9 that could be at risk from mine subsidence or landslide damage,
10 the board shall transmit a list of areas in this Commonwealth
11 that are believed to be at risk for mine subsidence or landslide
12 damage to the Legislative Reference Bureau for publication in
13 the Pennsylvania Bulletin.

14 Section 509. Application for increase in insurance.

15 (a) General rule.--An application for an increase in the
16 amount of insurance, up to the allowable limits, may be made at
17 any time by the subscriber by submitting a written statement, as
18 determined by the board, to the board or to any of the board's
19 agents, except during a period when a claim filed by the
20 subscriber is open and pending investigation by the department.

21 (b) Approval of request.--The following shall apply:

22 (1) Upon receipt of the subscriber's written statement
23 under subsection (a), the board shall reinspect the structure
24 within 60 days.

25 (2) If reinspection under paragraph (1) occurs within
26 the 60-day period and the structure passes the reinspection,
27 the new amount of insurance shall be approved and shall be
28 effective from the date of the first premium payment after
29 reinspection.

30 (3) If reinspection under paragraph (1) does not occur

1 within the 60-day period, the new amount of insurance shall
2 be deemed approved by the board and shall be effective from
3 the date the subscriber's application for additional
4 insurance was received by the board under subsection (a), but
5 the additional coverage shall be null and void if the
6 subscriber fails to remit the premium payment within 20 days
7 from the day the bill for additional premium is postmarked.

8 (c) Reduction in additional insurance.--The additional
9 insurance approved under this section may be reduced, with
10 premiums adjusted accordingly, if the board determines that the
11 subscriber's total amount of insurance exceeds the current
12 replacement cost of the structure or the maximum amount of
13 coverage established by the insurance fund, whichever is less.

14 (d) Voided additional insurance.--Additional insurance
15 approved under this section shall be void if, upon reinspection
16 of the structure, the board determines that either:

17 (1) mine subsidence or landslide damage occurred prior
18 to the request of the subscriber for additional insurance; or

19 (2) the subscriber's unreasonable action or inaction are
20 responsible for the board's failure to reinspect the insured
21 structure within 60 days of receipt of the application for
22 additional insurance under subsection (a).

23 Section 510. Automatic inflation protection increase.

24 The board shall make available to all subscribers an annual
25 inflation protection option on the anniversary date of each
26 policy to uniformly increase subscribers' coverage. A subscriber
27 must elect this option within 30 days. The option shall not be
28 made available more than once annually. An inflation protection
29 increase shall not be subject to a reinspection of the
30 structure.

1 Section 511. Insurance for structures under construction.

2 The board shall make available mine subsidence and landslide
3 insurance to owners of structures under construction. The
4 insurance under this section shall have a term of no more than
5 18 months, or until the structure is 80% complete, whichever is
6 earlier.

7 Section 512. Audit by Auditor General.

8 The following shall apply:

9 (1) The Auditor General or a designee shall at least
10 once each year make a complete examination and audit of the
11 insurance fund, including all receipts and expenditures, cash
12 on hand and securities and investments or property held
13 representing cash or cash disbursements.

14 (2) The Auditor General is authorized to employ
15 consultants, experts, accountants or investigators as
16 necessary to carry out this section.

17 (3) The expense incurred in making an examination and
18 audit under paragraph (1) shall be certified to the insurance
19 fund by the Auditor General and shall be paid from the
20 general appropriation of the department.

21 (4) The first audit of the insurance fund may, in the
22 discretion of the Auditor General, extend back to the
23 establishment of the insurance fund or to any other period in
24 the insurance fund's existence.

25 Section 513. Claims against insurance fund.

26 A subscriber to the insurance fund must file with the board a
27 true statement of the subscriber's claim for any subsidence or
28 landslide damage and shall provide the board an opportunity to
29 investigate to determine whether the board must pay the claim.

30 Section 514. Defenses against claims, suits, procedure and

1 investigations of claims.

2 In each case where a claim is made against the insurance
3 fund, the insurance fund shall be entitled to every defense
4 against the claim under the policy and shall be subrogated to
5 every right of the subscriber arising out of accidents against
6 any third persons. The insurance fund may, in the name of the
7 insurance fund, sue or be sued to enforce any right given
8 against or to any subscriber or other persons under this act.

9 Section 515. Subrogation to rights of claimants.

10 Nothing in this act shall relieve any person, partnership or
11 corporation from any liability for damages sustained, and the
12 insurance fund shall be subrogated to the rights of any property
13 owners' insurance as provided under this chapter.

