
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2089 Session of
2024

INTRODUCED BY KINKEAD AND GAYDOS, MAY 14, 2024

REFERRED TO COMMITTEE ON INSURANCE, MAY 14, 2024

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 repeal.

12 TABLE OF CONTENTS

13 Chapter 1. Preliminary Provisions

14 Section 101. Declarations.

15 Section 102. Definitions.

16 Chapter 3. Coal and Clay Mine Subsidence and Landslide

17 Insurance and Assistance Program

18 Section 301. Program goals.

19 Section 302. Coal and Clay Mine Subsidence and Landslide

20 Insurance and Assistance Program.

21 Section 303. Program authority.

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

23 Section 305. Coal and Clay Mine Subsidence and Landslide

1 Insurance Board.

2 Chapter 5. Coal and Clay Mine Subsidence and Landslide

3 Insurance Fund

4 Section 501. Coal and Clay Mine Subsidence and Landslide

5 Insurance Fund.

6 Section 502. Expenses.

7 Section 503. State Treasurer custodian of insurance fund.

8 Section 504. Schedule of premiums.

9 Section 505. Surplus.

10 Section 506. Investment of surplus.

11 Section 507. Disbursements from insurance fund.

12 Section 508. Application for insurance, terms of insurance,

13 penalty for false statement and list of mining areas.

14 Section 509. Application for increase in insurance.

15 Section 510. Automatic inflation protection increase.

16 Section 511. Insurance for structures under construction.

17 Section 512. Claims.

18 Section 513. Audit by Auditor General.

19 Section 514. Claims against insurance fund.

20 Section 515. Defenses against claims, suits, procedure and

21 investigations of claims.

22 Section 516. Subrogation to rights of claimants.

23 Section 517. Insurance companies may cover this type of risk.

24 Chapter 7. Administration and Funding

25 Section 701. Rules and regulations.

26 Section 702. Escrow of premium payments.

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

28 Section 704. Department report.

29 Section 705. Employees of board shall be employees of

30 department.

1 Section 706. Attorney General to be counsel for board.
2 Section 707. Appropriation.
3 Section 708. Appeals.
4 Section 709. Mitigation assistance.
5 Section 710. Coal and Clay Mine Subsidence and Landslide
6 Assistance Fund.
7 Section 711. Program funding.
8 Section 712. Reimbursement.
9 Section 713. Cost of administration.
10 Section 714. Administration.

11 Chapter 9. Miscellaneous Provisions

12 Section 901. Repeals.
13 Section 902. Continuation.
14 Section 903. Effective date.

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

17 CHAPTER 1

18 PRELIMINARY PROVISIONS

19 Section 101. Declarations.

20 The General Assembly finds and declares as follows:

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

24 (2) These problems are becoming more widespread.

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

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

1 (5) Landslides have historically been the norm
2 throughout most parts of this Commonwealth.

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

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

12 (8) Landslides will continue to plague southwestern
13 Pennsylvania.

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

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

19 (11) Problems associated with landslide damage are
20 becoming more widespread.

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

26 Section 102. Definitions.

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

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

1 The former act of August 23, 1961 (P.L.1068, No.484), entitled
2 "An act to provide for the creation and administration of a Coal
3 and Clay Mine Subsidence Insurance Fund within the Department of
4 Environmental Protection for the insurance of compensation for
5 damages to subscribers thereto; declaring false oaths by the
6 subscribers to be misdemeanors; providing penalties for the
7 violation thereof; and making an appropriation."

8 "Assistance fund." The Coal and Clay Mine Subsidence and
9 Landslide Assistance Fund established under section 710.

10 "Board." The Coal and Clay Mine Subsidence and Landslide
11 Insurance Board established under section 305.

12 "Community." Either of the following:

13 (1) A political subdivision that has zoning and building
14 code jurisdiction over an area having coal and clay mine
15 subsidence or landslide features as determined by the
16 department.

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

19 "DCNR." The Department of Conservation and Natural Resources
20 of the Commonwealth.

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.

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 CHAPTER 3

16 COAL AND CLAY MINE SUBSIDENCE AND

17 LANDSLIDE INSURANCE AND ASSISTANCE PROGRAM

18 Section 301. Program goals.

19 The goals of the program shall be to:

20 (1) Provide actuarially sound insurance coverage.

21 (2) Make program policies universally available and
22 competitively priced.

