

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 589 Session of 2023

INTRODUCED BY KINKEAD, GAYDOS, SCHLOSSBERG, PISCIOTTANO, BENHAM, BURGOS, GUENST, SANCHEZ, ZIMMERMAN, DEASY, FREEMAN, OTTEN, VENKAT, N. NELSON, MADDEN, HOHENSTEIN, KULIK, DELLOSO, INNAMORATO, TWARDZIK, TAKAC, GERGELY, O'NEAL, ORTITAY, FRANKEL, POWELL AND MERCURI, MARCH 20, 2023

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 25, 2024

AN ACT

1 ~~Establishing the Coal and Clay Mine Subsidence and Landslide Insurance and Assistance Program within the Department of Environmental Protection; providing for related powers and duties of the Department of Environmental Protection; establishing and providing for the powers and duties of the Coal and Clay Mine Subsidence and Landslide Insurance Board; providing for duties of the Auditor General; establishing the Coal and Clay Mine Subsidence and Landslide Insurance Fund and the Coal and Clay Mine Subsidence and Landslide Assistance Fund; imposing a penalty; making appropriations and transfers; and making a repeal.~~ <--

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19 INSURANCE BOARD; PROVIDING FOR DUTIES OF THE AUDITOR GENERAL;
20 IMPOSING A PENALTY; AND MAKING APPROPRIATIONS AND TRANSFERS.

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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 CHAPTER 1

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3 PRELIMINARY PROVISIONS

4 ~~Section 101. Declarations.~~

5 ~~The General Assembly finds and declares as follows:~~

6 ~~(1) The anthracite and bituminous coal and clay mine~~
7 ~~areas of this Commonwealth have been faced with the grave~~
8 ~~problem of subsidence for many years.~~

9 ~~(2) These problems are becoming more widespread.~~

10 ~~(3) These conditions cause undue hardship upon a~~
11 ~~multitude of persons.~~

12 ~~(4) Geologists have studied with increasing concern the~~
13 ~~underground movement of the geological formations in this~~
14 ~~Commonwealth and its impeding effects on vertical and~~
15 ~~horizontal natural and manmade surfaces.~~

16 ~~(5) Landslides and slope movement have historically been~~
17 ~~the norm throughout most parts of this Commonwealth.~~

18 ~~(6) Landslides and slope movement occur without regard~~
19 ~~for municipal boundaries, ordinances, planning codes,~~
20 ~~politics and economies, making it difficult for local~~
21 ~~officials to deal effectively with the development and~~
22 ~~implementation of methods and standards to control the~~
23 ~~devastation that these natural forces can cause.~~

24 ~~(7) Landslides and slope movement have caused an~~
25 ~~enormous amount of damage to homes and roadways in this~~
26 ~~Commonwealth, particularly the southwestern region of the~~
27 ~~State.~~

28 ~~(8) Landslides and slope movement will continue to~~
29 ~~plague southwestern Pennsylvania.~~

30 ~~(9) Landslides affect every state in the nation, causing~~

1 ~~an estimated \$2,000,000,000 to \$4,000,000,000 in damages per~~
2 ~~year.~~

3 ~~(10) Landslide damage caused by flooding is not covered~~
4 ~~by the National Flood Insurance Program.~~

5 ~~(11) Problems associated with landslide damage are~~
6 ~~becoming more widespread.~~

7 ~~(12) It would be to the advantage of residents of the~~
8 ~~anthracite and bituminous coal and clay mining regions and~~
9 ~~landslide prone regions of this Commonwealth to form a common~~
10 ~~bond to combat distress resulting from mine subsidence and~~
11 ~~landslide damage.~~

12 Section 102. Definitions.

13 ~~The following words and phrases when used in this act shall~~
14 ~~have the meanings given to them in this section unless the~~
15 ~~context clearly indicates otherwise:~~

16 ~~"Anthracite and Bituminous Coal Mine Subsidence Fund Act."~~
17 ~~The former act of August 23, 1961 (P.L.1068, No.484), entitled~~
18 ~~"An act to provide for the creation and administration of a Coal~~
19 ~~and Clay Mine Subsidence Insurance Fund within the Department of~~
20 ~~Environmental Protection for the insurance of compensation for~~
21 ~~damages to subscribers thereto; declaring false oaths by the~~
22 ~~subscribers to be misdemeanors; providing penalties for the~~
23 ~~violation thereof; and making an appropriation."~~

24 ~~"Assistance fund." The Coal and Clay Mine Subsidence and~~
25 ~~Landslide Assistance Fund established under section 710.~~

26 ~~"Board." The Coal and Clay Mine Subsidence and Landslide~~
27 ~~Insurance Board established under section 305.~~

28 ~~"Community." Either of the following:~~

29 ~~(1) A political subdivision that has zoning and building~~
30 ~~code jurisdiction over an area having coal and clay mine~~

1 ~~subsidence or landslide features as determined by the~~
2 ~~department.~~

3 ~~(2) A political subdivision that is designated to~~
4 ~~develop and administer a mitigation plan by the department.~~

5 ~~"Department." The Department of Environmental Protection of~~
6 ~~the Commonwealth.~~

7 ~~"Extremely hazardous area." An area where the department~~
8 ~~determines that multiple environmental factors contribute to~~
9 ~~high risk of damage to structures from coal and clay mine~~
10 ~~subsidence and landslide features.~~

11 ~~"GIS." Geographic information systems.~~

12 ~~"Insurance fund." The Coal and Clay Mine Subsidence and~~
13 ~~Landslide Insurance Fund established under section 501.~~

14 ~~"Landslide." A detached mass of soil, rock, earth or debris~~
15 ~~that moves down a slope and is of sufficient size to cause~~
16 ~~damage. The term includes sinkholes.~~

17 ~~"Landslide features." The term includes rockfall areas,~~
18 ~~creep, red beds and historic landslides.~~

19 ~~"Mitigation." An activity relative to landslides and coal~~
20 ~~and clay mine subsidence that prevents an emergency from~~
21 ~~occurring, reduces the likelihood of an emergency occurring or~~
22 ~~lessens the damaging effects of unavoidable emergencies.~~

23 ~~"Mitigation plan." A plan designed by a community that, when~~
24 ~~implemented, provides mitigation.~~

25 ~~"Program." The Coal and Clay Mine Subsidence and Landslide~~
26 ~~Insurance and Assistance Program established under section 302.~~

27 ~~"Secretary." The Secretary of Environmental Protection of~~
28 ~~the Commonwealth.~~

29 ~~"Sinkhole." A closed topographic depression or basin,~~
30 ~~generally draining underground, including, but not restricted~~

1 ~~to, a doline, uvala, blind valley or sink.~~

2 ~~CHAPTER 3~~

3 ~~COAL AND CLAY MINE SUBSIDENCE AND~~

4 ~~LANDSLIDE INSURANCE AND ASSISTANCE PROGRAM~~

5 ~~Section 301. Program goals.~~

6 ~~The goals of the program shall be to:~~

7 ~~(1) Provide actuarially sound insurance coverage.~~

8 ~~(2) Make program policies universally available and~~
9 ~~competitively priced.~~

10 ~~(3) Make use of the most effective scientific and~~
11 ~~technological advances available, including, but not limited~~
12 ~~to, technology such as GIS.~~

13 ~~(4) Process claims promptly, fairly and consistently.~~

14 ~~(5) Provide tools and incentives for coal and clay mine~~
15 ~~subsidence and landslide loss reduction, including the~~
16 ~~insurance fund.~~

17 ~~(6) Collaborate with other organizations that operate in~~
18 ~~the public interest to assist in achieving the program's~~
19 ~~goals.~~

20 ~~Section 302. Coal and Clay Mine Subsidence and Landslide~~
21 ~~Insurance and Assistance Program.~~

22 ~~(a) Establishment. The Coal and Clay Mine Subsidence and~~
23 ~~Landslide Insurance and Assistance Program is established within~~
24 ~~the department. The program shall be administered by the board.~~

25 ~~(b) Program components. The program shall consist of the~~
26 ~~following components:~~

27 ~~(1) A grant program.~~

28 ~~(2) A revolving loan program.~~

29 ~~(3) An insurance program.~~

30 ~~(c) Purposes of program components. The grant program under~~

1 ~~subsection (b) (1) and the revolving loan program under~~
2 ~~subsection (b) (2) are established for the purposes of mitigating~~
3 ~~and repairing minor structural damage. The board shall use the~~
4 ~~grant program and the revolving loan program as tools to aid in~~
5 ~~the success of the insurance fund.~~

6 ~~Section 303. Program authority.~~

7 ~~(a) Intergovernmental cooperation. The board shall:~~

8 ~~(1) Work closely with Federal, State and local agencies~~
9 ~~and any other government agencies, including those of other~~
10 ~~states, to accomplish program goals.~~

11 ~~(2) Create and implement a Statewide coal and clay mine~~
12 ~~subsidence and landslide mitigation plan in accordance with~~
13 ~~section 709 that would encourage and support local mitigation~~
14 ~~efforts.~~

15 ~~(3) Investigate sites to define landslide features.~~

16 ~~(4) Recommend legislation, regulations, ordinances and~~
17 ~~zoning to mitigate slope instability contributed by~~
18 ~~excavation and drainage.~~

19 ~~(5) Work with local governments to evaluate risk~~
20 ~~associated with certain homesite development.~~

21 ~~(6) Share the most up to date geological surveys in the~~
22 ~~form of maps, GIS data or other useful forms and related~~
23 ~~information free of charge to government agencies and~~
24 ~~appropriate representatives of communities and at a~~
25 ~~reasonable cost to all other persons. Receipts under this~~
26 ~~paragraph shall be deposited into the assistance fund.~~

27 ~~(7) Inform the Department of Transportation of which~~
28 ~~highways are at greatest risk from coal and clay mine~~
29 ~~subsidence and landslides.~~

30 ~~(8) Notify local governments in areas with the greatest~~

1 ~~risk from coal and clay mine subsidence and landslides.~~

2 ~~(9) Have the authority to consult, receive information~~
3 ~~and enter into any agreements or other arrangements in order~~
4 ~~to identify and publish information with respect to all coal~~
5 ~~and clay mine subsidence and landslide prone areas, establish~~
6 ~~or update coal and clay mine subsidence and landslide risk~~
7 ~~zone data and make estimates with respect to the rates of~~
8 ~~probable coal and clay mine subsidence and landslide caused~~
9 ~~loss for the various coal and clay mine subsidence and~~
10 ~~landslide risk zones for each of these areas.~~

11 ~~(10) Publish any change to coal and clay mine subsidence~~
12 ~~and landslide insurance map panels.~~

13 ~~(11) Ensure that the program is consistent in coal and~~
14 ~~clay mine subsidence and landslide control, forecasting and~~
15 ~~damage prevention.~~

16 ~~(b) Studies and investigations.~~

17 ~~(1) The board is authorized to carry out necessary~~
18 ~~studies and investigations, utilizing to the maximum extent~~
19 ~~practicable the existing facilities and services of other~~
20 ~~Federal and State departments or agencies, local government~~
21 ~~agencies and any other organizations, with respect to the~~
22 ~~adequacy of State and local measures in landslide prone areas~~
23 ~~as to:~~

24 ~~(i) Land management and use.~~

25 ~~(ii) Coal and clay mine subsidence and landslide~~
26 ~~control.~~

27 ~~(iii) Zoning.~~

28 ~~(iv) Coal and clay mine subsidence and landslide~~
29 ~~damage prevention.~~