14 Section 516. Insurance companies may cover this type of risk.

15 An insurance company may issue policies covering the type of
16 risk covered under this act if the policy is approved by the
17 Insurance Commissioner as to policy form and rates.

18 CHAPTER 7

19 ADMINISTRATION AND FUNDING

20 Section 701. Rules and regulations.

21 The board may publish guidance and rules and promulgate
22 regulations to carry out the purposes of this act, including,
23 but not limited to, reasonable classification of risks eligible
24 for coverage under this act, limits of coverage and rules
25 covering the adjustment and settlement of claims.

26 Section 702. Escrow of premium payments.

27 A mortgage lender that offers the purchase of insurance under
28 this act shall escrow the premium.

29 Section 703. Properties in violation of State or local law.

30 No new coal and clay mine subsidence and landslide insurance

1 coverage shall be provided for a property that the department
2 finds has been declared by a State or local zoning authority or
3 other authorized public body to be in violation of State or
4 local laws, regulations or ordinances that are intended to
5 discourage or otherwise restrict land development or occupancy
6 in areas that are prone to coal and clay mine subsidence or
7 landslides.

8 Section 704. Department report.

9 The department shall make an annual report on the program and
10 on experience with mine subsidence and landslide insurance sales
11 through producers to the chairperson and minority chairperson of
12 the Environmental Resources and Energy Committee of the Senate
13 and the chairperson and minority chairperson of the
14 Environmental Resources and Energy Committee of the House of
15 Representatives.

16 Section 705. Employees of board shall be employees of
17 department.

18 An employee of the board shall be employed by and located in
19 the department and shall be subject to the administrative
20 jurisdiction and authority of the secretary.

21 Section 706. Attorney General to be counsel for board.

22 The Attorney General shall, ex officio, be the general
23 counsel of the board and shall appoint any attorney as may be
24 deemed necessary to aid the board.

25 Section 707. Appropriation.

26 (a) General rule.--The sum of \$2,500,000 is appropriated to
27 the board for the purposes of this act and expenses of
28 organization and administration of the insurance fund as
29 provided under this act for fiscal year July 1, 2023, through
30 June 30, 2024.

1 (b) Additional transfer.--If, upon completion of an annual
2 examination and audit under section 512, the board determines
3 that the total asset value of the insurance fund is less than
4 \$2,500,000, an additional sum as may be necessary to increase
5 the total asset value of the insurance fund to \$2,500,000 shall
6 be transferred from the General Fund to the insurance fund for
7 the purposes of this act for the fiscal year immediately
8 following the examination and audit.

9 (c) Fund transfer.--The sum of \$2,500,000, or as much
10 thereof as may be necessary, is transferred from the General
11 Fund to the insurance fund for the fiscal year July 1, 2023,
12 through June 30, 2024.

13 (d) Department.--Money in the insurance fund and in the
14 assistance fund is appropriated to the department in amounts as
15 may be determined annually by the Governor to be used for the
16 specified purposes of this act.

17 Section 708. Appeals.

18 A party aggrieved by an action of the board shall have the
19 right to appeal in accordance with 2 Pa.C.S. (relating to
20 administrative law and procedure).

21 Section 709. Mitigation assistance.

22 (a) Financial assistance generally.--The department shall
23 carry out a program to provide financial assistance to
24 communities and individuals for planning and carrying out
25 activities designed to reduce the risk of coal and clay mine
26 subsidence and landslide damage to structures covered under
27 contracts for coal and clay mine subsidence and landslide
28 insurance. Financial assistance may be made available to
29 communities and individuals in the form of grants or revolving
30 loans for the carrying out of mitigation activities. Loans shall

1 carry an interest rate of no more than 3%.

2 (b) Grants.--The department may make grants under this
3 section to communities to assist in developing mitigation plans.
4 The grants shall come from the assistance fund as outlined in
5 section 710 and shall be made in amounts that the department
6 determines meets the goal of this section while prioritizing the
7 fiscal stability of the assistance fund.

8 (c) Eligibility.--The following shall apply:

9 (1) To be eligible to receive financial assistance under
10 this section, a community shall develop a mitigation plan
11 that describes the mitigation activities to be carried out
12 with assistance provided under this section.

13 (2) The mitigation plan under paragraph (1) shall be
14 consistent with:

15 (i) criteria as established by the department and
16 provide protection against coal and clay mine subsidence
17 and landslide losses to structures for which contracts
18 for flood insurance are available under this act; and

19 (ii) a comprehensive strategy for mitigation
20 activities for the area affected by the mitigation plan
21 that has been adopted by the community following a public
22 hearing.