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

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

27 (5) Provide tools and incentives for coal and clay mine
28 subsidence and landslide loss reduction, including the
29 insurance fund.

30 (6) Collaborate with other organizations that operate in

1 the public interest to assist in achieving the program's
2 goals.

3 Section 302. Coal and Clay Mine Subsidence and Landslide
4 Insurance and Assistance Program.

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

8 (b) Program components.--The program shall consist of the
9 following components:

10 (1) A grant program.

11 (2) A revolving loan program.

12 (3) An insurance program.

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

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) Create and implement a Statewide coal and clay mine
25 subsidence and landslide mitigation plan in accordance with
26 section 709 that would encourage and support local mitigation
27 efforts.

28 (3) Collaborate with DCNR to complete a survey of this
29 Commonwealth to investigate sites to define landslide
30 features and identify areas of this Commonwealth most at risk

1 of landslide.

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 the risks
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 coal and clay mine
18 subsidence and landslide insurance coverage shall be based on
19 the estimated reduction in damage risks resulting from the
20 measures adopted by a community under the program. If a
21 community has received mitigation or other assistance under
22 the program, the credits may be used in a manner determined
23 by the department to recover the amount of assistance
24 provided for the community.

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

27 (a) Continuation and membership.--The Coal and Clay Mine
28 Subsidence and Landslide Insurance Board is established and
29 shall be a continuation of the Coal and Clay Mine Subsidence
30 Insurance Board established under section 3 of the Anthracite

1 and Bituminous Coal Mine Subsidence Fund Act. The board shall
2 retain the structure and members of the Coal and Clay Mine
3 Subsidence Insurance Board and shall also include the following
4 additional members:

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

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

9 (3) The Insurance Commissioner or a designee.

10 (b) Additional programs.--

11 (1) The board shall establish the following programs:

12 (i) Coal and Clay Mine Subsidence Insurance Program.

13 (ii) Landslide Insurance Program.

14 (2) The following shall apply to each of the programs
15 established under paragraph (1):

16 (i) The department shall develop and administer each
17 program, including, but not limited to, assessing a
18 premium for participating in a 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 program for
24 which the premium was paid.

25 CHAPTER 5

26 COAL AND CLAY MINE SUBSIDENCE AND

27 LANDSLIDE INSURANCE FUND

28 Section 501. Coal and Clay Mine Subsidence and Landslide
29 Insurance Fund.

30 (a) Establishment.--The Coal and Clay Mine Subsidence and

1 Landslide Insurance Fund is established and shall be a
2 continuation of the Coal and Clay Mine Subsidence Insurance Fund
3 established under section 4 of the Anthracite and Bituminous
4 Coal Mine Subsidence Fund Act.

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

8 (c) Claim or liability.--A claim against or a liability of
9 the insurance fund shall not be deemed to constitute a debt or
10 liability of the Commonwealth or a charge against the General
11 Fund.

12 Section 502. Expenses.

13 The expenses of the administration of the insurance fund
14 shall be paid out entirely from the insurance fund.

15 Section 503. State Treasurer custodian of insurance fund.

16 The State Treasurer shall be the custodian of the insurance
17 fund and all disbursements from the insurance fund shall be paid
18 by the State Treasurer by check upon request by the board. The
19 following shall apply:

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

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

24 Section 504. Schedule of premiums.

25 (a) General rule.--At any time during each year, the board
26 shall prepare and publish on the department's publicly
27 accessible Internet website a schedule of premiums or rates of
28 insurance for subscribers for the Coal and Clay Mine Subsidence
29 Insurance Program and the Landslide Insurance Program, which
30 shall be determined and published separately. The following

1 shall apply:

2 (1) The schedules shall be printed and distributed free
3 of charge to individuals who request a schedule.

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

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

11 (b) Amount of premium.-- The premium for each program is
12 fixed and shall be adequate to enable payment of all sums that
13 may become due and payable under the provisions of this act, and
14 adequate reserve sufficient to carry all policies and claims to
15 maturity.

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

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

22 (2) annually assess the amount of the premium charged
23 and the needs of maintaining the insurance fund under this
24 act. In addition, the board may change the amount of premiums
25 payable by any subscriber as the condition of the premises of
26 the subscriber in respect to the possibility of subsidence
27 may justify; and

28 (3) increase the premiums of any subscriber whose loss
29 experience warrants the change.

30 (d) Effective date of insurance.--The insurance of any

1 subscriber shall not be effective until the subscriber shall
2 have paid in full the premium fixed and determined under this
3 section.

