

## HOUSE BILL No. 2099

By Committee on Appropriations

1-18

---

9 AN ACT concerning insurance; pertaining to subsidence insurance.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. As used in this act: (a) “Basic property insurance” means  
13 insurance against direct loss to property as defined and limited in dwelling  
14 fire, homeowners, and farm policies and extended coverage endorse-  
15 ments thereon, as approved by the commissioner of insurance, and in-  
16 surance for such types, classes, and locations of property against the perils  
17 of vandalism, malicious mischief, burglary, or theft, as the commissioner  
18 shall designate.

19 (b) “Dwelling fire insurance” means a policy providing property cov-  
20 erage on residential buildings for the perils of fire and lightning and ad-  
21 ditional coverages.

22 (c) “Farm insurance” means insurance providing property coverage  
23 on farm dwelling buildings.

24 (d) “Homeowners insurance” means insurance on owner-occupied  
25 dwellings providing personal multi-peril property and liability coverages  
26 commonly known as homeowners insurance.

27 (e) “Mine subsidence” means loss caused by the collapse or lateral  
28 or vertical movement of structures resulting from the caving in of under-  
29 ground mines, including coal mines, lead mines, zinc mines, clay mines,  
30 limestone mines, and salt mines. “Mine subsidence” does not include loss  
31 caused by earthquake, landslide, volcanic eruption, or collapse of strip  
32 mines, storm and sewer drains, or rapid transit tunnels.

33 (f) “Mine subsidence coverage” means the limits and type of coverage  
34 as defined by the mine subsidence insurance governing board in the cov-  
35 erage form and approved by the commissioner.

36 (g) “Structure” means any one- to four-family dwellings as defined  
37 and limited in dwelling fire, homeowners, and farm policies and other  
38 structures as described, defined, or limited in the mine subsidence in-  
39 surance form.

40 Sec. 2. (a) The Kansas mine subsidence insurance underwriting as-  
41 sociation is hereby created, consisting of all insurers authorized to write  
42 and engaged in writing within the state, on a direct basis, basic property  
43 insurance or any component thereof in multi-peril policies, to operate in

1 accordance with the plan of operation adopted pursuant to section 4 and  
2 amendments thereto. Every such insurer shall be a member of the as-  
3 sociation and shall remain a member as a condition of its authority to  
4 write such insurance in this state.

5 (b) The association, pursuant to sections 1 to 10, and amendments  
6 thereto, and any plan of operation thereunder with respect to mine sub-  
7 sidence insurance, may assume and cede reinsurance on insurable risks  
8 written by its members.

9 (c) For the purpose of governing the mine subsidence insurance un-  
10 derwriting association, there is hereby created a mine subsidence insur-  
11 ance governing board consisting of the secretary of health and environ-  
12 ment or the secretary's designee, as chairperson, the state treasurer or  
13 the state treasurer's designee, the commissioner of insurance or the com-  
14 missioner's designee, and one representative from member insurance  
15 companies. The representative from member insurance companies shall  
16 be a Kansas domiciled member, elected every three years by members  
17 of the association. All actions of the mine subsidence insurance un-  
18 derwriting association shall be approved by the mine subsidence insurance  
19 governing board. The mine subsidence insurance governing board may  
20 employ, compensate, and prescribe the duties and powers of such em-  
21 ployees and consultants as are necessary to carry out sections 1 to 10, and  
22 amendments thereto, and is authorized to enter into a contract with the  
23 Kansas insurance guaranty association for administrative and claims ad-  
24 justing services.

25 (1) The Kansas mine subsidence underwriting association shall organ-  
26 ize annually by the election from its membership of a chairperson and  
27 shall adopt such rules of procedure as the mine subsidence insurance  
28 governing board deems necessary for conducting its business.

29 (2) The Kansas mine subsidence underwriting association shall hold  
30 such meetings as in its judgment may be necessary for the performance  
31 of its powers, duties and functions. Members of the mine subsidence  
32 insurance governing board shall receive compensation, subsistence allow-  
33 ances, mileage and other expenses for attending meetings of the board  
34 as provided by K.S.A. 75-3223, and amendments thereto.