30 ~~(2) The board may enter into any contracts, agreements~~

1 ~~or other appropriate arrangements to carry out its authority~~
2 ~~under this subsection. Studies and investigations under~~
3 ~~paragraph (1) shall include analysis of the following:~~

4 ~~(i) Laws.~~

5 ~~(ii) Regulations.~~

6 ~~(iii) Ordinances.~~

7 ~~(iv) Zoning.~~

8 ~~(v) Building codes.~~

9 ~~(vi) Building permits.~~

10 ~~(vii) Subdivision or other building restrictions.~~

11 ~~(c) State and local measures. On the basis of studies and~~
12 ~~investigations under subsection (b) and other information as the~~
13 ~~department deems necessary, the board shall develop~~
14 ~~comprehensive criteria designed to encourage, where necessary,~~
15 ~~the adoption of adequate State and local measures which, to the~~
16 ~~maximum extent feasible, will:~~

17 ~~(1) Constrict the development of land that is exposed to~~
18 ~~coal and clay mine subsidence and landslide damage, where~~
19 ~~appropriate.~~

20 ~~(2) Guide the development of proposed construction away~~
21 ~~from locations that are threatened by coal and clay mine~~
22 ~~subsidence and landslide features.~~

23 ~~(3) Assist in reducing damage caused by coal and clay~~
24 ~~mine subsidence and landslides.~~

25 ~~(4) Otherwise improve the long term land management and~~
26 ~~use of coal and clay mine subsidence and landslide prone~~
27 ~~areas.~~

28 ~~(d) Technical assistance. The board shall work closely with~~
29 ~~and provide any necessary technical assistance to State and~~
30 ~~local government agencies to encourage the application of the~~

1 ~~criteria and the adoption and enforcement of the measures under~~
2 ~~this section.~~

3 ~~Section 304. Land use controls and rate structure.~~

4 ~~A local government may adopt land use controls for the~~
5 ~~benefit of the local government's residents. The following shall~~
6 ~~apply:~~

7 ~~(1) No new coal and clay mine subsidence and landslide~~
8 ~~insurance coverage shall be provided to new construction~~
9 ~~without preapproval by an appropriate local public body,~~
10 ~~which shall have the option of adopting adequate land use and~~
11 ~~control measures with effective enforcement provisions.~~

12 ~~(2) A community rating system shall be employed by the~~
13 ~~board as an incentive for community coal and clay mine and~~
14 ~~landslide management. The rating system shall consider where~~
15 ~~coal and clay mine subsidence and landslide damage is more~~
16 ~~likely to occur and give higher ratings to those communities~~
17 ~~that have lower risk of damage either due to low risk of the~~
18 ~~damage occurring due to the natural characteristics of the~~
19 ~~community or due to steps taken by the community to prevent~~
20 ~~the damage. This rating system shall be reflected by the~~
21 ~~rates assigned to communities.~~

22 ~~(3) Rate structures shall provide incentives for~~
23 ~~measures that reduce the risk of coal and clay mine~~
24 ~~subsidence and landslide damage and evaluate the measures.~~
25 ~~The program shall provide incentives in the form of credits~~
26 ~~on premium rates for coal and clay mine subsidence and~~
27 ~~landslide insurance coverage in communities that the~~
28 ~~department determines have adopted and enforced measures that~~
29 ~~reduce the risk of coal and clay mine subsidence and~~
30 ~~landslide damage.~~

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

~~Section 305. Coal and Clay Mine Subsidence and Landslide Insurance Board.~~

~~The Coal and Clay Mine Subsidence and Landslide Insurance Board is established and shall be a continuation of the Coal and Clay Mine Subsidence Insurance Board established under section 3 of the Anthracite and Bituminous Coal Mine Subsidence Fund Act. The board shall retain the structure and members of the Coal and Clay Mine Subsidence Insurance Board and shall also include the following additional members:~~

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

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

~~CHAPTER 5~~

~~COAL AND CLAY MINE SUBSIDENCE AND
LANDSLIDE INSURANCE FUND~~

~~Section 501. Coal and Clay Mine Subsidence and Landslide Insurance Fund.~~

~~(a) Establishment. The Coal and Clay Mine Subsidence and Landslide Insurance Fund is established and shall be a continuation of the Coal and Clay Mine Subsidence Insurance Fund established under section 4 of the Anthracite and Bituminous Coal Mine Subsidence Fund Act.~~

1 ~~(b) Purpose. The insurance fund shall be used to insure~~
2 ~~against damages resulting from coal and clay mine subsidence and~~
3 ~~landslide damage.~~

4 ~~(c) Claim or liability. A claim against or a liability of~~
5 ~~the insurance fund shall not be deemed to constitute a debt or~~
6 ~~liability of the Commonwealth or a charge against the General~~
7 ~~Fund.~~

8 ~~Section 502. Expenses.~~

9 ~~The expenses of the administration of the insurance fund~~
10 ~~shall be paid out entirely from the insurance fund.~~

11 ~~Section 503. State Treasurer custodian of insurance fund.~~

12 ~~The State Treasurer shall be the custodian of the insurance~~
13 ~~fund and all disbursements from the insurance fund shall be paid~~
14 ~~by the State Treasurer by check upon request by the board. The~~
15 ~~following shall apply:~~

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

18 ~~(2) The State Treasurer shall not be liable for any~~
19 ~~payment made under this act.~~

20 ~~(3) The State Treasurer may deposit any portion of the~~
21 ~~insurance fund not needed for immediate use as other State~~
22 ~~funds are lawfully deposited into the General Fund. Any~~
23 ~~interest accrued by deposits under this paragraph shall be~~
24 ~~placed to the credit of the insurance fund.~~

25 ~~Section 504. Schedule of premiums.~~

26 ~~(a) General rule. At any time during each year, the board~~
27 ~~shall prepare and publish on the department's publicly~~
28 ~~accessible Internet website a schedule of premiums or rates of~~
29 ~~insurance for subscribers. The following shall apply:~~

30 ~~(1) The schedule shall be printed and distributed free~~

1 ~~of charge to individuals who request a schedule.~~

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

6 ~~(3) The insurance acquired under paragraph (2) shall~~
7 ~~cover all payments becoming due for which the premium is~~
8 ~~paid.~~

9 ~~(b) Amount of premium. Each premium is fixed and shall be~~
10 ~~adequate to enable payment of all sums that may become due and~~
11 ~~payable under the provisions of this act, and adequate reserve~~
12 ~~sufficient to carry all policies and claims to maturity.~~

13 ~~(c) Fixing premiums. In fixing a premium payable by a~~
14 ~~subscriber, the board may:~~

15 ~~(1) take into account the condition of the premises of~~
16 ~~the subscriber in respect to the possibility of subsidence as~~
17 ~~shown by the report of any inspector appointed by the board~~
18 ~~or the department;~~

19 ~~(2) from time to time change the amount of premiums~~
20 ~~payable by any of the subscribers as circumstances may~~
21 ~~require and the condition of the premises of the subscribers~~
22 ~~in respect to the possibility of subsidence may justify; and~~

23 ~~(3) increase the premiums of any subscriber whose loss~~
24 ~~experience warrants the change.~~

25 ~~(d) Effective date of insurance. The insurance of any~~
26 ~~subscriber shall not be effective until the subscriber shall~~
27 ~~have paid in full the premium fixed and determined under this~~
28 ~~section.~~

29 ~~Section 505. Surplus.~~

30 ~~The following shall apply:~~

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

6 ~~(2) If the board determines that the surplus is large~~
7 ~~enough under paragraph (1), the board shall reevaluate the~~
8 ~~set aside under paragraph (1) and investment of the surplus~~
9 ~~and make a recommendation to the General Assembly.~~

10 ~~Section 506. Investment of surplus.~~

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

14 ~~(b) State Treasurer custodian. The State Treasurer shall be~~
15 ~~custodian of all securities and evidences of indebtedness under~~
16 ~~subsection (a), and the following shall apply:~~

17 ~~(1) The State Treasurer shall collect the principal and~~
18 ~~interest on the principal when due and pay that amount into~~
19 ~~the insurance fund.~~

20 ~~(2) The State Treasurer shall pay for all securities or~~
21 ~~evidences of indebtedness under subsection (a) by check~~
22 ~~issued upon requisition of the board.~~

23 ~~(3) All payments under paragraph (2) shall be made only~~
24 ~~upon delivery of the securities or evidences of indebtedness~~
25 ~~to the State Treasurer.~~

26 ~~(4) To all requisitions calling upon the State Treasurer~~
27 ~~to pay for any securities or evidences of indebtedness, there~~
28 ~~shall be attached a certified copy of the resolution of the~~
29 ~~board authorizing the investment.~~

30 ~~(5) The board may sell any security by resolution.~~

1 ~~Section 507. Disbursements from insurance fund.~~

2 ~~(a) Operation of insurance fund. Money from the general~~
3 ~~appropriation of the department shall be available for the~~
4 ~~expense of administering the insurance fund, including the~~
5 ~~purchase through the Department of General Services of surety~~
6 ~~bonds for officers or employees of the board as may be required~~
7 ~~to purchase supplies, materials, motor vehicles, workmen's~~
8 ~~insurance covering the officers and employees of the board and~~
9 ~~liability insurance covering vehicles operated by the officers~~
10 ~~and employees of the board.~~

11 ~~(b) Treasury Department. Money from the general~~
12 ~~appropriation of the department shall also be available for~~
13 ~~payment to the Treasury Department for the cost of making~~
14 ~~disbursements out of the insurance fund on behalf of the~~
15 ~~insurance fund at amounts as the Treasury Department, with the~~
16 ~~approval of the board, shall determine.~~

17 ~~(c) Accounting. The following shall apply:~~

18 ~~(1) The board shall keep an accurate account of the~~
19 ~~money paid in premiums by subscribers and the disbursements~~
20 ~~on account of damages to the subscribers' premises.~~

21 ~~(2) If at the expiration of any year there shall be a~~
22 ~~balance remaining after deducting the disbursements, the~~
23 ~~unearned premiums on undetermined risks and the percentage of~~
24 ~~premiums paid or payable to create or maintain the surplus as~~
25 ~~required under this section, and after setting aside an~~
26 ~~adequate reserve, the balance, as the board may determine to~~
27 ~~be safely distributable, may be allocated to the cost of~~
28 ~~administering the insurance fund or distributed among the~~
29 ~~subscribers in proportion to the premiums paid by them.~~

30 ~~(3) For the proportionate share of the subscribers who~~

1 ~~remain subscribers to the insurance fund, the premiums~~
2 ~~distributed to subscribers under paragraph (2) shall be~~
3 ~~credited to the installment of premiums next due by the~~
4 ~~subscribers. The proportionate share of the subscribers who~~
5 ~~have ceased to be subscribers in the insurance fund shall be~~
6 ~~refunded to them out of the insurance fund in the manner~~
7 ~~provided under this chapter.~~

8 ~~(d) One time commission payment. Money from the general~~
9 ~~appropriation of the department shall also be available to pay a~~
10 ~~one time commission as determined by the board to insurance~~
11 ~~producers who submit applications for mine subsidence and~~
12 ~~landslide insurance to the board under this chapter if a policy~~
13 ~~is issued pursuant to an application submitted by an insurance~~
14 ~~producer. The amount of the commission shall be determined by~~
15 ~~the board on an annual basis.~~

