

**PART III. COAL AND CLAY MINE SUBSIDENCE
INSURANCE BOARD**

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CHAPTER 401. MINE SUBSIDENCE FUND

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Authority

The provisions of this Chapter 401 issued under section 19 of the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219), unless otherwise noted.

Source

The provisions of this Chapter 401 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288, unless otherwise noted.

GENERAL PROVISIONS

§ 401.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The act of August 23, 1961 (P. L. 1068, No. 484) (52. P. S. §§ 3201—3226).

Agent—Employees of the Department who work on behalf of the Board.

Association—One of the following:

(i) The unit owners' association organized under 68 Pa.C.S. § 3301 (relating to organization of unit owners' association) for condominiums.

(ii) The proprietary lessees' association organized under 68 Pa.C.S. § 4301 (relating to organization of association) for cooperatives.

Board—The Coal and Clay Mine Subsidence Insurance Board.

Commissions—Payment to insurance producers as compensation for the applications they submit to the Board.

Common elements—All portions of a condominium or cooperative other than the units.

Condominium—Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Ownership of the real estate is in accordance with 68 Pa.C.S., Subpart B (relating to Uniform Condominium Act).

Cooperative—Real estate owned by an association, each of whose members is entitled, by virtue of an ownership interest in the association, to exclusive possession of a unit. Ownership of the real estate is in accordance with 68 Pa.C.S., Subpart C (relating to Real Estate Cooperative Act).

Fund—The Coal and Clay Mine Subsidence Insurance Fund established by the act.

Insurance policy—An insurance certificate, an insuring agreement, and application for mine subsidence insurance and endorsements to the insurance policy.

Insurance producer—A person that sells, solicits or negotiates contracts of insurance.

Mine subsidence—The movement of the ground's surface as a result of the collapse of underground coal or clay mine workings.

Mine workings—The roof, floor or pillars within an underground coal or clay mine.

Owner of structure—A person, corporation, organization or association holding title to a structure within the anthracite or bituminous coal or clay mine region as defined by the Board.

Structure—A complete building, which contains a roof, walls and a foundation that firmly attaches the building to the earth, and its appurtenances as defined in the insurance policy.

Units—

(i) Specific areas of a building that are separate and distinct from other areas of the building, having an individual entrance accessing either a common entry or the building's exterior.

(ii) For the purposes of the definition of "common elements" and § 401.11(b)(2) (relating to eligibility for insurance), the following apply:

(A) Units in a condominium are portions of the condominium designated for separate ownership, the boundaries of which are described in the condominium declaration.

(B) Units in a cooperative are physical portions of the cooperative designated for separate occupancy under a proprietary lease.

Authority

The provisions of this § 401.1 amended under section 19 of the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.1 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4163; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687; amended April 29, 2005, effective April 30, 2005, 35 Pa.B. 2628; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953. Immediately preceding text appears at serial page (311158).

§ 401.2. Approval of forms.

Only forms of certificates of insurance and other related forms approved by the Board are in force and effective.

Source

The provisions of this § 401.2 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880.

INSURANCE POLICIES**§ 401.11. Eligibility for insurance.**

(a) Structures located within the coal and clay regions of this Commonwealth are eligible for coverage.

(b) Only an owner of a structure may be named as the insured.

(1) If there is more than one owner of a structure, the owners shall designate one owner whose name shall appear on the insurance policy for billing purposes. The other owners shall be listed in the application for insurance as additional insureds.

(2) For a structure owned as a condominium or a cooperative:

(i) The insurance must cover all the common elements and units when the association is acquiring the insurance.

(ii) Only an association can acquire insurance covering a structure comprised of vertically stacked units.

(iii) For otherwise configured structures when the association does not acquire insurance coverage, a unit owner may purchase coverage for their unit and the related common elements necessary for the owner's use of the unit. Related common elements include the unit's roof, walls, floors, foundation, as well as, a fence, retaining wall, paved or improved patio, walk, or driveway. However, the association shall be listed in the application as an additional insured. Renewals will be sent to the unit owner.

(c) Structures which are at least 50% residential are eligible for residential rates.

(d) If a structure is damaged by mine subsidence or by another cause, and the Board, based upon an inspection of the structure, determines that either:

(1) The damage jeopardizes the structure's integrity, the Board will not issue a policy until the damages identified by the inspection have been repaired as directed by the Board.

