



January 27, 2016

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## SENATE BILL No. 336

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DIGEST OF SB 336 (Updated January 25, 2016 1:01 pm - DI 92)

**Citations Affected:** IC 14-34; IC 27-7.

**Synopsis:** Mine subsidence. Allows the post-1977 abandoned mine reclamation fund to be used for the restoration of land that has been affected by surface coal mining operations. Removes the requirement that mine subsidence be caused by the collapse of inactive coal mines abandoned before August 3, 1977. Removes the exclusion of public buildings from the definition of structure. Provides that mine subsidence coverage must include coverage of up to \$15,000 for additional living expenses reasonably and necessarily incurred by an insured who is temporarily displaced as a direct result of damage caused by mine subsidence to the covered structure in which the insured resides. Specifies that an insured who elects to purchase coverage for the loss in actual cash value of a covered structure due to mine subsidence may waive coverage for living expenses incurred while temporarily displaced from a damaged residence.

**Effective:** April 1, 2016; January 1, 2017.

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**Becker, Messmer, Bassler, Tomes**

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January 7, 2016, read first time and referred to Committee on Natural Resources.  
January 26, 2016, amended, reported favorably — Do Pass.

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SB 336—LS 6578/DI 55





January 27, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 336

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 14-34-6-15 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 15. (a) As used  
3 in this section, "fund" refers to the post-1977 abandoned mine  
4 reclamation fund established by this section.  
5 (b) The post-1977 abandoned mine reclamation fund is established.  
6 The fund consists of bond forfeiture money collected under section 16  
7 of this chapter and the civil penalties described in IC 14-34-16-9.  
8 **Unless the prior approval of the general assembly is given for**  
9 **another use, the fund may be used only** as follows:  
10 (1) To effect the restoration of land:  
11 (A) **that is** not otherwise eligible for **restoration through**  
12 **federal funding; ~~on which there and~~**  
13 (B) **that has been affected by** surface coal mining ~~activity~~  
14 **operations that occurred** after August 3, 1977.  
15 (2) To replace domestic water supplies disrupted or affected by a  
16 surface coal mining and reclamation operation, including the  
17 disposal of coal combustion waste (as defined in IC 13-19-3-3),

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1 where the surface coal mining and reclamation operation has been  
2 completed and is no longer subject to IC 14-34.

3 ~~The money held for this purpose may not exceed an amount established~~  
4 ~~by the department that is sufficient to enable the director to cover the~~  
5 ~~anticipated cost of restoration.~~

6 (c) At least five hundred thousand dollars (\$500,000) in the fund is  
7 dedicated as collateral for the bond pool under IC 14-34-8 and may not  
8 be used for the restoration of land or replacement of water described in  
9 subsection (b).

10 (d) The treasurer of state shall invest the money in the fund not  
11 currently needed to meet the obligations of the fund in the same  
12 manner as other public money may be invested. Interest that accrues  
13 from these investments shall be deposited in the fund.

14 (e) Money in the fund at the end of a state fiscal year does not revert  
15 to the state general fund.

16 SECTION 2. IC 27-7-9-3 IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JANUARY 1, 2017]: Sec. 3. As used in this chapter,  
18 "mine subsidence" means the collapse of ~~inactive an~~ underground coal  
19 ~~mines abandoned before August 3, 1977,~~ mine resulting in damage to  
20 a structure. The term does not include loss caused by earthquake,  
21 landslide, volcanic eruption, or collapse of storm or sewer drains.

22 SECTION 3. IC 27-7-9-5 IS AMENDED TO READ AS FOLLOWS  
23 [EFFECTIVE JANUARY 1, 2017]: Sec. 5. As used in this chapter,  
24 "structure" means any dwelling, building, or fixture permanently fixed  
25 to real property. The term does not include land, trees, crops, or other  
26 plants. ~~nor does the term include a dwelling, building, or fixture that is~~  
27 ~~owned by a public or governmental entity.~~

28 SECTION 4. IC 27-7-9-8 IS AMENDED TO READ AS FOLLOWS  
29 [EFFECTIVE JANUARY 1, 2017]: Sec. 8. (a) Coverage for damage  
30 due to mine subsidence must be available as an additional form of  
31 coverage under any insurance policy providing the type of insurance  
32 described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more  
33 structures located in a county identified under section 6 of this chapter.  
34 The mine subsidence coverage must be available in an amount  
35 adequate to indemnify the insured to the extent of:

36 (1) the loss in actual cash value of the covered structure due to  
37 mine subsidence, less a deductible **that:**

38 (A) **must be** equal to two percent (2%) of the insured value of  
39 the structure under the policy; ~~However, the deductible but~~

40 (B) **must be:**

41 (i) no less than two hundred fifty dollars (\$250); and

42 (ii) no more than five hundred dollars (\$500); **and**



1           **(2) up to fifteen thousand dollars (\$15,000) for additional**  
 2           **living expenses reasonably and necessarily incurred by an**  
 3           **insured who is temporarily displaced as a direct result of**  
 4           **damage caused by mine subsidence to the covered structure**  
 5           **in which the insured resides, if no other type of coverage**  
 6           **provided by the policy of the insured indemnifies the insured**  
 7           **for these living expenses.**