16 ~~Section 508. Application for insurance, terms of insurance,~~
17 ~~penalty for false statement and list of mining areas.~~

18 ~~(a) Application for insurance. The following shall apply:~~

19 ~~(1) An owner of a structure located within the~~
20 ~~anthracite or bituminous coal or clay mine region or an~~
21 ~~extremely hazardous area who desires to become a subscriber~~
22 ~~to the insurance fund for the purpose of insuring the~~
23 ~~structure against damages from coal or clay mine subsidences~~
24 ~~or landslide damage shall make a complete application, as~~
25 ~~prescribed by the board, to the board, its agents or~~
26 ~~insurance producers.~~

27 ~~(2) Upon receiving an application under paragraph (1),~~
28 ~~the board shall:~~

29 ~~(i) Make an investigation as may be necessary if the~~
30 ~~application complies with the rules and regulations of~~

1 ~~the board.~~

2 ~~(ii) Within 60 days after receiving the application,~~
3 ~~issue a certificate showing whether the board approved~~
4 ~~the application and the amount of premium payable by the~~
5 ~~applicant for the year for which the premium is sought.~~

6 ~~(3) The amount of insurance coverage for which an~~
7 ~~applicant is approved under paragraph (2) shall not exceed~~
8 ~~the replacement cost of the insured structure or the maximum~~
9 ~~amount of coverage established by the insurance fund,~~
10 ~~whichever is less.~~

11 ~~(4) Policies issued under this chapter may be issued for~~
12 ~~one year, for two years or for three years as the board may~~
13 ~~establish.~~

14 ~~(5) Except as provided under subsection (b), no~~
15 ~~insurance shall become effective until the premiums have been~~
16 ~~paid. All premiums shall be payable to the State Treasurer,~~
17 ~~who shall issue a receipt for payment. The receipt for~~
18 ~~premium together with a certificate of the board shall be~~
19 ~~evidence that the applicant has become a subscriber to the~~
20 ~~insurance fund and is insured.~~

21 ~~(b) Failure to approve or deny application. If the board~~
22 ~~fails to make the necessary investigations or inspection and~~
23 ~~fails to approve or deny an application as required under~~
24 ~~subsection (a), the insurance requested by the applicant shall~~
25 ~~be deemed granted. The insurance shall be effective from the~~
26 ~~date of the application's submission under subsection (a). The~~
27 ~~following shall apply:~~

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

1 ~~(2) The insurance may be subjected to later reductions,~~
2 ~~and premiums adjusted accordingly, if the board determines~~
3 ~~that the amount of insurance coverage requested is in excess~~
4 ~~of the current replacement cost of the structure or the~~
5 ~~maximum amount of coverage established by the insurance fund,~~
6 ~~whichever is less.~~

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

9 ~~(i) mine subsidence or landslide damage occurred~~
10 ~~prior to the request by the applicant for insurance; or~~

11 ~~(ii) the applicant, due to an unreasonable action or~~
12 ~~inaction, is responsible for the failure of the board to~~
13 ~~inspect the structure within 60 days of receipt of the~~
14 ~~application in accordance with this section.~~

15 ~~(c) Offense. Whoever shall knowingly furnish or make any~~
16 ~~false certificate, application or statement as required under~~
17 ~~this section shall be guilty of a misdemeanor, and upon~~
18 ~~conviction shall be sentenced to pay a fine not to exceed \$1,500~~
19 ~~and shall be sentenced to a term of imprisonment not to exceed~~
20 ~~one year.~~

21 ~~(d) Identifying risk. In order to assist insurance~~
22 ~~producers and potential policyholders in identifying structures~~
23 ~~that could be at risk from mine subsidence or landslide damage,~~
24 ~~the board shall transmit a list of areas in this Commonwealth~~
25 ~~that are believed to be at risk for mine subsidence or landslide~~
26 ~~damage to the Legislative Reference Bureau for publication in~~
27 ~~the Pennsylvania Bulletin.~~

28 ~~Section 509. Application for increase in insurance.~~

29 ~~(a) General rule. An application for an increase in the~~
30 ~~amount of insurance, up to the allowable limits, may be made at~~

1 ~~any time by the subscriber by submitting a written statement, as~~
2 ~~determined by the board, to the board or to any of the board's~~
3 ~~agents, except during a period when a claim filed by the~~
4 ~~subscriber is open and pending investigation by the department.~~

5 ~~(b) Approval of request. The following shall apply:~~

6 ~~(1) Upon receipt of the subscriber's written statement~~
7 ~~under subsection (a), the board shall reinspect the structure~~
8 ~~within 60 days.~~

9 ~~(2) If reinspection under paragraph (1) occurs within~~
10 ~~the 60 day period and the structure passes the reinspection,~~
11 ~~the new amount of insurance shall be approved and shall be~~
12 ~~effective from the date of the first premium payment after~~
13 ~~reinspection.~~

14 ~~(3) If reinspection under paragraph (1) does not occur~~
15 ~~within the 60 day period, the new amount of insurance shall~~
16 ~~be deemed approved by the board and shall be effective from~~
17 ~~the date the subscriber's application for additional~~
18 ~~insurance was received by the board under subsection (a), but~~
19 ~~the additional coverage shall be null and void if the~~
20 ~~subscriber fails to remit the premium payment within 20 days~~
21 ~~from the day the bill for additional premium is postmarked.~~

22 ~~(c) Reduction in additional insurance. The additional~~
23 ~~insurance approved under this section may be reduced, with~~
24 ~~premiums adjusted accordingly, if the board determines that the~~
25 ~~subscriber's total amount of insurance exceeds the current~~
26 ~~replacement cost of the structure or the maximum amount of~~
27 ~~coverage established by the insurance fund, whichever is less.~~

28 ~~(d) Voided additional insurance. Additional insurance~~
29 ~~approved under this section shall be void if, upon reinspection~~
30 ~~of the structure, the board determines that either:~~

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

3 ~~(2) the subscriber's unreasonable action or inaction are~~
4 ~~responsible for the board's failure to reinspect the insured~~
5 ~~structure within 60 days of receipt of the application for~~
6 ~~additional insurance under subsection (a).~~

7 ~~Section 510. Automatic inflation protection increase.~~

8 ~~The board shall make available to all subscribers an annual~~
9 ~~inflation protection option on the anniversary date of each~~
10 ~~policy to uniformly increase subscribers' coverage. A subscriber~~
11 ~~must elect this option within 30 days. The option shall not be~~
12 ~~made available more than once annually. An inflation protection~~
13 ~~increase shall not be subject to a reinspection of the~~
14 ~~structure.~~

15 ~~Section 511. Insurance for structures under construction.~~

16 ~~The board shall make available mine subsidence and landslide~~
17 ~~insurance to owners of structures under construction. The~~
18 ~~insurance under this section shall have a term of no more than~~
19 ~~18 months, or until the structure is 80% complete, whichever is~~
20 ~~earlier.~~

21 ~~Section 512. Audit by Auditor General.~~

22 ~~The following shall apply:~~

23 ~~(1) The Auditor General or a designee shall at least~~
24 ~~once each year make a complete examination and audit of the~~
25 ~~insurance fund, including all receipts and expenditures, cash~~
26 ~~on hand and securities and investments or property held~~
27 ~~representing cash or cash disbursements.~~

28 ~~(2) The Auditor General is authorized to employ~~
29 ~~consultants, experts, accountants or investigators as~~
30 ~~necessary to carry out this section.~~

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

5 ~~(4) The first audit of the insurance fund may, in the~~
6 ~~discretion of the Auditor General, extend back to the~~
7 ~~establishment of the insurance fund or to any other period in~~
8 ~~the insurance fund's existence.~~

9 ~~Section 513. Claims against insurance fund.~~

10 ~~A subscriber to the insurance fund must file with the board a~~
11 ~~true statement of the subscriber's claim for any subsidence or~~
12 ~~landslide damage and shall provide the board an opportunity to~~
13 ~~investigate to determine whether the board must pay the claim.~~

14 ~~Section 514. Defenses against claims, suits, procedure and~~
15 ~~investigations of claims.~~

16 ~~In each case where a claim is made against the insurance~~
17 ~~fund, the insurance fund shall be entitled to every defense~~
18 ~~against the claim under the policy and shall be subrogated to~~
19 ~~every right of the subscriber arising out of accidents against~~
20 ~~any third persons. The insurance fund may, in the name of the~~
21 ~~insurance fund, sue or be sued to enforce any right given~~
22 ~~against or to any subscriber or other persons under this act.~~

23 ~~Section 515. Subrogation to rights of claimants.~~

24 ~~Nothing in this act shall relieve any person, partnership or~~
25 ~~corporation from any liability for damages sustained, and the~~
26 ~~insurance fund shall be subrogated to the rights of any property~~
27 ~~owners' insurance as provided under this chapter.~~

28 ~~Section 516. Insurance companies may cover this type of risk.~~

29 ~~An insurance company may issue policies covering the type of~~
30 ~~risk covered under this act if the policy is approved by the~~

1 ~~Insurance Commissioner as to policy form and rates.~~

2 ~~CHAPTER 7~~

3 ~~ADMINISTRATION AND FUNDING~~

4 ~~Section 701. Rules and regulations.~~

5 ~~The board may publish guidance and rules and promulgate~~
6 ~~regulations to carry out the purposes of this act, including,~~
7 ~~but not limited to, reasonable classification of risks eligible~~
8 ~~for coverage under this act, limits of coverage and rules~~
9 ~~covering the adjustment and settlement of claims.~~

10 ~~Section 702. Escrow of premium payments.~~

11 ~~A mortgage lender that offers the purchase of insurance under~~
12 ~~this act shall escrow the premium.~~

13 ~~Section 703. Properties in violation of State or local law.~~

14 ~~No new coal and clay mine subsidence and landslide insurance~~
15 ~~coverage shall be provided for a property that the department~~
16 ~~finds has been declared by a State or local zoning authority or~~
17 ~~other authorized public body to be in violation of State or~~
18 ~~local laws, regulations or ordinances that are intended to~~
19 ~~discourage or otherwise restrict land development or occupancy~~
20 ~~in areas that are prone to coal and clay mine subsidence or~~
21 ~~landslides.~~

22 ~~Section 704. Department report.~~

23 ~~The department shall make an annual report on the program and~~
24 ~~on experience with mine subsidence and landslide insurance sales~~
25 ~~through producers to the chairperson and minority chairperson of~~
26 ~~the Environmental Resources and Energy Committee of the Senate~~
27 ~~and the chairperson and minority chairperson of the~~
28 ~~Environmental Resources and Energy Committee of the House of~~
29 ~~Representatives.~~

30 ~~Section 705. Employees of board shall be employees of~~

1 ~~department.~~

2 ~~An employee of the board shall be employed by and located in~~
3 ~~the department and shall be subject to the administrative~~
4 ~~jurisdiction and authority of the secretary.~~

5 ~~Section 706. Attorney General to be counsel for board.~~

6 ~~The Attorney General shall, ex officio, be the general~~
7 ~~counsel of the board and shall appoint any attorney as may be~~
8 ~~deemed necessary to aid the board.~~

9 ~~Section 707. Appropriation.~~

10 ~~(a) General rule. The sum of \$2,500,000 is appropriated to~~
11 ~~the board for the purposes of this act and expenses of~~
12 ~~organization and administration of the insurance fund as~~
13 ~~provided under this act for fiscal year July 1, 2024, through~~
14 ~~June 30, 2025.~~

