



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5376

Introduced 2/10/2026, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

See Index

Amends the Mine Subsidence Insurance Article of the Illinois Insurance Code. Makes changes to defined terms. Provides that the moneys in the Illinois Mine Subsidence Insurance Fund shall be derived primarily from premiums for mine subsidence insurance ceded by insurers to the Fund pursuant to the Article and from investment income. In establishing mine subsidence insurance premium rates, provides that the Fund shall give due consideration to factors reasonably considered by an insurer when setting premium rates. Changes terms related to the appointment of directors in provisions concerning management of the Fund and establishes 3-year staggered terms for the directors. Provides that all directors shall be independent and owe a duty of care and duty of loyalty to the Fund. In provisions concerning mine subsidence coverage, provides that the loss covered shall be the loss in excess of any applicable deductible or retention in the policy, subject to the limit of insurance for mine subsidence damage stated in the policy. For all policies issued or renewed on or after January 1, 2027, provides that there shall be no deductible or retention applicable to mine subsidence damage. For all policies issued or renewed on or after the effective date of the amendatory Act, provides that the maximum amount of reinsured loss per residence, per commercial building, and per living unit shall be the amounts established by the Fund and approved by the Director. Provides that the residential and living unit coverage provided under the Article may also cover specified costs of debris removal, moving and storage of contents, and repair or replacement of landscaping. Makes changes in provisions concerning division of the Fund; exemptions; rights of insurers to refuse to provide mine subsidence coverage; arbitration; reinsurance agreements; distribution of premiums; reporting requirements; right of recourse and setoffs; subrogation; and powers of the Director of Insurance.

LRB104 20354 BAB 33809 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 801.1, 802.1, 803.1, 804.1, 805.1, 806.1,
6 807.1, 808.1, 809.1, 810.1, 811.1, 813.1, 814.1, 815.1, and
7 817.1 as follows:

8 (215 ILCS 5/801.1)

9 Sec. 801.1. Purpose. The purpose of this Article is to
10 require insurers to make mine subsidence insurance coverage
11 available for residences, living units and commercial
12 buildings located in Illinois; to establish the Illinois Mine
13 Subsidence Insurance Fund; to divide the Fund into separate
14 residential and commercial sub-funds; and to make the Fund a
15 taxable, private ~~the~~ reinsurer for the mine subsidence
16 insurance made available under this Article.

17 (Source: P.A. 88-379.)

18 (215 ILCS 5/802.1)

19 Sec. 802.1. Definitions. As used in this Article:

20 (a) "Commercial building ~~Building~~" means any building that
21 is classified by the insurer as a commercial building and is ~~7~~
22 ~~either than a residence,~~ permanently affixed to realty located

1 in Illinois, including basements, footings, foundations,
2 septic systems and underground pipes directly servicing the
3 building. "Commercial building" does not include any other
4 improvements to real property, including, without limitation,
5 ~~but does not include~~ sidewalks, driveways, parking lots,
6 living units, land, landscaping, lawns, trees, plants, crops,
7 or agricultural field drainage tile.

8 (b) "Commercial coverage ~~Coverage~~" means mine subsidence
9 insurance for a commercial building.

10 (b-5) "Director" means the then-appointed, then-acting, or
11 then-interim Director of Insurance.

12 (c) "Insurer" or "insurers" ~~"Insurers"~~ means an insurance
13 company or companies, farm mutuals, and reciprocals licensed
14 and authorized to write Class 3 policies of insurance, as
15 defined in this Code, within Illinois.

16 (d) "Living unit ~~Unit~~" means ~~shall mean~~ that physical
17 portion designated for separate ownership or exclusive
18 occupancy for residential purposes, of a building or group of
19 buildings, permanently affixed to realty located in Illinois,
20 having elements which are owned or used in common, including a
21 condominium unit, a cooperative unit or any other similar
22 unit.