8           **An insured who elects to purchase coverage under subdivision (1)**  
 9           **may waive coverage under subdivision (2) at the election of the**  
 10           **insured.**

11           (b) An insurer proposing to issue a policy providing the type of  
 12           insurance described in Class 3(a) of IC 27-1-5-1 to cover one (1) or  
 13           more structures located in a county identified under section 6 of this  
 14           chapter shall inform the prospective policyholder of the availability of  
 15           mine subsidence coverage under this section. An insurer shall inform  
 16           the prospective policyholder of the availability of mine subsidence  
 17           coverage under this subsection when a policy described in this  
 18           subsection is issued.

19           (c) When an insurer informs a prospective policyholder of the  
 20           amount of the premium for the mine subsidence coverage that is  
 21           available as an additional form of coverage under a policy as required  
 22           by subsection (a), the premium for the mine subsidence coverage must  
 23           be stated separately from the premium for the other coverage provided  
 24           by the policy. The amount of the premium for mine subsidence  
 25           coverage provided by an insurer under this section must be set  
 26           according to the premium level set by the commissioner under section  
 27           10 of this chapter.

28           (d) Except as provided in subsection (f), an insurance policy  
 29           providing the type of insurance described in Class 3(a) of IC 27-1-5-1  
 30           to directly cover one (1) or more structures located in a county  
 31           identified under section 6 of this chapter must include the mine  
 32           subsidence coverage provided for under subsection (a) if the  
 33           prospective insured (before issuance of the policy) or the insured  
 34           (before renewal of the policy) indicates that the coverage is to be  
 35           included in the policy.

36           (e) An insurer is not required to provide mine subsidence coverage  
 37           under subsection (a) under any insurance policy in an amount  
 38           exceeding the amount that is reimbursable from the fund under section  
 39           9(a)(4) of this chapter.

40           (f) An insurer must decline to make the mine subsidence coverage  
 41           provided for under subsection (a) available to cover a structure  
 42           evidencing unrepaired mine subsidence damage, until necessary repairs



1 are made. An insurer may also decline to make the mine subsidence  
2 coverage available under an insurance policy if the insurer has:

- 3 (1) declined to issue the policy;  
4 (2) declined to renew the policy; or  
5 (3) canceled all coverage under the policy for underwriting  
6 reasons unrelated to mine subsidence.

7 SECTION 5. IC 27-7-9-9.5 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 9.5. (a) The  
9 commissioner shall provide insurers with assistance from one (1) or  
10 more individuals with technical expertise in mine subsidence for the  
11 purpose of assisting with the adjusting of claims under coverage issued  
12 under this chapter. **If the commissioner considers it necessary in**  
13 **order** to comply with this section, the commissioner may:

- 14 (1) expand the staff of the department of insurance; or  
15 (2) enter into contracts providing for the services of persons with  
16 the necessary technical expertise to provide assistance to insurers  
17 in the determination of subsidence events.

18 (b) The adjustment of a claim against a policy that includes mine  
19 subsidence coverage under this chapter is the sole responsibility of the  
20 insurer until the insurer makes a preliminary determination that the loss  
21 may involve mine subsidence. Upon such a determination, those  
22 persons retained by the commissioner as set out in subsection (a) ~~of this~~  
23 ~~section~~ shall assist the commissioner and insurer in determining the  
24 existence of a mine subsidence event and the costs therein shall be paid  
25 from the fund established by section 7 of this chapter.



## COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 336, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 2 through 9 with "[EFFECTIVE JANUARY 1, 2017]".

Page 1, delete lines 1 through 5.

Page 1, line 12, delete "The" and insert "**Unless the prior approval of the general assembly is given for another use, the**".

Page 1, line 13, after "used" insert "**only**".

Page 1, line 17, reset in roman "surface".

Page 1, line 17, strike "activity" and insert "**operations**".

Page 2, delete lines 20 through 42.

Page 3, delete lines 1 through 10.

Page 3, delete lines 23 through 42.

Page 4, delete lines 1 through 12.

Page 4, line 28, delete "twenty-five" and insert "**fifteen**".

Page 4, line 28, delete "\$25,000" and insert "**\$15,000**".

Page 4, between lines 34 and 35, begin a new line blocked left and insert:

**"An insured who elects to purchase coverage under subdivision (1) may waive coverage under subdivision (2) at the election of the insured."**

Page 5, line 32, delete "(a) Upon the".

Page 5, delete lines 33 through 37.

Page 5, line 38, reset in roman "(a)".

Page 5, line 38, delete "(b)".

Page 5, run in lines 32 through 38.

Page 5, line 42, reset in roman "section,".

Page 6, line 1, delete "subsection,".

Page 6, line 6, reset in roman "(b)".

Page 6, line 6, delete "(c)".

Page 6, line 10, reset in roman "(a)".



Page 6, line 11, delete "(b)".

Page 6, delete lines 14 through 30.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 336 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 7, Nays 0.

