WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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FILED IN THE OFFICE OF THE SECRETARY OF STATE
THIS DATE June 12, 1987
ADMINISTRATIVE LAW DIVISION

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: State Board of Risk and Insurance Management TITLE NUMBER: ~~Series II~~

AMENDMENT TO AN EXISTING RULE: YES XX, NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series II-1983

TITLE OF RULE BEING AMENDED: West Virginia Administrative Regulation
State Board of Risk and Insurance Management

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: ____

TITLE OF RULE BEING PROPOSED: ____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill # 748

SECTION 64-2-33(30)(15), PASSED ON March 14, 1987.

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: June 12, 1987

Mark E. McCallister

WEST VIRGINIA ADMINISTRATIVE REGULATION
STATE BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES II - 1983   AMENDED - 1987

MINE SUBSIDENCE INSURANCE

Section 1. General

1:01. Identification of Rule - This regulation is a Legislative Rule, as defined by the provisions of Chapter 29A, Article 1, Section 2 of the Code of West Virginia of 1931, as amended.

1:02. Reference - This regulation relates to making available to the citizens of West Virginia insurance for structural loss caused by the subsidence of man-made underground coal mines in accordance with the provisions of Chapter 33, Article 30 of the Code of West Virginia of 1931, as amended.

1:03. Authority - This regulation is promulgated under the Authority vested in the Board of Risk and Insurance Management by Chapter 33, Article 30, Section 15 of the Code of West Virginia of 1931, as amended.

1:04. Applicability and Scope - This regulation shall apply to all Insurance Companies licensed by the Insurance Commissioner of West Virginia to write on a direct basis fire insurance in the State of West Virginia.

1:05. Effective date - This regulation shall become effective ~~May 5, 1983.~~ June 12, 1987

1:06. Filing Date - This regulation was filed in the Office of the Secretary of State on ~~May 20, 1987.~~ June 12, 1987

Section 2. Definitions

2:01. Board - Means the State Board of Risk and Insurance Management.

2:02. Mine Subsidence - Means loss to a structure caused by lateral or vertical movement, including collapse which results therefrom, of structures from collapse of man-made underground coal mines. It does not include loss caused by earthquake, landslide, volcanic eruption or collapse of storm and sewer drains and rapid transit tunnels.

2:03. Mine Subsidence Insurance Fund or Fund - Means the fund established within the office of the State Board of Risk and Insurance Management.

2:04. Policy - Means a contract of insurance providing mine subsidence insurance

2:05. Premiums - Means the gross rate charged policyholders for insurance provided by this regulation.

2:06. Structure - Means any dwelling, building of fixture permanently affixed to realty located in West Virginia, including basements, footings, foundations, septic systems and underground pipes directly servicing the dwelling or building, but does not include driveways, sidewalks, parking lots, land, trees, plants, crops, or agricultural field drainage tile.

Section 3. Implementation of Insurance Coverage

3:01. Date Coverage to be Offered Waiver - On and after July 1, 1985 all insurance policies issued in the State of West Virginia by Insurance Companies subject to this regulation, that provide fire insurance on structures eligible for mine subsidence insurance, shall include coverage for mine subsidence insurance unless such insurance is waived by the insured such waiver shall conform to the requirements of Section 3:10 of these regulations.

3:02. Amount of Insurance - Each policy issued pursuant to this regulation shall provide up to $75,000 of Mine Subsidence Insurance in an amount not to exceed the amount of fire insurance on the structure.

3:03. Premium Rate - The premium rate schedule established by the Board is attached hereto as Appendix C. For the purpose of selecting rates a Non-Dwelling structure in defined as a building not used principally for residential purposes or which houses more than four family units.

3:04. Coverage Form - Each policy issued pursuant to this regulation shall include coverage Form WVMS-1 (Ed. 7-85) Coal Mine Subsidence Coverage Part (Dwelling Structure) or coverage Form WVMS-2 (Ed. 7-85), Coal Mine Subsidence Coverage Part (Non-Dwelling Structure). Refer to Appendix A and B respectively, for coverage part working. These forms have been approved by the Insurance Commissioner of West Virginia and their use is recommended by the Board and said forms may be reproduced under the Insurance Company's name.

