COALEX STATE INQUIRY REPORT - 67
October 20, 1986

Danny Brown, Commissioner
Division of Mined Land Reclamation
Department of Mines, Minerals & Energy
Big Stone Gap, Virginia 24219

TOPIC: MINE SUBSIDENCE INSURANCE

INQUIRY: Identify states which have implemented mine subsidence insurance programs.

SEARCH RESULTS: Five states (Illinois, Kentucky, Ohio, Pennsylvania, and West Virginia) have implemented mine subsidence insurance programs. These programs all have the same basic structure. A "mine subsidence insurance fund" is created, which is to be administered by a board or other authority. Once the fund is in place, every insurance policy issued or renewed on a structure is to include or make available insurance for losses caused by subsidence damage. Structures located in specified counties are exempt from this requirement. Any person authorized to write property insurance policies is also authorized to participate in the mine subsidence insurance program. Premium rates are to be set by the governing authority. Once an insurer has written such a policy, the company is to enter into a reinsurance agreement with the state authority, in which the company cedes one hundred percent (within specified dollar limits) of the subsidence insurance to the state authority and receives a ceding commission. The state authority then handles all claims arising under the program.

The five state programs differ in several areas. These areas include:

1) LOSSES COVERED: The West Virginia and Kentucky laws' definitions of "mine subsidence" only include damage resulting from the collapse of an underground coal mine. Ohio and Illinois specifically include other types of mines, such as clay, limestone, salt, and fluorspar. Losses caused by earthquake, landslide, volcanic eruption, or collapse of storm and sewer drains are excluded.

2) FUND APPROPRIATIONS: All of the state funds are partially financed by the premiums collected under the programs. Four states also provide for state appropriations to the fund. The Illinois program calls for an initial advance of $100,000 to provide for administrative costs and to provide a beginning balance for the fund. If the balance in the Illinois fund falls below $50,000, the Director may advance the fund enough money to pay any outstanding claims. In no case may the amounts advanced to the fund exceed $500,000. (Ill. Rev. Stat. Ch. 73, Sec. 803(a) (1984))

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The West Virginia program allows the legislature or the governor to appropriate up to $500,000 from the governor's civil contingency fund to pay claims against the fund which occur prior to the accumulation of sufficient reserves in the fund. If the legislature or the governor does not appropriate these monies, the board may advance funds from the general insurance fund to pay claims; however, this money must be repaid. (W. Va. Code Sec. 33-30-4 (1985))

Specific dollar amounts are not included in the Ohio and Pennsylvania laws, but provisions are made for state appropriations to the funds. The Kentucky law does not call for state funding, but mandates that the subsidence insurance fund shall not be implemented until federal funds are received for administrative costs and for a reserve. (1984 Ky. Acts 304.44-130)

3) TOTAL AMOUNT INSURED: The Illinois, Ohio and Kentucky statutes set the maximum amount to be insured at $50,000. The deductible is two percent of the policy's total insured value, but in no case is the deductible to be less than $250.00 or more than $500.00. (Ill. Rev. Stat. Ch 73, Sec. 804 (1984); Ohio Rev. Code Sec. 3929.56 (1984); 1984 Ky. Acts 304.44-030) West Virginia's law calls for the same deductible as the other states, but sets the maximum amount to be insured at $75,000. The amount insured is not to exceed the amount of fire insurance on the structure. (W. Va. Code Sec. 33-30-6(1985)) The Pennsylvania law sets the maximum amount insured at $100,000.

4) EXEMPTIONS: All of the laws allow structures located within certain areas to be exempted from the mandatory coverage. In West Virginia, certain counties are specifically exempted by law, and coverage is only provided if requested by the policyholder. (W. Va. Code Sec. 33-30-06 (1985)) Ohio's law allows the superintendent of insurance to exempt policies issued in any specified county upon application of the mine subsidence insurance underwriting association. (Ohio Rev. Code Sec. 3929.57 (1985))

In Kentucky, the administrator is to exempt policies issued in counties or portions of counties which do not have underground coal bearing strata. Counties which have not voted to approve the availability of mine subsidence insurance are also exempt from coverage. (1984 Ky. Acts 304.44-060) Under Illinois law, the Director is to exempt every policy issued in any county of one million or more inhabitants or any county contiguous to any such county, and may exempt any other specified county of the state. (Ill. Rev. Stat. Ch. 73, Sec 805 (1984)) In Pennsylvania, the coverage is voluntary for anyone building over active or abandoned mines.

ATTACHMENTS

A. Illinois Revised Statutes, Ch. 73, Sections 801 et seq. (1984).
B. 1984 Kentucky Acts Sec. 304.44.
C. Ohio Administrative Code, Ch. 3929 (1984).
D. Pennsylvania, Telephone Survey.
E. West Virginia Code, Ch. 33, Article 30 (1985).

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