23 (e) "Living unit coverage ~~Unit Coverage~~" means mine
24 subsidence insurance for a living unit ~~covering the losses~~
25 ~~described in Section 805.1(d).~~

26 (f) "Mine subsidence ~~Subsidence~~" means lateral or vertical

1 ground movement caused by a failure initiated at the mine
2 level, of man-made underground mineral mines, including, but
3 not limited to coal mines, clay mines, limestone mines, and
4 fluorspar mines that directly damages residences, living
5 units, or commercial buildings. "Mine subsidence ~~Subsidence~~"
6 does not include lateral or vertical ground movement caused by
7 anything other than a failure initiated at the mine level of
8 man-made underground mineral mines, including, but not limited
9 to, surface mining, earthquake, landslide, volcanic eruption,
10 soil conditions, soil erosion, soil freezing and thawing,
11 improperly compacted soil, construction defects, roots of
12 trees and shrubs or ~~collapse of~~ storm and sewer drains and
13 rapid transit tunnels.

14 (g) "Mine Subsidence Insurance Fund" or "Fund" means the
15 private fund established by this Article.

16 (h) "Policy" or "policies" means any contract or contracts
17 of insurance providing the coverage of the Standard Fire
18 Policy and Extended Coverage Endorsement, or substantial
19 equivalent, on any residence, living unit, or commercial
20 building. It does not include those insurance contracts that
21 are referred to as marine or inland marine policies or that
22 reinsure the liability of another, whether or not those
23 insurance contracts are designated as reinsurance policies.

24 (i) "Premium" or "premiums" means the gross amount charged
25 to policyholders for the mine subsidence insurance made
26 available under this Article.

1 (j) "Rates" or "rate schedules" means the rates by which
2 premiums shall be computed for the mine subsidence insurance
3 made available under this Article.

4 (k) "Residence" means a building that is classified by the
5 insurer as a residence and ~~used principally for residential~~
6 ~~purposes~~ up to and including a 4-family ~~four family~~ dwelling,
7 permanently affixed to realty located in Illinois, including
8 appurtenant structures, driveways, sidewalks, basements,
9 footings, foundations, septic systems and underground pipes
10 directly servicing the dwelling or building. "Residence" does
11 not include any other improvements to real property,
12 including, without limitation, ~~but does not include~~ living
13 units, land, landscaping, lawns, trees, plants, crops or
14 agricultural field drainage tile.

15 (l) "Residential coverage ~~Coverage~~" means mine subsidence
16 insurance for a residence.

17 (m) "Intergovernmental cooperative" means an
18 intergovernmental cooperative organized pursuant to Article
19 VII, Section 10 of the Illinois Constitution and Section 6 of
20 the Intergovernmental Cooperation Act.

21 (Source: P.A. 90-499, eff. 8-19-97.)

22 (215 ILCS 5/803.1)

23 Sec. 803.1. Establishment of Fund.

24 (a) There is established a private fund to be known as the
25 "Illinois Mine Subsidence Insurance Fund". The Fund shall

1 operate pursuant to this Article. The Fund is authorized to
2 transact business, provide services, enter into contracts, and
3 sue or be sued in its own name.

4 (b) The Fund shall provide reinsurance for mine subsidence
5 losses to all insurers writing mine subsidence insurance
6 pursuant to this Article who have properly executed a
7 reinsurance agreement with the Fund in a form filed with and
8 approved by the Director.

9 (c) The moneys ~~monies~~ in the Fund shall be derived
10 primarily from premiums for mine subsidence insurance ceded by
11 insurers to the Fund ~~collected on behalf of the Fund~~ pursuant
12 to this Article and ~~7~~ from investment income ~~and from receipt~~
13 ~~of Federal or State funds~~. No insurer shall have any liability
14 to the Fund or to any creditor of the Fund, except as may be
15 set forth in this Article, in the Articles of Governance which
16 may be adopted by the Fund, in a reinsurance agreement
17 executed pursuant to Section 810.1, in the Plan of Operation
18 established by the Fund, or in the rules and procedures
19 adopted by the Fund as authorized by the reinsurance
20 agreement.