15 ~~(b) Additional transfer. If, upon completion of an annual~~
16 ~~examination and audit under section 512, the board determines~~
17 ~~that the total asset value of the insurance fund is less than~~
18 ~~\$2,500,000, an additional sum as may be necessary to increase~~
19 ~~the total asset value of the insurance fund to \$2,500,000 shall~~
20 ~~be transferred from the General Fund to the insurance fund for~~
21 ~~the purposes of this act for the fiscal year immediately~~
22 ~~following the examination and audit.~~

23 ~~(c) Fund transfer. The sum of \$2,500,000, or as much~~
24 ~~thereof as may be necessary, is transferred from the General~~
25 ~~Fund to the insurance fund for the fiscal year July 1, 2024,~~
26 ~~through June 30, 2025.~~

27 ~~(d) Department. Money in the insurance fund and in the~~
28 ~~assistance fund is appropriated to the department in amounts as~~
29 ~~may be determined annually by the Governor to be used for the~~
30 ~~specified purposes of this act.~~

1 ~~Section 708. Appeals.~~

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

5 ~~Section 709. Mitigation assistance.~~

6 ~~(a) Financial assistance generally. The department shall~~
7 ~~carry out a program to provide financial assistance to~~
8 ~~communities and individuals for planning and carrying out~~
9 ~~activities designed to reduce the risk of coal and clay mine~~
10 ~~subsidence and landslide damage to structures covered under~~
11 ~~contracts for coal and clay mine subsidence and landslide~~
12 ~~insurance. Financial assistance may be made available to~~
13 ~~communities and individuals in the form of grants or revolving~~
14 ~~loans for the carrying out of mitigation activities. Loans shall~~
15 ~~carry an interest rate of no more than 3%.~~

16 ~~(b) Grants. The department may make grants under this~~
17 ~~section to communities to assist in developing mitigation plans.~~
18 ~~The grants shall come from the assistance fund as outlined in~~
19 ~~section 710 and shall be made in amounts that the department~~
20 ~~determines meets the goal of this section while prioritizing the~~
21 ~~fiscal stability of the assistance fund.~~

22 ~~(c) Eligibility. The following shall apply:~~

23 ~~(1) To be eligible to receive financial assistance under~~
24 ~~this section, a community shall develop a mitigation plan~~
25 ~~that describes the mitigation activities to be carried out~~
26 ~~with assistance provided under this section.~~

27 ~~(2) The mitigation plan under paragraph (1) shall be~~
28 ~~consistent with:~~

29 ~~(i) criteria as established by the department and~~
30 ~~provide protection against coal and clay mine subsidence~~

~~1 and landslide losses to structures for which contracts
2 for flood insurance are available under this act; and~~

~~3 (ii) a comprehensive strategy for mitigation
4 activities for the area affected by the mitigation plan
5 that has been adopted by the community following a public
6 hearing.~~

~~7 (d) Procedure. The department shall notify a community
8 submitting a mitigation plan of the approval or disapproval of
9 the plan no later than 120 days after submission of the plan. If
10 the department does not approve a mitigation plan submitted
11 under this section, the department shall notify in writing the
12 community submitting the plan of the reasons for the
13 disapproval.~~

~~14 (e) Limitation. Amounts provided under this section may be
15 used only for mitigation activities specified in a mitigation
16 plan approved by the department. The department may approve only
17 mitigation plans that specify mitigation activities that are
18 technically feasible, cost effective and cost beneficial.~~

~~19 (f) Approval. The department shall approve funding for
20 mitigation plans based on criteria that include, but are not
21 limited to:~~

~~22 (1) Criteria under subsection (e).~~

~~23 (2) Proposed activities to address repetitive loss
24 structures and structures that have incurred substantial
25 damage.~~

~~26 (g) Matching funds. The department may require a community
27 to match a grant received under this section.~~

~~28 (h) Oversight. The department shall conduct oversight of
29 recipients of mitigation assistance to ensure that the
30 assistance is used in compliance with the approved mitigation~~

1 ~~plans of the recipients and that any matching fund requirements~~
2 ~~are fulfilled.~~

3 ~~(i) Failure to comply. If the department determines that a~~
4 ~~community that has received mitigation assistance under this~~
5 ~~section has not carried out the mitigation activities as~~
6 ~~provided in the mitigation plan or has not secured required~~
7 ~~matching funds, the department shall recapture any unexpended~~
8 ~~amounts and redeposit the amounts in the assistance fund.~~

9 ~~Section 710. Coal and Clay Mine Subsidence and Landslide~~
10 ~~Assistance Fund.~~

11 ~~The Coal and Clay Mine Subsidence and Landslide Assistance~~
12 ~~Fund is established as a fund in the State Treasury. The~~
13 ~~assistance fund shall be administered by the department and~~
14 ~~shall consist of money appropriated, transferred or otherwise~~
15 ~~made available to the assistance fund for the purposes of this~~
16 ~~chapter. All money in the assistance fund and any accrued~~
17 ~~interest is appropriated to the department on a continuing basis~~
18 ~~to carry out the provisions of section 709.~~

19 ~~Section 711. Program funding.~~

20 ~~The program shall be funded by the General Assembly through~~
21 ~~an appropriation of money to the department until such time as~~
22 ~~the insurance fund and assistance fund are deemed self-~~
23 ~~sufficient by concurrent resolution adopted by the General~~
24 ~~Assembly.~~

25 ~~Section 712. Reimbursement.~~

26 ~~The program shall reimburse any Commonwealth agency or~~
27 ~~departments for agreed upon costs of services that aid in~~
28 ~~administering the program.~~

29 ~~Section 713. Cost of administration.~~

30 ~~The board shall keep an accurate account of money paid in~~

1 ~~premiums by the subscribers and disbursements on account of~~
2 ~~damages to structures. If, at the expiration of any year, there~~
3 ~~is a balance remaining after deducting the disbursements, the~~
4 ~~unearned premiums on undetermined risks and the percentage of~~
5 ~~premiums paid or payable to create or maintain the surplus~~
6 ~~provided under this act, and after setting aside an adequate~~
7 ~~reserve, the board may determine to allocate the remaining money~~
8 ~~to the cost of administering the insurance fund.~~

9 ~~Section 714. Administration.~~

10 ~~(a) Transfer of insurance fund. Upon the effective date of~~
11 ~~this section, the department shall take immediate steps to~~
12 ~~transition the Coal and Clay Mine Subsidence Insurance Fund to~~
13 ~~the insurance fund.~~

14 ~~(b) Administration of program. The department shall begin~~
15 ~~administering the program within two years of the effective date~~
16 ~~of this section.~~

17 CHAPTER 9

18 MISCELLANEOUS PROVISIONS

19 ~~Section 901. Repeals.~~

20 ~~Repeals are as follows:~~

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

23 ~~(2) The Anthracite and Bituminous Coal Mine Subsidence~~
24 ~~Fund Act is repealed.~~

25 ~~Section 902. Continuation.~~

26 ~~Except as otherwise provided in this act, all activities~~
27 ~~initiated under the Anthracite and Bituminous Coal Mine~~
28 ~~Subsidence Fund Act shall continue and remain in full force and~~
29 ~~effect and may be completed under this act. Orders, regulations,~~
30 ~~rules and decisions which were made under the Anthracite and~~

1 ~~Bituminous Coal Mine Subsidence Fund Act and which are in effect~~
2 ~~on the effective date of this section shall remain in full force~~
3 ~~and effect until revoked, vacated or modified under this act.~~
4 ~~Contracts, obligations and collective bargaining agreements~~
5 ~~entered into under the Anthracite and Bituminous Coal Mine~~
6 ~~Subsidence Fund Act are not affected nor impaired by the repeal~~
7 ~~of the Anthracite and Bituminous Coal Mine Subsidence Fund Act.~~
8 ~~Section 903. Effective date.~~

9 ~~This act shall take effect immediately.~~

10 CHAPTER 1

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11 PRELIMINARY PROVISIONS

12 SECTION 101. DECLARATIONS.

13 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

14 (1) GEOLOGISTS HAVE STUDIED WITH INCREASING CONCERN THE
15 UNDERGROUND MOVEMENT OF THE GEOLOGICAL FORMATIONS IN THIS
16 COMMONWEALTH AND ITS IMPEDING EFFECTS ON VERTICAL AND
17 HORIZONTAL NATURAL AND MANMADE SURFACES.

18 (2) LANDSLIDES HAVE HISTORICALLY BEEN THE NORM
19 THROUGHOUT MOST PARTS OF THIS COMMONWEALTH.

20 (3) LANDSLIDES OCCUR WITHOUT REGARD FOR MUNICIPAL
21 BOUNDARIES, ORDINANCES, PLANNING CODES, POLITICS AND
22 ECONOMIES, MAKING IT DIFFICULT FOR LOCAL OFFICIALS TO DEAL
23 EFFECTIVELY WITH THE DEVELOPMENT AND IMPLEMENTATION OF
24 METHODS AND STANDARDS TO CONTROL THE DEVASTATION THAT THESE
25 NATURAL FORCES CAN CAUSE.

26 (4) LANDSLIDES HAVE CAUSED AN ENORMOUS AMOUNT OF DAMAGE
27 TO HOMES AND ROADWAYS IN THIS COMMONWEALTH, PARTICULARLY THE
28 SOUTHWESTERN REGION OF THE STATE.

29 (5) LANDSLIDES WILL CONTINUE TO PLAGUE SOUTHWESTERN
30 PENNSYLVANIA.

1 (6) LANDSLIDES AFFECT EVERY STATE IN THE NATION, CAUSING
2 AN ESTIMATED \$2,000,000,000 TO \$4,000,000,000 IN DAMAGES PER
3 YEAR.

4 (7) LANDSLIDE DAMAGE CAUSED BY FLOODING IS NOT COVERED
5 BY THE NATIONAL FLOOD INSURANCE PROGRAM.

6 (8) PROBLEMS ASSOCIATED WITH LANDSLIDE DAMAGE ARE
7 BECOMING MORE WIDESPREAD.

8 SECTION 102. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
10 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 "BOARD." THE LANDSLIDE INSURANCE BOARD ESTABLISHED UNDER
13 SECTION 305.

14 "COMMUNITY." A POLITICAL SUBDIVISION THAT HAS ZONING AND
15 BUILDING CODE JURISDICTION OVER AN AREA HAVING LANDSLIDE
16 FEATURES.

17 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
18 DEVELOPMENT OF THE COMMONWEALTH.

19 "EXTREMELY HAZARDOUS AREA." AN AREA WHERE THE DEPARTMENT
20 DETERMINES THAT MULTIPLE ENVIRONMENTAL FACTORS CONTRIBUTE TO
21 HIGH RISK OF DAMAGE TO STRUCTURES FROM LANDSLIDE FEATURES.

22 "GIS." GEOGRAPHIC INFORMATION SYSTEMS.

23 "INSURANCE FUND." THE LANDSLIDE INSURANCE FUND ESTABLISHED
24 UNDER SECTION 501.

25 "LANDSLIDE." A DETACHED MASS OF SOIL, ROCK, EARTH OR DEBRIS
26 THAT MOVES DOWN A SLOPE AND IS OF SUFFICIENT SIZE TO CAUSE
27 DAMAGE.