(2) The damage could not be separated or apportioned from subsequent damage and the damage does not jeopardize the structure's integrity, the Board will issue a policy if the applicant either:

(i) First repairs the damages identified by the inspection as directed by the Board.

(ii) Submits to the Board an estimate, prepared by a reputable expert, of the cost to repair the damages to the Board's satisfaction. The cost to repair, adjusted for inflation, would be excluded from any damage claim settlement. However, a policy would not be issued if the cost to repair exceeded the

replacement cost of the structure or the policy limit, whichever is less, because the policy would have no value.

(e) The Board may refuse to issue a policy while the structure to be covered is being damaged by mine subsidence or by another cause, until the Board determines that the cause of damage has ceased.

(f) Multiple unit structures are insured as follows:

(1) Structures comprised of vertically stacked units are only insurable under a single policy.

(2) Other unit configurations are insurable under a single or multiple policy at the owner's discretion.

Authority

The provisions of this § 401.11 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.11 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4163; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953. Immediately preceding text appears at serial page (312597).

Cross References

This section cited in 25 Pa. Code § 401.1 (relating to definitions); and § 401.13 (relating to coverage limits and premiums for insurance).

§ 401.12. Photographs of existing damage.

In considering an application for insurance, the Board or its agents, will have the right to photograph existing damage to a structure of the applicant.

Authority

The provisions of this § 401.12 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.12 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial page (156729).

§ 401.13. Coverage limits and premiums for insurance.

(a) The maximum amount of insurance, the term or duration of the policy, and the premium rate will be determined by the Board.

(b) An insurance policy is effective upon the date a complete application and its premium are received by the Board or its agent and provided that the applicant and structure meet the eligibility requirements in the act and in § 401.11 (relating to eligibility for insurance).

Authority

The provisions of this § 401.13 amended under section 19 of the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.13 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended October 4, 1974, effective October 5, 1974, 4 Pa.B. 2134; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4163; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687; amended April 29, 2005, effective April 30, 2005, 35 Pa.B. 2628; corrected August 5, 2005, effective April 30, 2005, 35 Pa.B. 4309; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953. Immediately preceding text appears at serial page (312598).

§ 401.14. Assignment of an insurance policy.

It shall be permissible to assign a financial interest in an insurance policy with the consent of the Board, or its agents, by attachment of an endorsement to the insurance policy.

Authority

The provisions of this § 401.14 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.14 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial page (156730).

§ 401.15. Cancellation of an insurance policy.

An insurance policy cannot be canceled by the Board, or its agents, or by the insured during the term of coverage except as provided in the insurance policy or the act. When the Board, or its agents, cancels an insurance policy, it will send a written notice of the cancellation to the insured.

Authority

The provisions of this § 401.15 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.15 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4163; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953. Immediately preceding text appears at serial page (311161).

§ 401.16. Renewal of an insurance policy.

The renewal premium for an insurance policy shall be in accordance with the current rate for the amount of insurance shown on the insurance policy. The pre-

mium shall be received prior to the end of the policy period shown on the insurance policy, but the Board, or its agents, will not cancel the insurance policy until 30 days after the final day of that period.

Authority

The provisions of this § 401.16 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.16 adopted December 21, 1979, effective December 22, 1979, 9 Pa.B. 4163; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial pages (156730) to (156731).

§ 401.17. Refunds of premiums.

The Board, or its agents, will refund premiums whenever it cancels an insurance policy as provided in the insurance policy or in the act. The refunds will be calculated on a pro rata basis.

Authority

The provisions of this § 401.17 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.17 adopted August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687.

INSURANCE COVERAGE

§ 401.21. Description of coverage.

The insurance policy applies only to the direct loss or damage of the insured's structure described within the policy when the loss or damage is caused by mine subsidence and when the direct loss or damage occurs during the period in which the insurance policy is in effect.

Authority

The provisions of this § 401.21 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.21 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial page (156731).

§ 401.22. Loss deductible amount.

Every insurance policy must include a loss deductible amount for which the Fund is not liable. The amount will be determined by the Board and may be changed as experience may warrant, and will be included in the schedule of pre-

mium rates adopted by the Board. The loss deductible will be waived if the cost to repair the damage exceeds the amount of coverage under the policy.

Authority

The provisions of this § 401.22 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.22 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953. Immediately preceding text appears at serial page (311162).