21 (d) The Fund shall establish its rates, rating schedules,
22 ~~deductibles and retentions,~~ minimum premiums, classifications,
23 and the maximum amount of reinsurance available per residence,
24 commercial building, and living unit for mine subsidence
25 insurance which the Fund shall file with the Director. The
26 Director shall have 30 days from the date of receipt to approve

1 or disapprove a rate filing. If no action is taken by the
2 Director within 30 days after filing, the filing,~~the rate~~ is
3 deemed to be approved. The Director may, in writing, extend
4 the period for an additional 30 days if the Director
5 determines that additional time is needed.

6 (e) The Fund shall establish its rates, rating schedules,
7 ~~deductibles and retentions,~~ minimum premiums, classifications,
8 and the maximum amount of reinsurance available per residence,
9 commercial building, and living unit in such a manner as to
10 satisfy all reasonably foreseeable claims and expenses the
11 Fund is likely to incur. In establishing the mine subsidence
12 insurance premium rates, the ~~The~~ Fund shall give due
13 consideration to factors reasonably considered by an insurer
14 when setting premium rates, including loss experience and
15 relevant trends, premium and other income and reasonable
16 reserves established for contingencies ~~in establishing the~~
17 ~~mine subsidence rates.~~

18 (f) The Fund shall compile and publish an annual operating
19 report.

20 (g) The Fund shall maintain or make available ~~develop~~ at
21 least 2 consumer information publications to aid the public in
22 understanding mine subsidence and mine subsidence insurance
23 ~~and shall establish a schedule for the distribution of the~~
24 ~~publications pursuant to the reinsurance agreement.~~ Topics
25 that shall be addressed shall include but are not limited to:

26 (1) Descriptive information about mine subsidence, and

1 what benefits mine subsidence insurance provides to the
2 property owner.

3 (2) Information that will be useful to a policyholder
4 who has filed a mine subsidence claim, such as information
5 that explains the claim investigation process and claim
6 handling procedures.

7 (h) The Fund shall be empowered to sponsor, fund, or
8 conduct research programs in an effort to improve the
9 administration of the mine subsidence insurance program and
10 help reduce and mitigate mine subsidence losses consistent
11 with the public interest.

12 (i) The Fund may enter into reinsurance agreements with
13 any intergovernmental cooperative that provides joint
14 self-insurance for mine subsidence losses of its members.
15 These reinsurance agreements shall be substantially similar to
16 reinsurance agreements described in Section 810.1.

17 (Source: P.A. 95-92, eff. 1-1-08; 95-334, eff. 1-1-08.)

18 (215 ILCS 5/804.1)

19 Sec. 804.1. Management of the Fund.

20 (a) The Fund shall be governed ~~managed~~ by an 11-member ~~11~~
21 ~~member~~ Board of Directors, 6 of whom shall be designated as
22 insurance industry-elected ~~industry~~ directors, 4 of whom shall
23 be designated as public-appointed ~~public~~ directors, and one of
24 whom shall be designated as an Illinois-licensed ~~Illinois~~
25 ~~licensed~~ insurance producer public-appointed director. The

1 industry directors shall be elected to 3-year staggered terms
2 ~~annually~~ in the manner provided in Articles of Governance
3 adopted by the Fund. The public directors shall be appointed
4 to 3-year staggered terms by the Director, and shall not be
5 employees of or otherwise affiliated with the insurance
6 industry. The Illinois-licensed ~~Illinois-licensed~~ insurance
7 producer shall be appointed to a 3-year term by the Director.
8 All directors shall be independent and owe a duty of care and
9 duty of loyalty to the Fund.

10 (b) Each member of the Board of Directors on the effective
11 date of this amendatory Act of the 104th General Assembly
12 shall continue to be a member of the Board of Directors until
13 the conclusion of that Director's existing 3-year term or, in
14 the case of an appointed director, until the Director makes an
15 official appointment, whichever is later. ~~The members of the~~
16 ~~Governing Committee of the Illinois Mine Subsidence Insurance~~
17 ~~Fund established by Article XXXVIII who are members of the~~
18 ~~Governing Committee as of December 31, 1993 shall become the~~
19 ~~members of the Board of Directors of the Fund established by~~
20 ~~this Article on the effective date of this Act, and shall~~
21 ~~continue to hold office until the next annual meeting of the~~
22 ~~Fund.~~