28 "LANDSLIDE FEATURES." THE TERM INCLUDES ROCKFALL AREAS,
29 CREEP, RED BEDS AND HISTORIC LANDSLIDES.

30 "PROGRAM." THE LANDSLIDE INSURANCE PROGRAM ESTABLISHED UNDER

1 SECTION 302.

2 CHAPTER 3

3 LANDSLIDE INSURANCE PROGRAM

4 SECTION 301. PROGRAM GOALS.

5 THE GOALS OF THE PROGRAM SHALL BE TO:

6 (1) PROVIDE ACTUARIALLY SOUND INSURANCE COVERAGE.

7 (2) MAKE PROGRAM POLICIES UNIVERSALLY AVAILABLE AND
8 COMPETITIVELY PRICED.

9 (3) MAKE USE OF THE MOST EFFECTIVE SCIENTIFIC AND
10 TECHNOLOGICAL ADVANCES AVAILABLE, INCLUDING, BUT NOT LIMITED
11 TO, TECHNOLOGY SUCH AS GIS.

12 (4) PROCESS CLAIMS PROMPTLY, FAIRLY AND CONSISTENTLY.

13 (5) COLLABORATE WITH OTHER ORGANIZATIONS THAT OPERATE IN
14 THE PUBLIC INTEREST TO ASSIST IN ACHIEVING THE PROGRAM'S
15 GOALS.

16 SECTION 302. LANDSLIDE INSURANCE PROGRAM.

17 THE LANDSLIDE INSURANCE PROGRAM IS ESTABLISHED WITHIN THE
18 STATE TREASURY. THE PROGRAM SHALL BE ADMINISTERED BY THE BOARD.

19 SECTION 303. PROGRAM AUTHORITY.

20 (A) INTERGOVERNMENTAL COOPERATION.--THE BOARD SHALL:

21 (1) WORK CLOSELY WITH FEDERAL, STATE AND LOCAL AGENCIES
22 AND ANY OTHER GOVERNMENT AGENCIES, INCLUDING THOSE OF OTHER
23 STATES, TO ACCOMPLISH PROGRAM GOALS.

24 (2) COLLABORATE WITH THE DEPARTMENT AND FEDERAL AGENCIES
25 TO COMPLETE A SURVEY OF THIS COMMONWEALTH TO INVESTIGATE
26 SITES TO DEFINE LANDSLIDE FEATURES AND IDENTIFY AREAS OF THIS
27 COMMONWEALTH MOST AT RISK OF LANDSLIDE.

28 (3) RECOMMEND LEGISLATION, REGULATIONS, ORDINANCES AND
29 ZONING TO MITIGATE SLOPE INSTABILITY CONTRIBUTED BY
30 EXCAVATION AND DRAINAGE.

1 (4) SHARE THE MOST UP-TO-DATE GEOLOGICAL SURVEYS IN THE
2 FORM OF MAPS, GIS DATA OR OTHER USEFUL FORMS AND RELATED
3 INFORMATION FREE OF CHARGE TO GOVERNMENT AGENCIES AND
4 APPROPRIATE REPRESENTATIVES OF COMMUNITIES AND AT A
5 REASONABLE COST TO ALL OTHER PERSONS.

6 (5) INFORM THE DEPARTMENT OF TRANSPORTATION OF WHICH
7 HIGHWAYS ARE AT GREATEST RISK FROM LANDSLIDES.

8 (6) NOTIFY LOCAL GOVERNMENTS IN AREAS WITH THE GREATEST
9 RISK FROM LANDSLIDES.

10 (7) HAVE THE AUTHORITY TO CONSULT, RECEIVE INFORMATION
11 AND ENTER INTO ANY AGREEMENTS OR OTHER ARRANGEMENTS IN ORDER
12 TO IDENTIFY AND PUBLISH INFORMATION WITH RESPECT TO ALL
13 LANDSLIDE-PRONE AREAS, ESTABLISH OR UPDATE LANDSLIDE-RISK
14 ZONE DATA AND MAKE ESTIMATES WITH RESPECT TO THE RATES OF
15 PROBABLE LANDSLIDE-CAUSED LOSS FOR THE VARIOUS LANDSLIDE-RISK
16 ZONES FOR EACH OF THESE AREAS.

17 (8) PUBLISH ANY CHANGE TO LANDSLIDE INSURANCE MAP
18 PANELS.

19 (9) ENSURE THAT THE PROGRAM IS CONSISTENT IN LANDSLIDE
20 CONTROL, FORECASTING AND DAMAGE PREVENTION.

21 (B) STUDIES AND INVESTIGATIONS.--

22 (1) THE BOARD IS AUTHORIZED TO CARRY OUT NECESSARY
23 STUDIES AND INVESTIGATIONS, UTILIZING TO THE MAXIMUM EXTENT
24 PRACTICABLE THE EXISTING FACILITIES AND SERVICES OF OTHER
25 FEDERAL AND STATE DEPARTMENTS OR AGENCIES, LOCAL GOVERNMENT
26 AGENCIES AND ANY OTHER ORGANIZATIONS, WITH RESPECT TO THE
27 ADEQUACY OF STATE AND LOCAL MEASURES IN LANDSLIDE-PRONE AREAS
28 AS TO:

29 (I) LAND MANAGEMENT AND USE.

30 (II) LANDSLIDE CONTROL.

1 (III) ZONING.

2 (IV) LANDSLIDE DAMAGE PREVENTION.

3 (2) THE BOARD MAY ENTER INTO ANY CONTRACTS, AGREEMENTS
4 OR OTHER APPROPRIATE ARRANGEMENTS TO CARRY OUT ITS AUTHORITY
5 UNDER THIS SUBSECTION. STUDIES AND INVESTIGATIONS UNDER
6 PARAGRAPH (1) SHALL INCLUDE ANALYSIS OF THE FOLLOWING:

7 (I) LAWS.

8 (II) REGULATIONS.

9 (III) ORDINANCES.

10 (IV) ZONING.

11 (V) BUILDING CODES.

12 (VI) BUILDING PERMITS.

13 (VII) SUBDIVISION OR OTHER BUILDING RESTRICTIONS.

14 (C) STATE AND LOCAL MEASURES.--ON THE BASIS OF STUDIES AND
15 INVESTIGATIONS UNDER SUBSECTION (B) AND OTHER INFORMATION AS THE
16 DEPARTMENT DEEMS NECESSARY, THE BOARD SHALL DEVELOP
17 COMPREHENSIVE CRITERIA DESIGNED TO ENCOURAGE, WHERE NECESSARY,
18 THE ADOPTION OF ADEQUATE STATE AND LOCAL MEASURES WHICH, TO THE
19 MAXIMUM EXTENT FEASIBLE, WILL:

20 (1) CONSTRICT THE DEVELOPMENT OF LAND THAT IS EXPOSED TO
21 LANDSLIDE DAMAGE, WHERE APPROPRIATE.

22 (2) GUIDE THE DEVELOPMENT OF PROPOSED CONSTRUCTION AWAY
23 FROM LOCATIONS THAT ARE THREATENED BY LANDSLIDE FEATURES.

24 (3) ASSIST IN REDUCING DAMAGE CAUSED BY LANDSLIDES.

25 (4) OTHERWISE IMPROVE THE LONG-TERM LAND MANAGEMENT AND
26 USE OF LANDSLIDE-PRONE AREAS.

27 (D) TECHNICAL ASSISTANCE.--THE BOARD SHALL WORK CLOSELY WITH
28 AND PROVIDE ANY NECESSARY TECHNICAL ASSISTANCE TO STATE AND
29 LOCAL GOVERNMENT AGENCIES TO ENCOURAGE THE APPLICATION OF THE
30 CRITERIA AND THE ADOPTION AND ENFORCEMENT OF THE MEASURES UNDER

1 THIS SECTION.

2 SECTION 304. LAND-USE CONTROLS AND RATE STRUCTURE.

3 A LOCAL GOVERNMENT MAY ADOPT LAND-USE CONTROLS FOR THE
4 BENEFIT OF THE LOCAL GOVERNMENT'S RESIDENTS. THE FOLLOWING SHALL
5 APPLY:

6 (1) NO NEW LANDSLIDE INSURANCE COVERAGE SHALL BE
7 PROVIDED TO NEW CONSTRUCTION WITHOUT PROOF OF COMPLIANCE WITH
8 LOCAL PREVENTION MEASURES ADOPTED BY AN APPROPRIATE LOCAL
9 PUBLIC BODY.

10 (2) A COMMUNITY RATING SYSTEM SHALL BE EMPLOYED BY THE
11 BOARD AS AN INCENTIVE FOR COMMUNITY LANDSLIDE MANAGEMENT. THE
12 RATING SYSTEM SHALL CONSIDER WHERE LANDSLIDE DAMAGE IS MORE
13 LIKELY TO OCCUR AND GIVE HIGHER RATINGS TO THOSE COMMUNITIES
14 THAT HAVE LOWER RISK OF DAMAGE EITHER DUE TO LOW RISK OF THE
15 DAMAGE OCCURRING DUE TO THE NATURAL CHARACTERISTICS OF THE
16 COMMUNITY OR DUE TO STEPS TAKEN BY THE COMMUNITY TO PREVENT
17 THE DAMAGE. THIS RATING SYSTEM SHALL BE REFLECTED BY THE
18 RATES ASSIGNED TO COMMUNITIES.

19 (3) RATE STRUCTURES SHALL PROVIDE INCENTIVES FOR
20 MEASURES THAT REDUCE THE RISK OF LANDSLIDE DAMAGE AND
21 EVALUATE THE MEASURES. THE PROGRAM SHALL PROVIDE INCENTIVES
22 IN THE FORM OF CREDITS ON PREMIUM RATES FOR LANDSLIDE
23 INSURANCE COVERAGE IN COMMUNITIES THAT THE BOARD DETERMINES
24 HAVE ADOPTED AND ENFORCED MEASURES THAT REDUCE THE RISK OF
25 LANDSLIDE DAMAGE.

26 (4) A CREDIT ON PREMIUM RATES FOR LANDSLIDE INSURANCE
27 COVERAGE SHALL BE BASED ON THE ESTIMATED REDUCTION IN DAMAGE
28 RISKS RESULTING FROM THE MEASURES ADOPTED BY A COMMUNITY
29 UNDER THE PROGRAM.

30 SECTION 305. LANDSLIDE INSURANCE BOARD.

1 (A) ESTABLISHMENT.--THE LANDSLIDE INSURANCE BOARD IS
2 ESTABLISHED. THE BOARD SHALL INCLUDE THE FOLLOWING 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 (3) THE INSURANCE COMMISSIONER OR A DESIGNEE.

8 (4) THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT
9 OR A DESIGNEE.

10 (B) LANDSLIDE INSURANCE PROGRAM.--

11 (1) THE BOARD SHALL ESTABLISH THE LANDSLIDE INSURANCE
12 PROGRAM.

13 (2) THE FOLLOWING SHALL APPLY TO THE LANDSLIDE INSURANCE
14 PROGRAM ESTABLISHED UNDER PARAGRAPH (1):

15 (I) THE BOARD SHALL DEVELOP AND ADMINISTER THE
16 LANDSLIDE INSURANCE PROGRAM, INCLUDING, BUT NOT LIMITED
17 TO, ASSESSING A PREMIUM FOR PARTICIPATING IN THE
18 LANDSLIDE INSURANCE PROGRAM.

