



March 9, 2010

Amendments to the Kentucky Mine Subsidence Reinsurance Plan

Recent changes will affect how Kentucky insurers handle and investigate mine subsidence claims. These changes apply to claims arising from dates of loss on, or after, March 5, 2010. Claims with dates of loss prior to March 5, 2010, we are advised by the Kentucky Department of Insurance, will be handled under the “old” Plan.

Insurers issuing policies of property insurance in the Commonwealth of Kentucky are required to participate in Kentucky’s Mine Subsidence Fund. KRS 304.44-010, *et seq.* Kentucky law requires insurers to enter into a Reinsurance Agreement with the Department of Insurance. The insurer is relieved from liability for losses up to one hundred percent (100%) of the One Hundred Thousand Dollar (\$100,000.00) limit for subsidence insurance coverage ceded to the Reinsurance Fund Administrator of the Department.

The Fund’s Executive Director determines how the Fund is administered and develops the Plan. KRS 304.44-020(1). Under the old Plan, subsidence claim supervision and handling is subject to the approval of the Fund’s Administrator. The Administrator manages the Fund, sets commissions and premiums, supervises the handling and investigation of claims, approves the policy and endorsement forms used by the insurer, and authorizes payment. KRS 304.44-120; KRS 304.44-070.

The old Plan assigned responsibility to the Fund’s Administrator to investigate suspect claims. Under the new Plan, claim supervision and handling shall be subject to the supervision and approval of the “insurer.” The “insurer” shall retain a licensed professional civil engineer to investigate all mine subsidence claims on their behalf.

The “Mine Subsidence Insurance Fund” may retain a contractor to audit claim processing. When a contractor is retained, the Fund, may from time to time, review:

- Performance of company claims adjusting methods;

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- The procedures and standards used by the insurer's engineers for claim processing and;
- The application of those procedures and standards to the claims of the insured.

The new claim procedures include:

1. The insured notifies an authorized agent or company of the potential mine subsidence damage.
2. The insurer supervises and handles all claim adjustment activity.
3. The insurer shall retain a licensed professional civil engineer to investigate suspected mine subsidence damage and to confirm mine subsidence as the cause of loss.
4. If the professional engineer confirms the cause of loss is mine subsidence, the insurer will adjust the claim in their customary manner.
5. To apply for reimbursement in accordance with the Reinsurance Agreement on file with the Department of Insurance, the insurer shall submit a "proof of reinsured loss" which shall consist of:
 - The insured declarations showing mine subsidence coverage;
 - The complete insurer claim file which shall include investigative reports from a licensed professional civil engineer, property damage estimate(s) and insurer notes;
 - A copy of the draft paid to the insured for mine subsidence damage, including applicable subrogation receipts and;
 - A written request for reimbursement which contains the insurer's NAIC and FEIN numbers.

References to a first report of loss have been deleted from the new version. In the old version, this was the insurer's first notice to the Fund that a policyholder has submitted a claim.