23 ~~(c) No later than the date of the next annual meeting of~~
24 ~~the Fund following the effective date of this Act, the~~
25 ~~Director shall appoint 4 public directors, one for a one-year~~
26 ~~term, one for a two year term and 2 for three year terms. No~~

1 ~~later than the date of the next annual meeting of the Fund~~
2 ~~following the effective date of this amendatory Act of 1994,~~
3 ~~the Director shall appoint the Illinois licensed insurance~~
4 ~~producer for a 2-year term. Thereafter, all public directors~~
5 ~~and the licensed insurance producer shall be appointed for 3~~
6 ~~year terms.~~

7 (c) The ~~(d) As soon as practical after the effective date~~
8 ~~of this Act,~~ the Fund shall adopt Articles of Governance,
9 which shall be submitted to the Director for ~~his~~ review and
10 approval. The Board of Directors of the Fund may amend the
11 Articles of Governance, subject to review and approval by the
12 Director.

13 (Source: P.A. 88-379; 88-667, eff. 9-16-94; 89-206, eff.
14 7-21-95.)

15 (215 ILCS 5/805.1)

16 Sec. 805.1. Mine Subsidence Coverage.

17 (a) Beginning January 1, 1994, every policy issued or
18 renewed insuring a residence on a direct basis shall include,
19 at a separately stated premium, residential coverage unless
20 waived in writing by the insured. Beginning January 1, 1994,
21 every policy issued or renewed insuring a commercial building
22 on a direct basis shall include at a separately stated
23 premium, commercial coverage unless waived in writing by the
24 insured. Beginning January 1, 1994, every policy issued or
25 renewed insuring a living unit on a direct basis shall

1 include, at a separately stated premium, living unit coverage
2 unless waived in writing by the insured.

3 (b) If the insured has previously waived mine subsidence
4 coverage in writing, the insurer shall provide written notice
5 of the availability of ~~or agent need not offer~~ mine subsidence
6 coverage in conjunction with any renewal or supplementary
7 policy in connection with a policy previously issued to such
8 insured by the same insurer, but need not obtain an additional
9 written waiver of mine subsidence coverage ~~unless the insured~~
10 ~~subsequently makes a written request for mine subsidence~~
11 ~~coverage.~~

12 (c) The premium charged for residential, commercial or
13 living unit coverage shall be the premium level set by the
14 Fund. The loss covered shall be the loss in excess of any
15 applicable ~~the~~ deductible or retention in ~~established by the~~
16 ~~Fund and contained in a mine subsidence endorsement to the~~
17 policy, subject to the limit of insurance for mine subsidence
18 damage stated in the policy; however, for all policies issued
19 or renewed on or after January 1, 2027, there shall be no
20 deductible or retention applicable to mine subsidence damage.
21 For all policies issued or renewed on or after the effective
22 date of this amendatory Act of the 104th General Assembly
23 ~~January 1, 2008,~~ the maximum amount of reinsured loss per
24 residence, per commercial building, and per living unit shall
25 be the amounts established by the Fund and approved by the
26 Director. For all policies issued or renewed on or after

1 January 1, 1996, the amount of reinsurance available from the
2 Fund shall not be less than \$200,000 per residence, \$200,000
3 per commercial building, or \$15,000 per living unit. The Fund
4 may, from time to time, adjust the amount of reinsurance
5 available as long as the minimum set by this Section is met.

6 (d) The residential and living unit coverage provided
7 pursuant to this Article may also cover, as part of the cost of
8 repairs of covered mine subsidence damage to a residence or
9 living unit, the costs of debris removal, moving and storage
10 of contents, and repair or replacement of landscaping, but
11 only if made necessary by the repairs of covered mine
12 subsidence damage to a residence or living unit and only when
13 and to the extent such costs are actually incurred.

