

Fiscal Courts Approve Mine Subsidence Insurance for Letcher, Owsley, and Warren Counties

**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
Frankfort, Kentucky**

**BULLETIN
2009-04**

The following Bulletin is to advise the reader of the current position of the Kentucky Department of Insurance (the "Department") on the specified issue. The Bulletin is for informational purposes only and is not legally binding on either the Department or the reader.

TO: All Insurance Companies Issuing Property Policies in Kentucky

FROM: Sharon P. Clark, Commissioner

RE: Fiscal Courts Approve Mine Subsidence Insurance for Letcher, Owsley, and Warren Counties

DATE: September 21, 2009

Fiscal Courts Approve Mine Subsidence Insurance for Letcher, Owsley, and Warren Counties

Overview

Pursuant to KRS 304.44-020(2), insurance shall be made available through the Kentucky Mine Subsidence Insurance Fund against losses to any "structure" arising out of or due to mine subsidence within the state of Kentucky. Every insurance policy issued or renewed in this state for direct loss to a "structure," unless located in an exempt county pursuant to KRS 304.44-060, shall include a separately stated premium insuring for mine subsidence loss.

Non-exempt Kentucky counties may become qualified participants in the Kentucky Mine Subsidence Insurance Fund when the fiscal court of the county approves the availability of mine subsidence insurance.

Owsley, Letcher and Warren County Fiscal Courts Vote for Mine Subsidence Insurance

The Letcher, Owsley and Warren County Fiscal Courts have unanimously voted in favor of becoming qualified participants in the Mine Subsidence Insurance Fund. All insurance companies issuing property policies in Letcher, Owsley, and Warren County Kentucky must amend their property contracts covering "structures" to include premium and coverage for losses arising out of mine subsidence. Insureds within these counties have the option to sign a written waiver if they do not want mine subsidence coverage.

"Structure" Defined

Within the Kentucky Mine Subsidence Insurance Fund, structure means any dwelling, building, or fixture permanently affixed to realty but does not include land, trees, plants, or crops. See, KRS 304.44-010(6). "Permanently affixed" means that the structure was constructed or assembled at its present location upon a permanent foundation. Buildings designed to be mobile or portable are not considered structures regardless of foundation type.

Refusal to Provide Subsidence Coverage Permitted

Pursuant to KRS 304.44-040, an insurer may refuse to provide subsidence coverage on a structure evidencing unrepaired subsidence damage until necessary repairs are made or where the insurer has declined, nonrenewed, or cancelled all coverage under a policy for underwriting reasons unrelated to mine subsidence.

Date of Implementation

We ask that companies implement these changes no later than March 1, 2010 for both renewal policies and new business.

 /s/ Sharon P. Clark

Sharon P. Clark, Commissioner

Kentucky Department of Insurance

On this 21st day of September, 2009