19 (II) PAYMENTS FOR PREMIUMS ASSESSED UNDER
20 SUBPARAGRAPH (I) SHALL BE DEPOSITED INTO THE INSURANCE
21 FUND.

22 (III) MONEY DEPOSITED INTO THE INSURANCE FUND UNDER
23 SUBPARAGRAPH (II) SHALL ONLY BE USED FOR THE LANDSLIDE
24 INSURANCE PROGRAM.

25 CHAPTER 5

26 LANDSLIDE INSURANCE FUND

27 SECTION 501. LANDSLIDE INSURANCE FUND.

28 (A) ESTABLISHMENT.--THE LANDSLIDE INSURANCE FUND IS
29 ESTABLISHED AS A RESTRICTED FUND IN THE STATE TREASURY.

30 (B) PURPOSE.--THE INSURANCE FUND SHALL BE USED TO INSURE

1 AGAINST DAMAGES RESULTING FROM LANDSLIDE DAMAGE.

2 (C) CLAIM OR LIABILITY.--A CLAIM AGAINST OR A LIABILITY OF
3 THE INSURANCE FUND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR
4 LIABILITY OF THE COMMONWEALTH OR A CHARGE AGAINST THE GENERAL
5 FUND.

6 SECTION 502. EXPENSES.

7 THE EXPENSES OF THE ADMINISTRATION OF THE INSURANCE FUND
8 SHALL BE PAID OUT ENTIRELY FROM THE INSURANCE FUND.

9 SECTION 503. STATE TREASURER CUSTODIAN OF INSURANCE FUND.

10 THE STATE TREASURER SHALL BE THE CUSTODIAN OF THE INSURANCE
11 FUND AND ALL DISBURSEMENTS FROM THE INSURANCE FUND SHALL BE PAID
12 BY THE STATE TREASURER BY CHECK UPON REQUEST BY THE BOARD. THE
13 FOLLOWING SHALL APPLY:

14 (1) THE STATE TREASURER SHALL NOT BE REQUIRED TO AUDIT
15 ACCOUNTS FROM WHICH THE BOARD REQUESTS PAYMENTS.

16 (2) THE STATE TREASURER SHALL NOT BE LIABLE FOR ANY
17 PAYMENT MADE UNDER THIS ACT.

18 SECTION 504. SCHEDULE OF PREMIUMS.

19 (A) GENERAL RULE.--AT ANY TIME DURING EACH YEAR, THE BOARD
20 SHALL PREPARE AND PUBLISH ON THE DEPARTMENT'S PUBLICLY
21 ACCESSIBLE INTERNET WEBSITE A SCHEDULE OF PREMIUMS OR RATES OF
22 INSURANCE FOR SUBSCRIBERS FOR THE LANDSLIDE INSURANCE PROGRAM.

23 THE FOLLOWING SHALL APPLY:

24 (1) THE SCHEDULES SHALL BE PRINTED AND DISTRIBUTED FREE
25 OF CHARGE TO INDIVIDUALS WHO REQUEST A SCHEDULE.

26 (2) A SUBSCRIBER MAY PAY TO THE STATE TREASURER THE
27 AMOUNT OF PREMIUM APPROPRIATE, AND UPON PAYMENT, SHALL BE
28 INSURED, IN ACCORDANCE WITH THIS ACT FOR THE YEAR FOR WHICH
29 THE PREMIUM IS PAID.

30 (3) THE INSURANCE ACQUIRED UNDER PARAGRAPH (2) SHALL

1 COVER ALL PAYMENTS BECOMING DUE FOR WHICH THE PREMIUM IS
2 PAID.

3 (B) AMOUNT OF PREMIUM.--THE PREMIUM FOR THE LANDSLIDE
4 INSURANCE PROGRAM IS FIXED AND SHALL BE ADEQUATE TO ENABLE
5 PAYMENT OF ALL SUMS THAT MAY BECOME DUE AND PAYABLE UNDER THE
6 PROVISIONS OF THIS ACT, AND ADEQUATE RESERVE SUFFICIENT TO CARRY
7 ALL POLICIES AND CLAIMS TO MATURITY.

8 (C) FIXING PREMIUMS.--IN FIXING A PREMIUM PAYABLE BY A
9 SUBSCRIBER, THE BOARD MAY:

10 (1) TAKE INTO ACCOUNT THE CONDITION OF THE PREMISES OF
11 THE SUBSCRIBER AS SHOWN BY THE REPORT OF ANY INSPECTOR
12 APPOINTED BY THE BOARD;

13 (2) ANNUALLY ASSESS THE AMOUNT OF THE PREMIUM CHARGED
14 AND THE NEEDS OF MAINTAINING THE INSURANCE FUND UNDER THIS
15 ACT. IN ADDITION, THE BOARD MAY CHANGE THE AMOUNT OF PREMIUMS
16 PAYABLE BY ANY SUBSCRIBER AS THE CONDITION OF THE PREMISES OF
17 THE SUBSCRIBER MAY JUSTIFY; AND

18 (3) INCREASE THE PREMIUMS OF ANY SUBSCRIBER WHOSE LOSS
19 EXPERIENCE WARRANTS THE CHANGE.

20 (D) EFFECTIVE DATE OF INSURANCE.--THE INSURANCE OF ANY
21 SUBSCRIBER SHALL NOT BE EFFECTIVE UNTIL THE SUBSCRIBER SHALL
22 HAVE PAID IN FULL THE PREMIUM FIXED AND DETERMINED UNDER THIS
23 SECTION.

24 SECTION 505. SURPLUS.

25 THE FOLLOWING SHALL APPLY:

26 (1) THE BOARD SHALL SET ASIDE 5% OF ALL PREMIUMS
27 COLLECTED UNDER THIS ACT UNTIL THE BOARD DETERMINES THAT THE
28 SURPLUS IS LARGE ENOUGH TO COVER THE CATASTROPHE HAZARD OF
29 ALL THE SUBSCRIBERS TO THE INSURANCE FUND AND TO GUARANTEE
30 THE SOLVENCY OF THE INSURANCE FUND.

1 (2) IF THE BOARD DETERMINES THAT THE SURPLUS IS LARGE
2 ENOUGH UNDER PARAGRAPH (1), THE BOARD SHALL REEVALUATE THE
3 SET ASIDE UNDER PARAGRAPH (1) AND INVESTMENT OF THE SURPLUS
4 AND MAKE A RECOMMENDATION TO THE GENERAL ASSEMBLY.

5 SECTION 506. INVESTMENT OF SURPLUS.

6 (A) GENERAL RULE.--THE BOARD MAY INVEST ANY OF THE SURPLUS
7 OR RESERVE BELONGING TO THE INSURANCE FUND IN SECURITIES AND
8 INVESTMENTS THAT ARE AUTHORIZED FOR INVESTMENT BY SAVINGS BANKS.

9 (B) STATE TREASURER CUSTODIAN.--THE STATE TREASURER SHALL BE
10 CUSTODIAN OF ALL SECURITIES AND EVIDENCES OF INDEBTEDNESS UNDER
11 SUBSECTION (A), AND THE FOLLOWING SHALL APPLY:

12 (1) THE STATE TREASURER SHALL COLLECT THE PRINCIPAL AND
13 INTEREST ON THE PRINCIPAL WHEN DUE AND PAY THAT AMOUNT INTO
14 THE INSURANCE FUND.

15 (2) THE STATE TREASURER SHALL PAY FOR ALL SECURITIES OR
16 EVIDENCES OF INDEBTEDNESS UNDER SUBSECTION (A) BY CHECK
17 ISSUED UPON REQUISITION OF THE BOARD.

18 (3) ALL PAYMENTS UNDER PARAGRAPH (2) SHALL BE MADE ONLY
19 UPON DELIVERY OF THE SECURITIES OR EVIDENCES OF INDEBTEDNESS
20 TO THE STATE TREASURER.

21 (4) TO ALL REQUISITIONS CALLING UPON THE STATE TREASURER
22 TO PAY FOR ANY SECURITIES OR EVIDENCES OF INDEBTEDNESS, THERE
23 SHALL BE ATTACHED A CERTIFIED COPY OF THE RESOLUTION OF THE
24 BOARD AUTHORIZING THE INVESTMENT.

25 (5) THE BOARD MAY SELL ANY SECURITY BY RESOLUTION.
26 SECTION 507. DISBURSEMENTS FROM INSURANCE FUND.

27 (A) OPERATION OF INSURANCE FUND.--MONEY FROM THE GENERAL
28 APPROPRIATION SHALL BE AVAILABLE FOR THE EXPENSE OF
29 ADMINISTERING THE INSURANCE FUND, INCLUDING THE PURCHASE THROUGH
30 THE DEPARTMENT OF GENERAL SERVICES OF SURETY BONDS FOR OFFICERS

1 OR EMPLOYEES OF THE BOARD AS MAY BE REQUIRED TO PURCHASE
2 SUPPLIES, MATERIALS, MOTOR VEHICLES, PROVIDE FOR ADMINISTRATIVE
3 EXPENSES, WORKMEN'S INSURANCE COVERING THE OFFICERS AND
4 EMPLOYEES OF THE BOARD AND LIABILITY INSURANCE COVERING VEHICLES
5 OPERATED BY THE OFFICERS AND EMPLOYEES OF THE BOARD.

6 (B) TREASURY DEPARTMENT.--MONEY FROM THE GENERAL
7 APPROPRIATION SHALL ALSO BE AVAILABLE FOR PAYMENT TO THE
8 TREASURY DEPARTMENT FOR THE COST OF MAKING DISBURSEMENTS OUT OF
9 THE INSURANCE FUND ON BEHALF OF THE INSURANCE FUND AT AMOUNTS AS
10 THE TREASURY DEPARTMENT, WITH THE APPROVAL OF THE BOARD, SHALL
11 DETERMINE.

12 (C) ACCOUNTING.--THE FOLLOWING SHALL APPLY:

13 (1) THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF THE
14 MONEY PAID IN PREMIUMS BY SUBSCRIBERS AND THE DISBURSEMENTS
15 ON ACCOUNT OF DAMAGES TO THE SUBSCRIBERS' PREMISES.

16 (2) IF AT THE EXPIRATION OF ANY YEAR THERE SHALL BE A
17 BALANCE REMAINING AFTER DEDUCTING THE DISBURSEMENTS, THE
18 UNEARNED PREMIUMS ON UNDETERMINED RISKS AND THE PERCENTAGE OF
19 PREMIUMS PAID OR PAYABLE TO CREATE OR MAINTAIN THE SURPLUS AS
20 REQUIRED UNDER THIS SECTION, AND AFTER SETTING ASIDE AN
21 ADEQUATE RESERVE, THE BALANCE, AS THE BOARD MAY DETERMINE TO
22 BE SAFELY DISTRIBUTABLE, MAY BE ALLOCATED TO THE COST OF
23 ADMINISTERING THE INSURANCE FUND OR DISTRIBUTED AMONG THE
24 SUBSCRIBERS IN PROPORTION TO THE PREMIUMS PAID BY THEM.

