

By: Lerblance of the Senate
and
Mass of the House

An Act relating to insurance; creating the Oklahoma Subsidence Insurance Act; providing short title; stating purpose; defining terms; requiring that certain insurance coverage be offered; providing for exemptions; authorizing certain additional coverage; authorizing the insurer to refuse coverage in certain circumstances; providing for right of subrogation; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 7 of this act shall constitute Article 9C of the Insurance Code and shall be known and may be cited as the "Oklahoma Subsidence Insurance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

The purpose of the Oklahoma Subsidence Insurance Act is to make mine subsidence insurance coverage available for residences, living units and commercial buildings located in this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Subsidence Insurance Act:

1. "Commercial building" means any building, other than a residence or living unit, permanently affixed to realty located in this state, including basements, footings, foundations, septic

systems and underground pipes directly servicing the building, but does not include sidewalks, driveways, parking lots, swimming pools, patios, pilings, piers, wharves, docks, retaining walls, fences, land, trees, plants, crops or agricultural field drainage tile;

2. "Commercial coverage" means mine subsidence insurance for a commercial building;

3. "Insurer" or "insurers" means insurance companies and reciprocals licensed and authorized to write homeowner's insurance and commercial property insurance policies in this state;

4. "Living unit" means the physical portion designated for separate ownership or occupancy for residential purposes, of a building or group of buildings, permanently affixed to realty located in this state, having elements which are owned or used in common, including an apartment unit, a condominium unit, a cooperative unit or any other similar unit, including appurtenant structures, basements, footings, foundations, septic systems and underground pipes directly servicing the dwelling or building, but does not include swimming pools, patios, pilings, wharves, docks, retaining walls, fences, sidewalks, driveways, land, trees, plants, crops or agricultural field drainage tile;

5. "Living unit coverage" means mine subsidence insurance for a living unit;

6. "Mine subsidence" means lateral or vertical ground movement caused by a failure initiated at the mine level, of man-made underground mines, including, but not limited to, coal mines, clay mines, lead and zinc mines, limestone mines, and fluorspar mines that directly damage residences or commercial buildings. "Mine subsidence" does not include lateral or vertical ground movement caused by earthquake, landslide, volcanic eruption, soil conditions, soil erosion, soil freezing and thawing, improperly compacted soil, construction defects, roots of trees and shrubs or collapse of storm and sewer drains and rapid transit tunnels;

7. "Policy" or "policies" means any contract or contracts of insurance providing the coverage of the Standard Fire Policy and Extended Coverage Endorsement on any residence, living unit or commercial building. It does not include those insurance contracts that are referred to as marine or inland marine policies;

8. "Residence" means a building used principally for residential purposes up to and including a four-family dwelling, permanently affixed to realty located in Oklahoma, including appurtenant structures, basements, footings, foundations, septic systems and underground pipes directly servicing the dwelling or building, but does not include living units, swimming pools, patios, pilings, wharves, docks, retaining walls, fences, sidewalks, driveways, land, trees, plants, crops or agricultural field drainage tile; and

9. "Residential coverage" means mine subsidence insurance for a residence.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 2006, every insurer, as defined by Section 3 of this act, may offer mine subsidence coverage, upon the request by the policyholder, on policies, as defined by Section 3 of this act, issued or renewed, insuring residences, living units and commercial buildings.

B. The Insurance Commissioner may exempt policies insuring residences, living units or commercial buildings located in any specified county of this state from the provisions of this section if the Commissioner determines that such coverage is not necessary for a specified county.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.5 of Title 36, unless there is created a duplication in numbering, reads as follows:

The residential coverage provided pursuant to the Oklahoma Subsidence Insurance Act may also cover the additional living expenses reasonably and necessarily incurred by the owner of a residence who has been temporarily displaced as the direct result of damage to the residence caused by mine subsidence if the underlying policy also covers this type of loss; provided, however, that the loss covered under living unit coverage shall be limited to losses to improvements and betterments and reimbursement of additional living expenses and assessments made against the insured on account of mine subsidence loss.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.6 of Title 36, unless there is created a duplication in numbering, reads as follows:

An insurer may refuse to provide mine subsidence coverage on a residence, living unit or commercial building evidencing unrepaired mine subsidence damage until such damage has been repaired.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999.7 of Title 36, unless there is created a duplication in numbering, reads as follows:

All insurers issuing mine subsidence policies shall retain the right of subrogation.

SECTION 8. This act shall become effective January 1, 2006.

Passed the Senate the 2nd day of March, 2005.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

Presiding Officer of the House
of Representatives