23 (d) Procedure.--The department shall notify a community
24 submitting a mitigation plan of the approval or disapproval of
25 the plan no later than 120 days after submission of the plan. If
26 the department does not approve a mitigation plan submitted
27 under this section, the department shall notify in writing the
28 community submitting the plan of the reasons for the
29 disapproval.

30 (e) Limitation.--Amounts provided under this section may be

1 used only for mitigation activities specified in a mitigation
2 plan approved by the department. The department may approve only
3 mitigation plans that specify mitigation activities that are
4 technically feasible, cost effective and cost beneficial.

5 (f) Approval.--The department shall approve funding for
6 mitigation plans based on criteria that include, but are not
7 limited to:

8 (1) Criteria under subsection (e).

9 (2) Proposed activities to address repetitive loss
10 structures and structures that have incurred substantial
11 damage.

12 (g) Matching funds.--The department may require a community
13 to match a grant received under this section.

14 (h) Oversight.--The department shall conduct oversight of
15 recipients of mitigation assistance to ensure that the
16 assistance is used in compliance with the approved mitigation
17 plans of the recipients and that any matching fund requirements
18 are fulfilled.

19 (i) Failure to comply.--If the department determines that a
20 community that has received mitigation assistance under this
21 section has not carried out the mitigation activities as
22 provided in the mitigation plan or has not secured required
23 matching funds, the department shall recapture any unexpended
24 amounts and redeposit the amounts in the assistance fund.

25 Section 710. Coal and Clay Mine Subsidence and Landslide
26 Assistance Fund.

27 The Coal and Clay Mine Subsidence and Landslide Assistance
28 Fund is established as a fund in the State Treasury. The
29 assistance fund shall be administered by the department and
30 shall consist of money appropriated, transferred or otherwise

1 made available to the assistance fund for the purposes of this
2 chapter. All money in the assistance fund and any accrued
3 interest is appropriated to the department on a continuing basis
4 to carry out the provisions of section 709.

5 Section 711. Program funding.

6 The program shall be funded by the General Assembly through
7 an appropriation of money to the department until such time as
8 the insurance fund and assistance fund are deemed self-
9 sufficient by concurrent resolution adopted by the General
10 Assembly.

11 Section 712. Reimbursement.

12 The program shall reimburse any Commonwealth agency or
13 departments for agreed-upon costs of services that aid in
14 administering the program.

15 Section 713. Cost of administration.

16 The board shall keep an accurate account of money paid in
17 premiums by the subscribers and disbursements on account of
18 damages to structures. If, at the expiration of any year, there
19 is a balance remaining after deducting the disbursements, the
20 unearned premiums on undetermined risks and the percentage of
21 premiums paid or payable to create or maintain the surplus
22 provided under this act, and after setting aside an adequate
23 reserve, the board may determine to allocate the remaining money
24 to the cost of administering the insurance fund.

25 Section 714. Administration.

26 (a) Transfer of insurance fund.--Upon the effective date of
27 this section, the department shall take immediate steps to
28 transition the Coal and Clay Mine Subsidence Insurance Fund to
29 the insurance fund.

30 (b) Administration of program.--The department shall begin

1 administering the program within two years of the effective date
2 of this section.

3 CHAPTER 9

4 MISCELLANEOUS PROVISIONS

5 Section 901. Repeals.

6 Repeals are as follows:

7 (1) The General Assembly declares that the repeal under
8 paragraph (2) is necessary to effectuate this act.

9 (2) The Anthracite and Bituminous Coal Mine Subsidence
10 Fund Act is repealed.

11 Section 902. Continuation.

12 Except as otherwise provided in this act, all activities
13 initiated under the Anthracite and Bituminous Coal Mine
14 Subsidence Fund Act shall continue and remain in full force and
15 effect and may be completed under this act. Orders, regulations,
16 rules and decisions which were made under the Anthracite and
17 Bituminous Coal Mine Subsidence Fund Act and which are in effect
18 on the effective date of this section shall remain in full force
19 and effect until revoked, vacated or modified under this act.

20 Contracts, obligations and collective bargaining agreements
21 entered into under the Anthracite and Bituminous Coal Mine
22 Subsidence Fund Act are not affected nor impaired by the repeal
23 of the Anthracite and Bituminous Coal Mine Subsidence Fund Act.

24 Section 903. Effective date.

25 This act shall take effect immediately.