25 (3) FOR THE PROPORTIONATE SHARE OF THE SUBSCRIBERS WHO
26 REMAIN SUBSCRIBERS TO THE INSURANCE FUND, THE PREMIUMS
27 DISTRIBUTED TO SUBSCRIBERS UNDER PARAGRAPH (2) SHALL BE
28 CREDITED TO THE INSTALLMENT OF PREMIUMS NEXT DUE BY THE
29 SUBSCRIBERS. THE PROPORTIONATE SHARE OF THE SUBSCRIBERS WHO
30 HAVE CEASED TO BE SUBSCRIBERS IN THE INSURANCE FUND SHALL BE

1 REFUNDED TO THEM OUT OF THE INSURANCE FUND IN THE MANNER
2 PROVIDED UNDER THIS CHAPTER.

3 SECTION 508. APPLICATION FOR INSURANCE, TERMS OF INSURANCE AND
4 PENALTY FOR FALSE STATEMENT.

5 (A) APPLICATION FOR INSURANCE.--THE FOLLOWING SHALL APPLY:

6 (1) AN OWNER OF A STRUCTURE LOCATED WITHIN AN EXTREMELY
7 HAZARDOUS AREA WHO DESIRES TO BECOME A SUBSCRIBER TO THE
8 INSURANCE FUND FOR THE PURPOSE OF INSURING THE STRUCTURE
9 AGAINST DAMAGES FROM LANDSLIDE DAMAGE SHALL MAKE A COMPLETE
10 APPLICATION, AS PRESCRIBED BY THE BOARD, TO THE BOARD OR ITS
11 AGENTS.

12 (2) UPON RECEIVING AN APPLICATION UNDER PARAGRAPH (1),
13 THE BOARD SHALL:

14 (I) MAKE AN INVESTIGATION AS MAY BE NECESSARY IF THE
15 APPLICATION COMPLIES WITH THE RULES AND REGULATIONS OF
16 THE BOARD.

17 (II) WITHIN 60 DAYS AFTER RECEIVING THE APPLICATION,
18 ISSUE A CERTIFICATE SHOWING WHETHER THE BOARD APPROVED
19 THE APPLICATION AND THE AMOUNT OF PREMIUM PAYABLE BY THE
20 APPLICANT FOR THE YEAR FOR WHICH THE PREMIUM IS SOUGHT.

21 (3) THE AMOUNT OF INSURANCE COVERAGE FOR WHICH AN
22 APPLICANT IS APPROVED UNDER PARAGRAPH (2) SHALL NOT EXCEED
23 THE REPLACEMENT COST OF THE INSURED STRUCTURE OR \$150,000,
24 WHICHEVER IS LESS. THE MAXIMUM DOLLAR AMOUNT OF COVERAGE
25 ESTABLISHED UNDER THIS PARAGRAPH SHALL BE REVIEWED ANNUALLY
26 BY THE BOARD TO DETERMINE WHETHER THE AMOUNT IS SUFFICIENT TO
27 COMPENSATE FOR LOSS OF USE, ABILITY TO RELOCATE OR ABILITY TO
28 REBUILD IN A SAFER AREA OF THIS COMMONWEALTH. THE BOARD MAY
29 ADJUST THE MAXIMUM DOLLAR AMOUNT OF COVERAGE UNDER THIS
30 PARAGRAPH BASED ON AVAILABLE FUNDS AND NEED AS DETERMINED BY

1 THE ANNUAL REVIEW.

2 (4) POLICIES ISSUED UNDER THIS CHAPTER MAY BE ISSUED FOR
3 ONE YEAR, FOR TWO YEARS OR FOR THREE YEARS AS THE BOARD MAY
4 ESTABLISH.

5 (5) EXCEPT AS PROVIDED UNDER SUBSECTION (B), NO
6 INSURANCE SHALL BECOME EFFECTIVE UNTIL THE PREMIUMS HAVE BEEN
7 PAID. ALL PREMIUMS SHALL BE PAYABLE TO THE STATE TREASURER,
8 WHO SHALL ISSUE A RECEIPT FOR PAYMENT. THE RECEIPT FOR
9 PREMIUM TOGETHER WITH A CERTIFICATE OF THE BOARD SHALL BE
10 EVIDENCE THAT THE APPLICANT HAS BECOME A SUBSCRIBER TO THE
11 INSURANCE FUND AND IS INSURED.

12 (B) FAILURE TO APPROVE OR DENY APPLICATION.--IF THE BOARD
13 FAILS TO MAKE THE NECESSARY INVESTIGATIONS OR INSPECTION AND
14 FAILS TO APPROVE OR DENY AN APPLICATION AS REQUIRED UNDER
15 SUBSECTION (A), THE INSURANCE REQUESTED BY THE APPLICANT SHALL
16 BE DEEMED GRANTED. THE INSURANCE SHALL BE EFFECTIVE FROM THE
17 DATE OF THE APPLICATION'S SUBMISSION UNDER SUBSECTION (A). THE
18 FOLLOWING SHALL APPLY:

19 (1) THE COVERAGE SHALL BE NULL AND VOID IF THE APPLICANT
20 FAILS TO REMIT THE PREMIUM PAYMENT WITHIN 20 DAYS FROM THE
21 DAY THE BILL FOR THE PREMIUM WAS POSTMARKED.

22 (2) THE INSURANCE MAY BE SUBJECTED TO LATER REDUCTIONS,
23 AND PREMIUMS ADJUSTED ACCORDINGLY, IF THE BOARD DETERMINES
24 THAT THE AMOUNT OF INSURANCE COVERAGE REQUESTED IS IN EXCESS
25 OF THE CURRENT REPLACEMENT COST OF THE STRUCTURE OR THE
26 MAXIMUM AMOUNT OF COVERAGE ESTABLISHED BY THE INSURANCE FUND,
27 WHICHEVER IS LESS.

28 (3) THE INSURANCE SHALL BE VOID IF, UPON INSPECTION OF
29 THE STRUCTURE, THE BOARD DETERMINES THAT:

30 (I) LANDSLIDE DAMAGE OCCURRED PRIOR TO THE REQUEST

1 BY THE APPLICANT FOR INSURANCE;

2 (II) THE APPLICANT, DUE TO AN UNREASONABLE ACTION OR
3 INACTION, IS RESPONSIBLE FOR THE FAILURE OF THE BOARD TO
4 INSPECT THE STRUCTURE WITHIN 60 DAYS OF RECEIPT OF THE
5 APPLICATION IN ACCORDANCE WITH THIS SECTION; OR

6 (III) LANDSLIDE DAMAGE WAS THE RESULT OF A NEGLIGENT
7 ACT OR OMISSION BY THE APPLICANT.

8 (C) OFFENSE.--WHOEVER SHALL KNOWINGLY FURNISH OR MAKE ANY
9 FALSE CERTIFICATE, APPLICATION OR STATEMENT AS REQUIRED UNDER
10 THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR, AND UPON
11 CONVICTION SHALL BE SENTENCED TO PAY A FINE NOT TO EXCEED
12 \$1,500.

13 (D) IDENTIFYING RISK.--IN ORDER TO ASSIST IN IDENTIFYING
14 STRUCTURES THAT COULD BE AT RISK FROM LANDSLIDE DAMAGE, THE
15 BOARD SHALL TRANSMIT THE SURVEY COMPLETED BY THE DEPARTMENT
16 UNDER SECTION 303(A)(2) TO THE LEGISLATIVE REFERENCE BUREAU FOR
17 PUBLICATION IN THE NEXT AVAILABLE ISSUE OF THE PENNSYLVANIA
18 BULLETIN.

19 SECTION 509. APPLICATION FOR INCREASE IN INSURANCE.

20 (A) GENERAL RULE.--AN APPLICATION FOR AN INCREASE IN THE
21 AMOUNT OF INSURANCE, UP TO THE ALLOWABLE LIMITS, MAY BE MADE AT
22 ANY TIME BY THE SUBSCRIBER BY SUBMITTING A WRITTEN STATEMENT, AS
23 DETERMINED BY THE BOARD, TO THE BOARD OR TO ANY OF THE BOARD'S
24 AGENTS, EXCEPT DURING A PERIOD WHEN A CLAIM FILED BY THE
25 SUBSCRIBER IS OPEN AND PENDING INVESTIGATION.

26 (B) APPROVAL OF REQUEST.--THE FOLLOWING SHALL APPLY:

27 (1) UPON RECEIPT OF THE SUBSCRIBER'S WRITTEN STATEMENT
28 UNDER SUBSECTION (A), THE BOARD SHALL REINSPECT THE STRUCTURE
29 WITHIN 60 DAYS.

30 (2) IF REINSPECTION UNDER PARAGRAPH (1) OCCURS WITHIN

1 THE 60-DAY PERIOD AND THE STRUCTURE PASSES THE REINSPECTION,
2 THE NEW AMOUNT OF INSURANCE SHALL BE APPROVED AND SHALL BE
3 EFFECTIVE FROM THE DATE OF THE FIRST PREMIUM PAYMENT AFTER
4 REINSPECTION.

5 (3) IF REINSPECTION UNDER PARAGRAPH (1) DOES NOT OCCUR
6 WITHIN THE 60-DAY PERIOD, THE NEW AMOUNT OF INSURANCE SHALL
7 BE DEEMED APPROVED BY THE BOARD AND SHALL BE EFFECTIVE FROM
8 THE DATE THE SUBSCRIBER'S APPLICATION FOR ADDITIONAL
9 INSURANCE WAS RECEIVED BY THE BOARD UNDER SUBSECTION (A), BUT
10 THE ADDITIONAL COVERAGE SHALL BE NULL AND VOID IF THE
11 SUBSCRIBER FAILS TO REMIT THE PREMIUM PAYMENT WITHIN 20 DAYS
12 FROM THE DAY THE BILL FOR ADDITIONAL PREMIUM IS POSTMARKED.

13 (C) REDUCTION IN ADDITIONAL INSURANCE.--THE ADDITIONAL
14 INSURANCE APPROVED UNDER THIS SECTION MAY BE REDUCED, WITH
15 PREMIUMS ADJUSTED ACCORDINGLY, IF THE BOARD DETERMINES THAT THE
16 SUBSCRIBER'S TOTAL AMOUNT OF INSURANCE EXCEEDS THE CURRENT
17 REPLACEMENT COST OF THE STRUCTURE OR THE MAXIMUM AMOUNT OF
18 COVERAGE ESTABLISHED BY THE INSURANCE FUND, WHICHEVER IS LESS.

19 (D) VOIDED ADDITIONAL INSURANCE.--ADDITIONAL INSURANCE
20 APPROVED UNDER THIS SECTION SHALL BE VOID IF, UPON REINSPECTION
21 OF THE STRUCTURE, THE BOARD DETERMINES THAT:

22 (1) LANDSLIDE DAMAGE OCCURRED PRIOR TO THE REQUEST OF
23 THE SUBSCRIBER FOR ADDITIONAL INSURANCE;

24 (2) THE SUBSCRIBER'S UNREASONABLE ACTION OR INACTION IS
25 RESPONSIBLE FOR THE BOARD'S FAILURE TO REINSPECT THE INSURED
26 STRUCTURE WITHIN 60 DAYS OF RECEIPT OF THE APPLICATION FOR
27 ADDITIONAL INSURANCE UNDER SUBSECTION (A); OR

28 (3) LANDSLIDE DAMAGE WAS THE RESULT OF A NEGLIGENT ACT
29 OR OMISSION BY THE SUBSCRIBER.