4 Section 505. Surplus.

5 The following shall apply:

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

11 (2) If the board determines that the surplus is large
12 enough under paragraph (1), the board shall reevaluate the
13 set aside under paragraph (1) and investment of the surplus
14 and make a recommendation to the General Assembly.

15 Section 506. Investment of surplus.

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

19 (b) State Treasurer custodian.--The State Treasurer shall be
20 custodian of all securities and evidences of indebtedness under
21 subsection (a), and the following shall apply:

22 (1) The State Treasurer shall collect the principal and
23 interest on the principal when due and pay that amount into
24 the insurance fund.

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

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

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

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

6 Section 507. Disbursements from insurance fund.

7 (a) Operation of insurance fund.--Money from the general
8 appropriation of the department shall be available for the
9 expense of administering the insurance fund, including the
10 purchase through the Department of General Services of surety
11 bonds for officers or employees of the board as may be required
12 to purchase supplies, materials, motor vehicles, provide for
13 administrative expenses, workmen's insurance covering the
14 officers and employees of the board and liability insurance
15 covering vehicles operated by the officers and employees of the
16 board.

17 (b) Treasury Department.--Money from the general
18 appropriation of the department shall also be available for
19 payment to the Treasury Department for the cost of making
20 disbursements out of the insurance fund on behalf of the
21 insurance fund at amounts as the Treasury Department, with the
22 approval of the board, shall determine.

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

24 (1) For each program established under section 305(b),
25 the board shall keep an accurate and separate account of the
26 money paid in premiums by subscribers and the disbursements
27 on account of damages to the subscribers' premises.

28 (2) If at the expiration of any year there shall be a
29 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 as
2 required under this section, and after setting aside an
3 adequate reserve, the balance, as the board may determine to
4 be safely distributable, may be allocated to the cost of
5 administering the insurance fund or distributed among the
6 subscribers in proportion to the premiums paid by them.

7 (3) For the proportionate share of the subscribers who
8 remain subscribers to the insurance fund, the premiums
9 distributed to subscribers under paragraph (2) shall be
10 credited to the installment of premiums next due by the
11 subscribers. The proportionate share of the subscribers who
12 have ceased to be subscribers in the insurance fund shall be
13 refunded to them out of the insurance fund in the manner
14 provided under this chapter.

15 (d) One-time commission payment.--Money from the general
16 appropriation of the department shall also be available to pay a
17 one-time commission as determined by the board to insurance
18 producers who submit applications for mine subsidence and
19 landslide insurance to the board under this chapter if a policy
20 is issued pursuant to an application submitted by an insurance
21 producer. The amount of the commission shall be determined by
22 the board on an annual basis.

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

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

26 (1) An owner of a structure located within the
27 anthracite or bituminous coal or clay mine region or an
28 extremely hazardous area who desires to become a subscriber
29 to the insurance fund for the purpose of insuring the
30 structure against damages from coal or clay mine subsidences

1 or landslide damage shall make a complete application, as
2 prescribed by the board, to the board, its agents or
3 insurance producers.

4 (2) Upon receiving an application under paragraph (1),
5 the board shall:

6 (i) Make an investigation as may be necessary if the
7 application complies with the rules and regulations of
8 the board.

9 (ii) Within 60 days after receiving the application,
10 issue a certificate showing whether the board approved
11 the application and the amount of premium payable by the
12 applicant for the year for which the premium is sought.

13 (3) The amount of insurance coverage for which an
14 applicant is approved under paragraph (2) shall not exceed
15 the replacement cost of the insured structure or \$150,000,
16 whichever is less. The maximum dollar amount of coverage
17 established under this paragraph shall be reviewed annually
18 by the department to determine whether the amount is
19 sufficient to compensate for loss of use and ability to
20 relocate or rebuild in a safer area of this Commonwealth.

21 (4) Policies issued under this chapter may be issued for
22 one year, for two years or for three years as the board may
23 establish.

24 (5) Except as provided under subsection (b), no
25 insurance shall become effective until the premiums have been
26 paid. All premiums shall be payable to the State Treasurer,
27 who shall issue a receipt for payment. The receipt for
28 premium together with a certificate of the board shall be
29 evidence that the applicant has become a subscriber to the
30 insurance fund and is insured.