§ 401.23. Other insurance and other sources of remuneration.

If an eligible owner of a structure has or secures other insurance or other sources of remuneration against a loss covered by the insurance policy, the Fund will be liable for only that portion of the loss which is not covered by the other insurance or the other sources of remuneration.

Authority

The provisions of this § 401.23 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.23 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4163; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial page (156731).

§ 401.24. Changes in coverage.

Additions in the amount of insurance may be made by completion of an amendment to the application by the insured after a reinspection of the property. Premiums for additions shall be prorated for the remainder of the insurance policy period in accordance with the current schedule of premium rates. The new amount of insurance will be effective immediately upon payment of the additional premium.

Authority

The provisions of this § 401.24 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.24 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial pages (156731) to (156732).

CLAIMS

§ 401.31. Settlement of claims.

Claims may be settled through the Board, or its agents, or through independent adjusters selected by the Board, or its agents.

Authority

The provisions of this § 401.31 amended under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.31 adopted December 10, 1971, effective January 1, 1972, 1 Pa.B. 2288; amended May 3, 1974, effective May 4, 1974, 4 Pa.B. 880; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687. Immediately preceding text appears at serial page (156732).

§ 401.32. Obligations after claim settlement.

Insureds shall contact the Board, or its agents, within 1 year of the claim settlement and permit an inspection of the insured structure to verify that the damage described in the claim settlement has been repaired. If the insured fails to contact the Board, or its agents, or refuses to permit the inspection the Board, or its agents, may refuse to issue or renew an insurance policy for the insured structure.

Authority

The provisions of this § 401.32 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. §§ 3201—3225).

Source

The provisions of this § 401.32 adopted August 6, 1993, effective August 7, 1993, 23 Pa.B. 3687; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953. Immediately preceding text appears at serial pages (311163) to (311164).

INSURANCE PRODUCERS

§ 401.41. Submission of applications.

Insurance producers may only submit applications for mine subsidence insurance to the Board electronically from the Board's web site.

Authority

The provisions of this § 401.41 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.41 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953.

§ 401.42. Commission rates.

The Board, at an open meeting, will annually establish commission rates. The commission rate will be posted on the Fund's web site (www.pamsi.org).

Authority

The provisions of this § 401.42 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.42 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953.

§ 401.43. Payment of commissions.

The insurance producer shall retain the commission from the premium collected. The Board, at an open meeting, may authorize other forms of payment. Alternative forms of paying commissions will be posted on the Fund's web site (www.pamsi.org).

Authority

The provisions of this § 401.43 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.43 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953.

§ 401.44. Repayment of commissions.

Commissions in excess of \$5 that are unearned due to the Board's rejection of a mine subsidence insurance application or the cancellation of a policy shall be repaid to the Board upon its demand. Failure by an insurance producer to repay commissions within 60 days of the Board's written request may result in exclusion from participation with the Fund. The Board's decision to exclude an insurance producer from participating with the Fund is appealable to the Environmental Hearing Board under to the Environmental Hearing Board Act (35 P. S. §§ 75.11—75.16).

Authority

The provisions of this § 401.44 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.44 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953.

§ 401.45. Confidentiality of insureds information.

Insurance producers are responsible to safeguard all applicant and insureds information in accordance with the Insurance Department's regulations found in 31 Pa. Code Chapters 146a and 146c (relating to privacy of consumer information and standards for safeguarding information). Failure by an insurance producer to safeguard applicant and insureds information may result in exclusion from participation with the Fund. The Board's decision to exclude an insurance producer from participating with the Fund is appealable to the Environmental Hearing Board under the Environmental Hearing Board Act (35 P. S. §§ 75.11—75.16).

Authority

The provisions of this § 401.45 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

The provisions of this § 401.45 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6953.

LOANS AND GRANTS**§ 401.51. Loans and grants.**

Each year the Board may authorize up to 1% of the Fund's Unreserved Fund Balance, as declared by the Board under section 10(c) of the act (52 P. S. § 3210(c)), to be used to provide loans and grants to entities that develop technologies, perform services or engage in other activities that benefit the Fund by improving its ability to provide mine subsidence insurance coverage or to improve the efficiency, economy and effectiveness of the Fund's operations.

Authority

The provisions of this § 401.51 issued under the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219).

Source

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