14 (e) ~~(d)~~ The residential and living unit coverage provided
15 pursuant to this Article may also cover the additional living
16 expenses reasonably and necessarily incurred by the owner of a
17 residence who has been temporarily displaced as the direct
18 result of damage to the residence or living unit caused by mine
19 subsidence if the underlying policy also covers this type of
20 loss, except provided however, that the additional living
21 expenses ~~loss~~ covered under living unit coverage shall be
22 limited to those additional living expenses incurred by an
23 owner who has been temporarily displaced as the direct result
24 of damage ~~losses~~ to improvements and betterments caused by
25 mine subsidence ~~, and reimbursement of additional living~~
26 expenses and special assessments made against the insured on

1 account of mine subsidence loss and shall be paid within, and
2 not in addition to, the applicable limit for residential or
3 living unit coverage.

4 (f) ~~(e)~~ The total amount of the loss reimbursable to an
5 insurer shall be limited to the amount of insurance reinsured
6 by the Fund in force at the time when the damage first becomes
7 reasonably observable, as determined by the Fund. All damage
8 caused by a single mine subsidence event or several subsidence
9 events which are continuous, as determined by the Fund, shall
10 constitute one occurrence. As set forth in subsections (a) and
11 (c) of this Section, a policy issued or renewed must provide
12 coverage, unless waived in writing by the insured, and the
13 insurer must continue to charge the premium level set for that
14 coverage by the Fund. If mine subsidence coverage is in force
15 when the mine subsidence damage first becomes reasonably
16 observable, and the mine subsidence occurrence is still
17 ongoing, then the insurer shall notify the insured making the
18 mine subsidence claim that continuation of that coverage
19 thereafter may not be necessary and is optional, but that
20 continued coverage on the damaged residence, living unit, or
21 commercial building shall terminate only upon written waiver
22 by the insured. The notification shall be made within 60 days
23 after the insurer receives written confirmation from the Fund
24 that the cause of loss is active mine subsidence. The
25 notification shall be in the form of a separate mailing to the
26 insured from the insurer through ~~via~~ the United States Postal

1 Service or other commercial mail delivery service and shall
2 include notification to the insured that mine subsidence
3 premiums paid for coverage on a damaged residence, living
4 unit, or commercial building subsequent to the established
5 date of loss shall be refunded to the insured within 60 days
6 after the insured provides a signed waiver of mine subsidence
7 coverage to the insurer. The notification shall be accompanied
8 by a waiver of coverage form for the insured to sign and return
9 to the insurer.

10 (g) ~~(f)~~ No insurer shall be required to offer mine
11 subsidence coverage in excess of the reinsured limits as
12 established from time to time by the Fund and approved by the
13 Director.

14 (Source: P.A. 98-1007, eff. 1-1-15.)

15 (215 ILCS 5/806.1)

16 Sec. 806.1. Division of Fund Into Separate Residential and
17 Commercial Sub-funds.

18 (a) Effective January 1, 1994, the Fund shall establish 2
19 separate sub-funds, a Residential Fund to provide reinsurance
20 for mine subsidence losses arising from residential and living
21 unit coverage and a Commercial Fund to provide reinsurance for
22 mine subsidence losses arising from commercial coverage. The
23 assets and liabilities of the Fund shall be allocated to the 2
24 ~~two~~ sub-funds in such manner as determined by the Board of
25 Directors, with the approval of the Director. The 2 ~~two~~

1 sub-funds shall continue to be governed ~~managed~~ by the Board
2 of Directors. Beginning January 1, 1994, all premiums received
3 by the Fund for residential coverage or living unit coverage
4 shall be credited to the Residential Fund, all losses and
5 expenses for residential coverage or living unit coverage
6 shall be charged to the Residential Fund. All premiums
7 received by the Fund for commercial coverage shall be credited
8 to the Commercial Fund, and all losses and expenses for
9 commercial coverage shall be charged to the Commercial Fund.
10 The Fund's overhead expenses shall be allocated between the
11 Residential Fund and the Commercial Fund on the basis of
12 annual written premium credited to each sub-fund. The assets
13 and liabilities of the Residential and Commercial Funds shall
14 be accounted for separately. The assets of the Residential
15 Fund shall not be used to reimburse insurers for losses for
16 Commercial Coverage and the assets of the Commercial Fund
17 shall not be used to reimburse insurers for losses for
18 residential coverage or living unit coverage.