1 (b) Failure to approve or deny application.--If the board
2 fails to make the necessary investigations or inspection and
3 fails to approve or deny an application as required under
4 subsection (a), the insurance requested by the applicant shall
5 be deemed granted. The insurance shall be effective from the
6 date of the application's submission under subsection (a). The
7 following shall apply:

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

11 (2) The insurance may be subjected to later reductions,
12 and premiums adjusted accordingly, if the board determines
13 that the amount of insurance coverage requested is in excess
14 of the current replacement cost of the structure or the
15 maximum amount of coverage established by the insurance fund,
16 whichever is less.

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

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

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

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

1 (d) Identifying risk.--In order to assist insurance
2 producers and potential policyholders in identifying structures
3 that could be at risk from mine subsidence or landslide damage,
4 the board shall transmit the survey completed by DCNR under
5 section 303(a)(3) and the mitigation plan for coal and clay
6 mines created under section 303(a)(2) to the Legislative
7 Reference Bureau for publication in the next available issue of
8 the Pennsylvania Bulletin.

9 Section 509. Application for increase in insurance.

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

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

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

20 (2) If reinspection under paragraph (1) occurs within
21 the 60-day period and the structure passes the reinspection,
22 the new amount of insurance shall be approved and shall be
23 effective from the date of the first premium payment after
24 reinspection.

25 (3) If reinspection under paragraph (1) does not occur
26 within the 60-day period, the new amount of insurance shall
27 be deemed approved by the board and shall be effective from
28 the date the subscriber's application for additional
29 insurance was received by the board under subsection (a), but
30 the additional coverage shall be null and void if the

1 subscriber fails to remit the premium payment within 20 days
2 from the day the bill for additional premium is postmarked.

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

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

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

14 (2) the subscriber's unreasonable action or inaction is
15 responsible for the board's failure to reinspect the insured
16 structure within 60 days of receipt of the application for
17 additional insurance under subsection (a).

18 Section 510. Automatic inflation protection increase.

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

26 Section 511. Insurance for structures under construction.

27 The board shall make available mine subsidence and landslide
28 insurance to owners of structures under construction. The
29 insurance under this section shall have a term of no more than
30 18 months, or until the structure is 80% complete, whichever is

1 earlier.

2 Section 512. Claims.

3 A claim for payment due to loss for an insured under the Coal
4 and Clay Mine Subsidence Insurance Program or the Landslide
5 Insurance Program shall be on a form and manner established by
6 the department and made available on the department's publicly
7 accessible Internet website and by mail upon request. Claims
8 shall be for loss of use due to damage from landslide and
9 payment for claims shall be contingent upon inspection by the
10 department.

11 Section 513. Audit by Auditor General.

12 The following shall apply:

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

18 (2) The Auditor General is authorized to employ
19 consultants, experts, accountants or investigators as
20 necessary to carry out this section.

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

25 (4) The first audit of the insurance fund may, in the
26 discretion of the Auditor General, extend back to the
27 establishment of the insurance fund or to any other period in
28 the insurance fund's existence.

29 Section 514. Claims against insurance fund.

30 A subscriber to the insurance fund must file with the board a

1 true statement of the subscriber's claim for any subsidence or
2 landslide damage and shall provide the board an opportunity to
3 investigate to determine whether the board must pay the claim.

4 Section 515. Defenses against claims, suits, procedure and
5 investigations of claims.

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

13 Section 516. Subrogation to rights of claimants.

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

18 Section 517. Insurance companies may cover this type of risk.

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

22 CHAPTER 7

23 ADMINISTRATION AND FUNDING

24 Section 701. Rules and regulations.

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

30 Section 702. Escrow of premium payments.

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

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

4 No new coal and clay mine subsidence and landslide insurance
5 coverage shall be provided for a property that the department
6 finds has been declared by a State or local zoning authority or
7 other authorized public body to be in violation of State or
8 local laws, regulations or ordinances that are intended to
9 discourage or otherwise restrict land development or occupancy
10 in areas that are prone to coal and clay mine subsidence or
11 landslides.

12 Section 704. Department report.

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

20 Section 705. Employees of board shall be employees of
21 department.

22 An employee of the board shall be employed by and located in
23 the department and shall be subject to the administrative
24 jurisdiction and authority of the secretary.

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

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

29 Section 707. Appropriation.

30 (a) General rule.--The sum of \$2,500,000 is appropriated to

1 the board for the purposes of this act and expenses of
2 organization and administration of the insurance fund as
3 provided under this act for fiscal year July 1, 2024, through
4 June 30, 2025.