3:05. Structures Eligible for Mine Subsidence Insurance - In establishing permanent regulations the Board has determined that dwelling structures and non-dwelling structures are eligible for mine subsidence insurance.

3:06. Exemption of Certain Mobile Home Forms - Insurance Companies whose mobile home policy forms currently provide subsidence insurance *are exempt from the provisions of this regulation; provided, however, this exemption applies only to mobile home policy forms.*

3:07. Loss Deductible - The sum of $250 shall be deducted for each loss caused by mine subsidence.

3:08. Ceding Commission - The Board has established a ceding commission of 30 percent of the gross premium as is required by Section 9 of the Mine Subsidence Law.

3:09. Reinsurance Agreemnet - Each Insurance Company subject to this regulation shall enter into a Reinsurance Agreement with the Board. Refer to Appendix F for the working of the Reinsurance Agreement.

3:10. Waivers - All insurance policies written after July 1, 1985, and subject to this regulation shall include Coal Mine Subsidence Insurance UNLESS waived in writing by the policyholder. The Board recommends the following waiver clause be used:

WAIVER OF INSURANCE

I (WE) do not desire Coal Mine Subsidence Insurance coverage and hereby waive any right to such coverage, under this policy or any future policy covering my (our) interest in the property described in the plicy (in the application) unless I (we) request Coal Mine Subsidence coverage, in writing, at some future date.

____

SIGNATURE OF NAMED INSURED(S)

____

POLICY NUMBER (IF RENEWAL)

____

DATE SIGNED

3:11. Exclusion - Insurance Companies holding a signed waiver under the previous law will not be required to obtain a new waiver and waivers shall not be required on property located in the following 15 counties:

BERKELEY, CABELL, CALHOUN, HAMPSHIRE, HARDY, JACKSON, JEFFERSON, MONROE, MORGAN, PENDLETON, PLEASANTS, RITCHIE, ROANE, WIRT OR WOOD.

3:12. <u>Waiting Period</u> - Coal Mine Subsidence Insurance becomes effective no earlier than 30 calendar days after the application date.

Section 4. Miscellaneous Provisions

4:01. <u>Administration of Claims</u> - All mine subsidence claims shall be reported to the Board for assignment to qualified independent adjusting firms in accordance with claim procedures as outlined on Appendix D.

4:02 <u>Fund Reporting</u> - Quarterly, each Insurance Company subject to this regulation shall complete the West Virginia Mine Subsidence Fund Report. Refer to Appendix E for report format. The following information will be required:

A. Policy Count by County;

B. The amount of gross premiums less cancellations during the quarter rounded to the nearest dollar;

C. The net premiums due the State.

The completed report, along with the net premiums due the State, if any, shall be returned to the Board within forty-five (45) days after the quarter ends.

Senate Bill No. 381

(By Senator Tucker)

[Introduced February 5, 1987; referred to the Committee on EIM ; then to the Committee on the Judiciary.]

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section thirty-three (thirty) (fifteen), relating to authorizing the state board of risk and insurance management to promulgate legislative rules governing the mine subsidence insurance program.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-three (thirty) (fifteen), to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-33(30)(15). State board of risk and insurance management.

The legislative rules filed in the state register on the twenty-sixth day of November, one thousand nine hundred eightyfive, modified by the state board of risk and insurance management to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of December, one thousand nine hundred eighty-six, relating to the state board of risk and insurance management (mine subsidence insurance program) are authorized.

NOTE: The purpose of this bill is to authorize the State Board of Risk and Insurance Management to promulgate legislative rules governing The Mine Subsidence Insurance Program.

This section is new; therefore, strike-throughs and underscoring have been omitted.

H. B. 2013

(By Delegate Knight)

(Introduced February 4, 1987; referred to the

Committee on Banking and Insurance then Judiciary.)

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section thirty-three (thirty) (fifteen), relating to authorizing the state board of risk and insurance management to promulgate legislative rules governing the mine subsidence insurance program.

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This section is new; therefore, strike-throughs and underscoring have been omitted.