19 (b) No insurer shall be required to pay any claim for any
20 loss reinsured under this Article except to the extent that
21 the amount available in the Residential Fund or the Commercial
22 Fund, as the case may be, is sufficient to reimburse the
23 insurer for such payment.

24 (Source: P.A. 88-379; 89-206, eff. 7-21-95.)

1 Sec. 807.1. Exemption of Certain Counties by the Director.
2 The Director shall exempt from the obligations of subsection
3 (a) of Section 805.1 every policy insuring residences, living
4 units or commercial buildings located in any county of
5 1,000,000 or more inhabitants or any county contiguous to any
6 such county, and, upon request of the Fund, may exempt every
7 policy insuring residences, living units or commercial
8 buildings located in any other specified county of this State,
9 from the provisions of subsection (a) of Section 805.1 of this
10 Article. However, in any county exempted by this Section from
11 the obligations of subsection (a) of Section 805.1, an insurer
12 shall make available mine subsidence coverage upon request by
13 a policyholder. The Fund shall maintain and make available to
14 insurers a list of the exempt and non-exempt counties as
15 described in this Section.

16 (Source: P.A. 91-357, eff. 7-29-99.)

17 (215 ILCS 5/808.1)

18 Sec. 808.1. Right of Insurers to Refuse to Provide Mine
19 Subsidence Coverage. An insurer may refuse to provide mine
20 subsidence coverage on a residence, living unit, or commercial
21 building evidencing unrepaired mine subsidence damage until
22 such damage has been repaired.

23 (Source: P.A. 88-379.)

24 (215 ILCS 5/809.1)

1 Sec. 809.1. Arbitration. In the event of a dispute between
2 a policyholder and an insurer as to whether a residence,
3 living unit, or commercial building covered by mine subsidence
4 insurance has been damaged by mine subsidence, when the damage
5 first became reasonably observable, or whether damage was
6 caused by one occurrence (a single mine subsidence event or
7 several subsidence events that are continuous) or multiple
8 occurrences, both the a policyholder and the insurer shall
9 each have the right to submit that dispute to arbitration in
10 accordance with this Section. Such arbitration, if demanded by
11 either party, shall be mandatory and preclude the policyholder
12 and the insurer from filing, pursuing, or continuing with
13 litigation of the issue in any other forum. The arbitration
14 award shall be binding on both the policyholder and the
15 insurer. Neither the No policyholder nor the insurer shall
16 have the right under this Section to submit to arbitration any
17 other issue ~~regarding the amount of loss or damage caused to a~~
18 ~~residence or commercial building by mine subsidence.~~

19 Arbitration may be initiated only after the insurer has
20 notified the policyholder in writing, accompanied by a notice
21 informing the policyholder of the policyholder's right to
22 arbitration and containing specific reference to this Section,
23 of the Fund's determination of whether a residence, living
24 unit, or commercial building covered by mine subsidence
25 insurance has been damaged by mine subsidence, when the damage
26 first became reasonably observable, or whether damage was

1 caused by a single mine subsidence event or several subsidence
2 events that are continuous. Arbitration shall be initiated and
3 conducted ~~Arbitration may be initiated only after the insurer~~
4 ~~has made a decision that the residence or commercial building~~
5 ~~covered by mine subsidence insurance was not damaged by mine~~
6 ~~subsidence and so notified the policyholder in writing,~~
7 ~~accompanied by a notice informing the policyholder of the~~
8 ~~policyholder's right to arbitration and containing specific~~
9 ~~reference to this Section. Within 60 days after receipt by the~~
10 ~~policyholder of the notification, the policyholder may~~
11 ~~initiate arbitration~~ in accordance with the Commercial
12 Arbitration Rules of the American Arbitration Association, as
13 then in effect, before a panel of 3 arbitrators, unless the
14 parties mutually agree, after the demand for arbitration is
15 made, to have a single arbitrator. All costs of the
16 arbitration shall be borne by the losing party. Appeals from
17 the decision of the arbitrators shall be in accordance with
18 the Uniform Arbitration Act as in effect in Illinois.

19 (Source: P.A. 88-379.)