35 (3) The state insurance department shall provide such technical, legal  
36 and clerical staff assistance as may be requested by the mine subsidence  
37 insurance governing board in the administration of the provisions of this  
38 act.

39 (4) The Kansas mine subsidence underwriting association shall be sub-  
40 ject to the provisions of the Kansas open meetings act.

41 (5) The Kansas mine subsidence underwriting association shall be  
42 subject to the provisions of the Kansas open records act.

43 (d) The Kansas mine subsidence insurance underwriting association

1 shall be attached to the insurance department and shall be within the  
2 insurance department as a part thereof. All budgeting, purchasing and  
3 related management functions of the Kansas mine subsidence insurance  
4 underwriting association shall be administered under the direction and  
5 supervision of such association and the commissioner of insurance. All  
6 vouchers for expenditures from appropriations made for the use of such  
7 board shall be approved by the chairperson of such board or by a person  
8 or persons designated by the chairperson for such purpose and by the  
9 commissioner of insurance. The budget of such board shall be financed  
10 in the same manner and as a part of the budget of the state insurance  
11 department. The commissioner of insurance shall have no authority over  
12 the Kansas mine subsidence insurance underwriting association, or any  
13 employee thereof, with respect to the performance of any power, duty or  
14 function of the office or the exercise of any other authority of the Kansas  
15 mine subsidence insurance underwriting association.

16 Sec. 3. There is hereby created the mine subsidence insurance fund,  
17 which shall be administered by the mine subsidence insurance governing  
18 board for the purpose of making available insurance coverage against  
19 mine subsidence as to any structure within this state. All of the following  
20 apply to the fund:

21 (a) The moneys in the fund shall be derived from premiums for re-  
22 insurance assumed by the mine subsidence insurance underwriting as-  
23 sociation on policies written by members of the association.

24 (b) Premiums on mine subsidence coverage in policies written by  
25 members of the association shall be established by the plan of operation  
26 at a rate or within a schedule of rates sufficient to satisfy all foreseeable  
27 claims upon the fund during the period of coverage, giving due consid-  
28 eration to relevant loss or claim experience or trends, to cover normal  
29 costs of operation of the fund, and to provide a reasonable reserve for  
30 unexpected contingencies. No deviation shall be allowed from the pre-  
31 mium established by the plan, but the mine subsidence insurance gov-  
32 erning board shall periodically review the premium level and the expe-  
33 rience data applicable to operation of the fund and, with the approval of  
34 the commissioner of insurance, make changes as required.

35 (c) Sections 1 to 10, and amendments thereto, shall not create any  
36 liability on the part of the state of Kansas beyond the amounts paid into  
37 the fund and earned by the fund, nor is any liability created on the part  
38 of the mine subsidence insurance underwriting association or its members  
39 or the Kansas insurance guaranty association or its members.

40 (d) The state treasurer shall be the custodian of the fund, which shall  
41 not be a part of the state treasury. All disbursements from the fund shall  
42 be paid by the state treasurer upon requisitions signed by the chairperson  
43 of the mine subsidence insurance governing board or the chairperson's

1 designee. The chairperson of the mine subsidence insurance governing  
2 board may designate an authorized representative of the Kansas insurance  
3 guaranty association to sign requisitions on the fund if the mine subsi-  
4 dence insurance underwriting association has entered into a contract with  
5 the Kansas insurance guaranty association for administrative and claims  
6 adjusting services. Before signing any requisition, such authorized rep-  
7 resentative of the Kansas insurance guaranty association, shall file with  
8 the secretary of state a good and sufficient bond payable to the state to  
9 insure the faithful performance of such authorized representative's duty,  
10 in such sum as the mine subsidence insurance governing board requires.

11 Sec. 4. (a) The mine subsidence insurance governing board shall sub-  
12 mit to the commissioner of insurance, for the commissioner's approval, a  
13 proposed plan of operation for the economical, fair, and nondiscrimina-  
14 tory administration of the mine subsidence insurance fund under sections  
15 1 to 10 and amendments thereto. If the commissioner of insurance dis-  
16 approves the proposed plan of operation, the mine subsidence insurance  
17 governing board shall, within 15 days, submit for approval an appropri-  
18 ately revised plan of operation and if the mine subsidence insurance gov-  
19 erning board fails to do so, or if the revised plan submitted is unaccept-  
20 able, the commissioner shall promulgate a plan of operation; provided,  
21 that the commissioner shall not approve or promulgate a plan of operation  
22 until adequate financial resources have been secured for start-up costs  
23 and initial reserves for the insurance program established pursuant to  
24 sections 1 to 10 and amendments thereto.

