

CHAPTER 85

Original House Bill No. 103

STATE MINE SUBSIDENCE LOSS INSURANCE

AN ACT to create W.S. 35-11-1301 through 35-11-1304 relating to mine subsidence loss insurance; requiring the governor to establish a mine subsidence loss insurance program through the land quality division of the department of environmental quality; granting rulemaking authority; exempting the state from certain provisions of the insurance code; establishing an account in the enterprise fund for the program and limiting the state's liability to the account balance; prohibiting sales of coverage until the state is eligible for federal funds for the program; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 35-11-1301 through 35-11-1304 are created to read:

ARTICLE 13

MINE SUBSIDENCE LOSS INSURANCE

**35-11-1301. Definitions.**

(a) As used in this act:

(i) "Administrator" means the administrator of the land quality division of the department of environmental quality;

(ii) "Mine subsidence loss" means loss caused by lateral or vertical movement, including collapse which results therefrom, of structures from collapse of man-made underground mines or from collapse of underground cavities resulting from burned coal seams but excludes loss caused by underground water, soil expansion, earthquake, landslide, volcanic eruption or collapse of storm or sewer drains or underground pipelines;

(iii) "Structure" means any dwelling, building or fixture, publicly or privately owned, permanently affixed to realty but excludes land, trees, plants and crops;

(iv) "This act" means W.S. 35-11-1301 through 35-11-1304.

**35-11-1302. Mine subsidence loss insurance program; established; rulemaking authority.**

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(a) The governor shall establish an insurance program to cover mine subsidence loss to specified structures in this state. The program shall be operated by the administrator who shall contract for all services related to advertising, sales of the coverage and claims adjustment and may contract for other services necessary to the efficient operation of the program. The program shall cover all structures insured under this act for mine subsidence damage occurring after the effective date of the coverage, consistent with the contract terms and conditions. The program shall also cover structures which have been damaged before the effective date of this act, provided that:

(i) Damage to the structures was caused by subsidence of mine voids in the number one and seven coal seams in Rock Springs, Wyoming;

(ii) Claims made to the administrator documenting that initial subsidence damage was suffered on or about the dates of August 15, August 21, September 4 or September 10, 1985;

(iii) The property owner has made application for coverage under this act, paid the premium required by the administrator and paid an enrollment fee of one hundred dollars (\$100.00);

(iv) The property owner executes and delivers instruments and papers and does whatever else is necessary to secure rights in the state to be subrogated to all the owner's right of recovery against any person, entity or organization for the damage and loss covered under this act; and

(v) Claims for damages and loss covered under this act and filed under the Wyoming Governmental Claims Act are withdrawn.

(b) The governor may promulgate rules and regulations necessary to establish and operate a mine subsidence loss insurance program under this act, including but not limited to:

(i) Contract terms and conditions;

(ii) Deductibles;

(iii) Coverage limits;

(iv) Claims adjustment procedures;

(v) Premium rates and enrollment fees sufficient to:

(A) Cover administrative expenses of the program including service contracts;

(B) Satisfy anticipated claims from mine subsidence loss;

(C) Establish a surplus to cover catastrophic hazard and to ensure solvency.

(vi) Designation of structures or areas for which coverage shall not be available;

(vii) Inspection of structures prior to issuing insurance coverage;

(viii) Rules or regulations necessary to enable the state to qualify for federal grants for state mine subsidence loss insurance programs.

(c) The governor may accept grants from any source to aid in establishing or operating the program under this act.

**35-11-1303. Applicability of Wyoming Insurance Code; exemption.**

(a) The Wyoming Insurance Code applies to transactions under this act except:

(i) The state and its officers, agencies and employees are exempt from the licensing, financial and tax requirements imposed by chapters 3, 4, 6, 7 and 8 of the Wyoming Insurance Code;

(ii) Any person who contracts with the state to transact insurance under this act is subject to the Wyoming Insurance Code as if the state were an insurer with a certificate of authority to transact the insurance in this state.

**35-11-1304. Account created; premiums to be deposited; payment of expenses and claims; limiting the state's liability.** There is created within the enterprise fund a mine subsidence loss insurance account. All premiums, fees, amounts recovered under the program and, where appropriate, grants shall be deposited into this account. The legislature shall authorize expenditures by appropriation from the account as necessary to defray the administrative expenses of the program but not claims for losses under policies. The remaining funds in the account shall be used and are appropriated to pay claims for losses under insurance policies under this act.

**Section 2.** The liability of the state of Wyoming for claims under policies issued under this act is limited to the amount of funds available in the account established under this section. No coverage under this act shall be sold until the state has qualified for a grant of federal funds to operate the program.

**Section 3.** This act is effective June 11, 1986.

Approved March 19, 1986.