20 (215 ILCS 5/810.1)

21 Sec. 810.1. Reinsurance Agreements. To obtain reinsurance
22 from the Fund for mine subsidence coverage offered under this
23 Article, an insurer ~~All insurers~~ shall execute and return to
24 the Fund, prior to receipt by the insurer of any mine
25 subsidence claim for which reinsurance is sought, enter into a

1 reinsurance agreement with the Fund in a form updated from
2 time to time by the Board of Directors and ~~. The reinsurance~~
3 ~~agreement shall be~~ filed with and approved by the Director.
4 The agreement, which may include a specific effective date and
5 expiration date, shall provide that each insurer shall cede
6 100% of any mine subsidence insurance written up to the limits
7 then established and in effect pursuant to subsection (c) of
8 ~~contained in~~ Section 805.1(e) to the Fund and, in
9 consideration of the ceding commission retained by the
10 insurer, agrees to distribute informational publications
11 provided by the Fund ~~on a schedule set by the Fund,~~ undertake
12 adjustment of losses, payment of taxes, and all other expenses
13 of the insurer necessary for sale of policies and
14 administration of the mine subsidence insurance coverage. The
15 Fund shall agree to reimburse the insurer for all amounts
16 reasonably and properly paid to policyholders from claims
17 resulting from mine subsidence and for expenses specified in
18 the reinsurance agreement. ~~In addition, the reinsurance~~
19 ~~agreement may contain, and may authorize the Fund to establish~~
20 ~~and promulgate deductibles.~~ The reinsurance agreement may also
21 contain reasonable provisions, rules, and procedures related
22 to underwriting standards; language that insurers must include
23 or not include in mine subsidence coverage forms used by
24 insurers; remitting of premiums to the Fund; ~~rules and~~
25 ~~procedures covering~~ insurer documentation of losses; insurer
26 reporting of premiums, claims, loss payments, and ~~reports of~~

1 litigation, ~~premiums and loss payments~~; loss payment review by
2 the Fund; determinations of whether claimed damage was caused
3 by mine subsidence, when mine subsidence damage was first
4 reasonably observable, and whether movement was continuous;
5 handling and adjustment of claims for damage caused by mine
6 subsidence; control and direction of litigation or arbitration
7 involving whether claimed damage was caused by mine
8 subsidence, when mine subsidence damage was first reasonably
9 observable, or whether movement was continuous or that may
10 affect the interests of the Fund; subrogation; ~~remitting of~~
11 ~~premiums to the Fund; underwriting; and cause and origin~~
12 ~~investigations;~~ and procedures for resolving disputes between
13 ~~the~~ insurers and the Fund.

14 (Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

15 (215 ILCS 5/811.1)

16 Sec. 811.1. Distribution of Premiums. The Fund is
17 authorized to establish, by way of the reinsurance agreement,
18 Plan of Operation, or operating rules and procedures, the
19 proportion of total mine subsidence insurance premiums
20 collected by each insurer which shall be retained by the
21 insurer as a ceding commission, subject to review of the
22 Director. The remainder of such premiums shall be remitted by
23 the insurer to the Fund at times to be determined by the Fund.
24 The ceding commission rate for residential mine subsidence
25 coverage and commercial mine subsidence coverage may differ,

1 but the commission rates ~~commission~~ shall be uniform in all
2 reinsurance agreements entered into pursuant to Section 810.1
3 of this Article and shall be based on reasonable
4 administrative costs to the insurers, including agents'
5 commissions.

6 (Source: P.A. 88-379.)

7 (215 ILCS 5/813.1)

8 Sec. 813.1. Reporting Requirements. Every insurer must
9 report, at times designated by the Fund, such information as
10 is reasonably required by the Fund to conduct its affairs,
11 including, without limitation, information regarding losses
12 incurred and paid, premiums written and collected, and
13 exposures insured. Insurers must cooperate with the Fund's
14 periodic examination and audit of the insurer's mine
15 subsidence insurance books and records and with reasonable
16 data requests necessary to evaluate and price the exposure
17 ~~establish claim reserves, and reimburse insurers for losses~~
18 ~~paid to insureds.~~

19 (Source: P.A. 88-379.)