30 SECTION 510. AUTOMATIC INFLATION PROTECTION INCREASE.

1 THE BOARD SHALL MAKE AVAILABLE TO ALL SUBSCRIBERS AN ANNUAL
2 INFLATION PROTECTION OPTION ON THE ANNIVERSARY DATE OF EACH
3 POLICY TO UNIFORMLY INCREASE SUBSCRIBERS' COVERAGE. A SUBSCRIBER
4 MUST ELECT THIS OPTION WITHIN 30 DAYS. THE OPTION SHALL NOT BE
5 MADE AVAILABLE MORE THAN ONCE ANNUALLY. AN INFLATION PROTECTION
6 INCREASE SHALL NOT BE SUBJECT TO A REINSPECTION OF THE
7 STRUCTURE.

8 SECTION 511. INSURANCE FOR STRUCTURES UNDER CONSTRUCTION.

9 THE BOARD SHALL MAKE AVAILABLE LANDSLIDE INSURANCE TO OWNERS
10 OF STRUCTURES UNDER CONSTRUCTION. THE INSURANCE UNDER THIS
11 SECTION SHALL HAVE A TERM OF NO MORE THAN 18 MONTHS, OR UNTIL
12 THE STRUCTURE IS 80% COMPLETE, WHICHEVER IS EARLIER.

13 SECTION 512. CLAIMS.

14 A CLAIM FOR PAYMENT DUE TO LOSS FOR AN INSURED UNDER THE
15 LANDSLIDE INSURANCE PROGRAM SHALL BE ON A FORM AND MANNER
16 ESTABLISHED BY THE BOARD AND MADE AVAILABLE ON THE DEPARTMENT'S
17 PUBLICLY ACCESSIBLE INTERNET WEBSITE AND BY MAIL UPON REQUEST.
18 CLAIMS SHALL BE FOR LOSS OF USE DUE TO DAMAGE FROM LANDSLIDE AND
19 PAYMENT FOR CLAIMS SHALL BE CONTINGENT UPON INSPECTION BY THE
20 BOARD.

21 SECTION 513. AUDIT BY AUDITOR GENERAL.

22 THE FOLLOWING SHALL APPLY:

23 (1) THE AUDITOR GENERAL OR A DESIGNEE SHALL AT LEAST
24 ONCE EACH YEAR MAKE A COMPLETE EXAMINATION AND AUDIT OF THE
25 INSURANCE FUND, INCLUDING ALL RECEIPTS AND EXPENDITURES, CASH
26 ON HAND AND SECURITIES AND INVESTMENTS OR PROPERTY HELD
27 REPRESENTING CASH OR CASH DISBURSEMENTS.

28 (2) THE AUDITOR GENERAL IS AUTHORIZED TO EMPLOY
29 CONSULTANTS, EXPERTS, ACCOUNTANTS OR INVESTIGATORS AS
30 NECESSARY TO CARRY OUT THIS SECTION.

1 (3) THE EXPENSE INCURRED IN MAKING AN EXAMINATION AND
2 AUDIT UNDER PARAGRAPH (1) SHALL BE CERTIFIED TO THE INSURANCE
3 FUND BY THE AUDITOR GENERAL AND SHALL BE PAID FROM THE
4 GENERAL APPROPRIATION.

5 (4) THE FIRST AUDIT OF THE INSURANCE FUND MAY, IN THE
6 DISCRETION OF THE AUDITOR GENERAL, EXTEND BACK TO THE
7 ESTABLISHMENT OF THE INSURANCE FUND OR TO ANY OTHER PERIOD IN
8 THE INSURANCE FUND'S EXISTENCE.

9 SECTION 514. CLAIMS AGAINST INSURANCE FUND.

10 A SUBSCRIBER TO THE INSURANCE FUND MUST FILE WITH THE BOARD A
11 TRUE STATEMENT OF THE SUBSCRIBER'S CLAIM FOR ANY LANDSLIDE
12 DAMAGE AND SHALL PROVIDE THE BOARD AN OPPORTUNITY TO INVESTIGATE
13 TO DETERMINE WHETHER THE BOARD MUST PAY THE CLAIM.

14 SECTION 515. DEFENSES AGAINST CLAIMS, SUITS, PROCEDURE AND
15 INVESTIGATIONS OF CLAIMS.

16 IN EACH CASE WHERE A CLAIM IS MADE AGAINST THE INSURANCE
17 FUND, THE INSURANCE FUND SHALL BE ENTITLED TO EVERY DEFENSE
18 AGAINST THE CLAIM UNDER THE POLICY AND SHALL BE SUBROGATED TO
19 EVERY RIGHT OF THE SUBSCRIBER ARISING OUT OF ACCIDENTS AGAINST
20 ANY THIRD PERSONS. THE INSURANCE FUND MAY, IN THE NAME OF THE
21 INSURANCE FUND, SUE OR BE SUED TO ENFORCE ANY RIGHT GIVEN
22 AGAINST OR TO ANY SUBSCRIBER OR OTHER PERSONS UNDER THIS ACT.

23 SECTION 516. SUBROGATION TO RIGHTS OF CLAIMANTS.

24 NOTHING IN THIS ACT SHALL RELIEVE ANY PERSON, PARTNERSHIP OR
25 CORPORATION FROM ANY LIABILITY FOR DAMAGES SUSTAINED, AND THE
26 INSURANCE FUND SHALL BE SUBROGATED TO THE RIGHTS OF ANY PROPERTY
27 OWNERS' INSURANCE AS PROVIDED UNDER THIS CHAPTER.

28 SECTION 517. INSURANCE COMPANIES MAY COVER THIS TYPE OF RISK.

29 AN INSURANCE COMPANY MAY ISSUE POLICIES COVERING THE TYPE OF
30 RISK COVERED UNDER THIS ACT IF THE POLICY IS APPROVED BY THE

1 INSURANCE COMMISSIONER AS TO POLICY FORM AND RATES.

2 CHAPTER 7

3 ADMINISTRATION AND FUNDING

4 SECTION 701. RULES AND REGULATIONS.

5 THE BOARD MAY PUBLISH GUIDANCE AND RULES AND PROMULGATE
6 REGULATIONS TO CARRY OUT THE PURPOSES OF THIS ACT, INCLUDING,
7 BUT NOT LIMITED TO, REASONABLE CLASSIFICATION OF RISKS ELIGIBLE
8 FOR COVERAGE UNDER THIS ACT, LIMITS OF COVERAGE AND RULES
9 COVERING THE ADJUSTMENT AND SETTLEMENT OF CLAIMS.

10 SECTION 702. ESCROW OF PREMIUM PAYMENTS.

11 A MORTGAGE LENDER THAT OFFERS THE PURCHASE OF INSURANCE UNDER
12 THIS ACT SHALL ESCROW THE PREMIUM.

13 SECTION 703. PROPERTIES IN VIOLATION OF STATE OR LOCAL LAW.

14 NO NEW LANDSLIDE INSURANCE COVERAGE SHALL BE PROVIDED FOR A
15 PROPERTY THAT THE BOARD FINDS HAS BEEN DECLARED BY A STATE OR
16 LOCAL ZONING AUTHORITY OR OTHER AUTHORIZED PUBLIC BODY TO BE IN
17 VIOLATION OF STATE OR LOCAL LAWS, REGULATIONS OR ORDINANCES THAT
18 ARE INTENDED TO DISCOURAGE OR OTHERWISE RESTRICT LAND
19 DEVELOPMENT OR OCCUPANCY IN AREAS THAT ARE PRONE TO LANDSLIDES.

20 SECTION 704. BOARD REPORT.

21 THE BOARD SHALL MAKE AN ANNUAL REPORT ON THE PROGRAM AND ON
22 EXPERIENCE WITH LANDSLIDE INSURANCE SALES THROUGH PRODUCERS TO
23 THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE ENVIRONMENTAL
24 RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND THE CHAIRPERSON
25 AND MINORITY CHAIRPERSON OF THE ENVIRONMENTAL RESOURCES AND
26 ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

27 SECTION 705. OFFICE OF GENERAL COUNSEL TO BE COUNSEL FOR BOARD.

28 THE OFFICE OF GENERAL COUNSEL SHALL, EX OFFICIO, BE THE
29 GENERAL COUNSEL OF THE BOARD AND SHALL APPOINT ANY ATTORNEY AS
30 MAY BE DEEMED NECESSARY TO AID THE BOARD.

1 SECTION 706. APPROPRIATION.

2 (A) GENERAL RULE.--THE SUM OF \$10,000,000 IS APPROPRIATED TO
3 THE BOARD FOR THE PURPOSES OF THIS ACT AND EXPENSES OF
4 ORGANIZATION AND ADMINISTRATION OF THE INSURANCE FUND AS
5 PROVIDED UNDER THIS ACT FOR FISCAL YEAR JULY 1, 2024, THROUGH
6 JUNE 30, 2025.

7 (B) ADDITIONAL TRANSFER.--IF, UPON COMPLETION OF AN ANNUAL
8 EXAMINATION AND AUDIT UNDER SECTION 513, THE BOARD DETERMINES
9 THAT THE TOTAL ASSET VALUE OF THE INSURANCE FUND IS LESS THAN
10 \$10,000,000, AN ADDITIONAL SUM AS MAY BE NECESSARY TO INCREASE
11 THE TOTAL ASSET VALUE OF THE INSURANCE FUND TO \$10,000,000 SHALL
12 BE TRANSFERRED FROM THE GENERAL FUND TO THE INSURANCE FUND FOR
13 THE PURPOSES OF THIS ACT FOR THE FISCAL YEAR IMMEDIATELY
14 FOLLOWING THE EXAMINATION AND AUDIT.

15 (C) FUND TRANSFER.--THE SUM OF \$10,000,000 IS TRANSFERRED
16 FROM THE GENERAL FUND TO THE INSURANCE FUND FOR THE FISCAL YEAR
17 JULY 1, 2024, THROUGH JUNE 30, 2025.

18 (D) BOARD.--MONEY IN THE INSURANCE FUND IS APPROPRIATED TO
19 THE BOARD IN AMOUNTS AS MAY BE DETERMINED ANNUALLY BY THE
20 GOVERNOR TO BE USED FOR THE SPECIFIED PURPOSES OF THIS ACT.

21 SECTION 707. APPEALS.

22 A PARTY AGGRIEVED BY AN ACTION OF THE BOARD SHALL HAVE THE
23 RIGHT TO APPEAL IN ACCORDANCE WITH 2 PA.C.S. (RELATING TO
24 ADMINISTRATIVE LAW AND PROCEDURE).

25 SECTION 708. COST OF ADMINISTRATION.

26 THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF MONEY PAID IN
27 PREMIUMS BY THE SUBSCRIBERS AND DISBURSEMENTS ON ACCOUNT OF
28 DAMAGES TO STRUCTURES. IF, AT THE EXPIRATION OF ANY YEAR, THERE
29 IS A BALANCE REMAINING AFTER DEDUCTING THE DISBURSEMENTS, THE
30 UNEARNED PREMIUMS ON UNDETERMINED RISKS AND THE PERCENTAGE OF

1 PREMIUMS PAID OR PAYABLE TO CREATE OR MAINTAIN THE SURPLUS
2 PROVIDED UNDER THIS ACT, AND AFTER SETTING ASIDE AN ADEQUATE
3 RESERVE, THE BOARD MAY DETERMINE TO ALLOCATE THE REMAINING MONEY
4 TO THE COST OF ADMINISTERING THE INSURANCE FUND.

5 CHAPTER 9

6 MISCELLANEOUS PROVISIONS

7 SECTION 901. EFFECTIVE DATE.

8 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.