5 (b) Additional transfer.--If, upon completion of an annual
6 examination and audit under section 513, the board determines
7 that the total asset value of the insurance fund is less than
8 \$2,500,000, an additional sum as may be necessary to increase
9 the total asset value of the insurance fund to \$2,500,000 shall
10 be transferred from the General Fund to the insurance fund for
11 the purposes of this act for the fiscal year immediately
12 following the examination and audit.

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

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

21 Section 708. 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 709. Mitigation assistance.

26 (a) Financial assistance generally.--The department shall
27 carry out a program to provide financial assistance to
28 communities and individuals for planning and carrying out
29 activities designed to reduce the risk of coal and clay mine
30 subsidence and landslide damage to structures covered under

1 contracts for coal and clay mine subsidence and landslide
2 insurance. Financial assistance may be made available to
3 communities and individuals in the form of grants or revolving
4 loans for the carrying out of mitigation activities. Loans shall
5 carry an interest rate of no more than 3%.

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

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

13 (1) To be eligible to receive financial assistance under
14 this section, a community shall develop a mitigation plan
15 that describes the mitigation activities to be carried out
16 with assistance provided under this section.

17 (2) The mitigation plan under paragraph (1) shall be
18 consistent with:

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

23 (ii) a comprehensive strategy for mitigation
24 activities for the area affected by the mitigation plan
25 that has been adopted by the community following a public
26 hearing.

27 (d) Procedure.--The department shall notify a community
28 submitting a mitigation plan of the approval or disapproval of
29 the plan no later than 120 days after submission of the plan. If
30 the department does not approve a mitigation plan submitted

1 under this section, the department shall notify in writing the
2 community submitting the plan of the reasons for the
3 disapproval.

4 (e) Limitation.--Amounts provided under this section may be
5 used only for mitigation activities specified in a mitigation
6 plan approved by the department. The department may approve only
7 mitigation plans that specify mitigation activities that are
8 technically feasible, cost effective and cost beneficial.

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

12 (1) Criteria under subsection (e).

13 (2) Proposed activities to address repetitive loss
14 structures and structures that have incurred substantial
15 damage.

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

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

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

29 Section 710. Coal and Clay Mine Subsidence and Landslide
30 Assistance Fund.

1 The Coal and Clay Mine Subsidence and Landslide Assistance
2 Fund is established as a fund in the State Treasury. The
3 assistance fund shall be administered by the department and
4 shall consist of money appropriated, transferred or otherwise
5 made available to the assistance fund for the purposes of this
6 chapter. All money in the assistance fund and any accrued
7 interest is appropriated to the department on a continuing basis
8 to carry out the provisions of section 709.

9 Section 711. Program funding.

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

15 Section 712. Reimbursement.

16 The program shall reimburse any Commonwealth agency or
17 departments for agreed-upon costs of services that aid in
18 administering the program.

19 Section 713. Cost of administration.

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

29 Section 714. Administration.

30 (a) Transfer of insurance fund.--Upon the effective date of

1 this section, the department shall take immediate steps to
2 transition the Coal and Clay Mine Subsidence Insurance Fund to
3 the insurance fund.

4 (b) Administration of program.--The department shall begin
5 administering the program within two years of the effective date
6 of this section.

7 CHAPTER 9

8 MISCELLANEOUS PROVISIONS

9 Section 901. Repeals.

10 Repeals are as follows:

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

13 (2) The Anthracite and Bituminous Coal Mine Subsidence
14 Fund Act is repealed.

15 Section 902. Continuation.

16 Except as otherwise provided in this act, all activities
17 initiated under the Anthracite and Bituminous Coal Mine
18 Subsidence Fund Act shall continue and remain in full force and
19 effect and may be completed under this act. Orders, regulations,
20 rules and decisions which were made under the Anthracite and
21 Bituminous Coal Mine Subsidence Fund Act and which are in effect
22 on the effective date of this section shall remain in full force
23 and effect until revoked, vacated or modified under this act.
24 Contracts, obligations and collective bargaining agreements
25 entered into under the Anthracite and Bituminous Coal Mine
26 Subsidence Fund Act are not affected nor impaired by the repeal
27 of the Anthracite and Bituminous Coal Mine Subsidence Fund Act.

28 Section 903. Effective date.

29 This act shall take effect immediately.