20 (215 ILCS 5/814.1)

21 Sec. 814.1. Right of Recourse and Setoff.

22 (a) The Fund shall have no right of recourse against the
23 insurer, once the Fund has reimbursed the insurer for any
24 particular loss, unless the insurer has failed to settle that

1 loss in its customary manner, or in case of fraud by the
2 insurer.

3 (b) The Fund may seek recovery against the policyholder
4 for unjust enrichment if, in the Fund's judgment, the
5 policyholder was not entitled to the amounts paid because of
6 fraud, or a material violation of the policy conditions. The
7 insurer shall provide cooperation to the Fund.

8 (c) Notwithstanding any other provisions in this Article,
9 the insurer's residential coverage, living unit coverage, and
10 commercial coverage forms shall include a provision stating
11 that the amount of insurable loss to a residence, living unit,
12 or commercial building caused by mine subsidence shall be
13 reduced by the amounts received by any current or former owner
14 of that structure from a third party in exchange for a mine
15 subsidence waiver or a release of liability for past or future
16 mine subsidence damage in favor of that third party. If an
17 insurer's residential coverage, living unit coverage, or
18 commercial coverage forms do not include such a provision, the
19 Fund's reinsurance obligation to the insurer shall be limited
20 to the amount that would have been paid by the insurer and
21 reinsured by the Fund had the forms included such a provision.

22 (Source: P.A. 88-379.)

23 (215 ILCS 5/815.1)

24 Sec. 815.1. Subrogation.

25 (a) The insurer's residential coverage, living unit

1 coverage, and commercial coverage forms shall include a
2 provision stating that the policyholder shall do nothing after
3 a loss to impair the policyholder's rights of recovery against
4 third parties. An insurer issuing residential coverage, living
5 unit coverage, or commercial coverage ~~All insurers issuing~~
6 ~~mine subsidence policies~~ shall retain the right of subrogation
7 and do nothing after the loss to impair that right.

8 (b) The Fund, on its own behalf, may exercise the right of
9 subrogation to the extent permitted by law.

10 (c) Upon request by the Fund, an insurer with a reinsured
11 claim shall assign to the Fund any rights of subrogation it may
12 have, whether or not the rights of subrogation transfer to the
13 Fund by operation of law ~~Every insurer shall include in its~~
14 ~~reports an itemized list of all losses in subrogation and~~
15 ~~shall remit to the Fund all monies, less expenses, recovered~~
16 ~~as the result of subrogation actions.~~

17 (Source: P.A. 88-379.)

18 (215 ILCS 5/817.1)

19 Sec. 817.1. Powers of Director. In addition to any powers
20 conferred upon the Director ~~him~~ by this or any other law, the
21 Director shall have the authority to regulate ~~supervise~~ the
22 operations of the Fund as set forth in this Article and shall
23 review the Fund's rates once every 3 ~~three~~ years. In addition,
24 the Director or any person designated by the Director ~~him~~ has
25 the power:

1 (a) to examine the operation of the Fund through free
2 access to all books, records, files, papers and documents
3 relating to its operation and may summon, qualify and
4 examine as witnesses all persons having knowledge of such
5 operation, including officers, agents or employees
6 thereof;

7 (b) to do all things necessary to enable the State of
8 Illinois and any insurer participating in any program
9 approved by the Director to fully participate in any
10 federal program which may be enacted for purposes similar
11 to the purposes of this Article;

12 (c) to require such reports as the Director may deem
13 necessary.

14 (Source: P.A. 90-655, eff. 7-30-98.)

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/801.1

4 215 ILCS 5/802.1

5 215 ILCS 5/803.1

6 215 ILCS 5/804.1

7 215 ILCS 5/805.1

8 215 ILCS 5/806.1

9 215 ILCS 5/807.1

10 215 ILCS 5/808.1

11 215 ILCS 5/809.1

12 215 ILCS 5/810.1

13 215 ILCS 5/811.1

14 215 ILCS 5/813.1

15 215 ILCS 5/814.1

16 215 ILCS 5/815.1

17 215 ILCS 5/817.1