25 (b) If amendment of the plan of operation is requested by the com-  
26 missioner or the mine subsidence insurance governing board, such gov-  
27 erning board shall submit amendments to the commissioner for approval.  
28 If such amendments are not approved by the commissioner, the govern-  
29 ing board shall, within 15 days, submit for approval an appropriately re-  
30 vised amendment. If the governing board fails to do so, or if the amend-  
31 ment is not approved by the commissioner, the commissioner shall  
32 promulgate such amendment as the commissioner finds necessary.

33 (c) The commissioner of insurance shall adopt the plan of operation  
34 and all amendments thereto in accordance with the Kansas open meetings  
35 act.

36 Sec. 5. (a) At least once each year, the commissioner of insurance  
37 shall audit the affairs of the mine subsidence insurance fund in order to  
38 ascertain its financial condition and ability to fulfill its obligations, whether  
39 the mine subsidence insurance underwriting association in managing the  
40 fund has complied with the law relating to the fund, and the equity of  
41 such association's plans and dealings with its subscribers.

42 (b) The commissioner of insurance shall ascertain the expenses in-  
43 curred in making any such audit and shall certify the amount to the mine

1 subsidence insurance governing board for payment from the fund.

2 Sec. 6. (a) Every insurer that offers basic property and homeowners  
3 insurance insuring on a direct basis a structure located in this state shall  
4 offer mine subsidence coverage provided by the Kansas mine subsidence  
5 insurance underwriting association in each policy of basic property and  
6 homeowners insurance that is delivered, issued for delivery, or renewed  
7 in this state.

8 (b) The premium charged for mine subsidence coverage shall be the  
9 same as the premium level set by the plan of operation formulated pur-  
10 suant to section 4 and amendments thereto. Any deductible shall be ex-  
11 pressed in the mine subsidence coverage form as approved by the mine  
12 subsidence insurance governing board and approved by the commissioner  
13 of insurance, but at no time shall the deductible be less than \$250 or  
14 more than \$500, and the total insured value reinsured by the association  
15 shall not exceed \$300,000. This section does not preclude any insurance  
16 company from selling insurance coverage under this section in excess of  
17 \$300,000.

18 Sec. 7. All companies authorized to write basic property insurance  
19 in this state shall enter into a reinsurance agreement with the Kansas  
20 mine subsidence insurance underwriting association in which each com-  
21 pany agrees to cede 100%, up to \$300,000, of any subsidence insurance  
22 underwritten to the association and, in consideration of the ceding com-  
23 mission retained by the company, agrees to undertake payment of taxes  
24 and all other expenses of the company necessary for sale of policies. The  
25 association shall agree to provide a claims adjusting staff and to pay from  
26 the mine subsidence insurance fund all valid policyholder claims resulting  
27 from subsidence.

28 Sec. 8. Thirty percent of all mine subsidence insurance premiums  
29 collected by each insurer for policies delivered, issued for delivery, or  
30 renewed, excluding premiums collected under such policies for mine sub-  
31 sidence insurance coverage which is not reinsured by the mine subsidence  
32 insurance underwriting association, shall be retained by the insurer as a  
33 ceding commission. The remainder of such premiums shall be remitted  
34 by the insurer to the mine subsidence insurance underwriting association.

35 Sec. 9. Every mine subsidence insurance underwriting association  
36 member shall report at times designated by the commissioner of insur-  
37 ance the amounts of mine subsidence insurance premiums collected by  
38 such member.

39 Sec. 10. Except in case of fraud by the company, the Kansas mine  
40 subsidence insurance underwriting association shall have no right of re-  
41 course against the company.

42 Sec. 11. Sections 1 through 11, shall be known and may be cited as  
43 the Kansas subsidence insurance act.

1     Sec. 12. This act shall take effect and be in force from and after its  
2     publication in the statute book.