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**Procedural Guide**  
(Effective 4/1/19)

## **Table of Contents**

Introduction	3
OMSIUA Statute Information	4
Plan of Operation	10
Eligibility Requirements	19
Eligible Counties and Required Premium	20
Coverage Overview	21
Effective Dates for Coverage	23
Claims Procedure	24
Offer and Application (OH-MSI-4)	25
Instructions for the Combined Offer and Application (OH-MSI-4I)	26
Offer (OH-MSI-1)	27
Application (OH-MSI-3)	28
Coverage Form (OH-MSI-2)	29
Member Company Reporting	35
Assumption Agreement	36
Exemption from Participation	39
Frequently Asked Questions (FAQ)	40
Company Contact Information	45

## Introduction

Underground mines, some of which have been abandoned for years, can be found in many parts of the state, particularly eastern Ohio. When buildings are constructed above mines, major damage to walls and foundations can occur if the mineshaft collapses.

The Ohio Legislature enacted Ohio Revised Code sections 3929.50 *et seq* in January 1985. This Act authorized the establishment of the Ohio Mine Subsidence Insurance Underwriting Association, the Mine Subsidence Governing Board and the Mine Subsidence Insurance Fund.

The Mine Subsidence Insurance Fund (MSIF) is administered by the Governing Board and the Treasurer of State is the custodian of the Fund. The Governing Board consists of the Director of Natural Resources or designee as chairperson, the Superintendent of Insurance or designee, the Treasurer of State or designee, and one (1) representative from an Ohio domiciled member company. The MSIF was initially funded with state and federal government appropriations and is currently funded from premiums for reinsurance assumed by the Mine Subsidence Insurance Underwriting Association on policies written by its members. All state funds have been fully repaid. The premium established by the Governing Board with Superintendent of Insurance approval is intended to cover all foreseeable claims, normal operating expenses, and a reserve for unexpected contingencies.

The Governing Board has contracted with the Ohio FAIR Plan Underwriting Association for administrative and claims services and has developed a Plan of Operations and the necessary forms for the implementation of this program. Mine Subsidence programs in other states were carefully studied to help develop the Ohio Mine Subsidence Insurance Underwriting Association. Ohio FAIR Plan Underwriting Association personnel are trained to handle mine subsidence claims and necessary administrative duties. The Mine Subsidence Insurance Program went into effect 10/21/87.

Insurers who write, on a direct basis, basic property or multi-peril policies for 1-4 family dwellings in the eligible counties of Ohio are required to become members of the Ohio Mine Subsidence Insurance Underwriting Association and offer this coverage to all eligible applicants.

The purpose of this guide is to provide a procedural outline for use with the mine subsidence program.

## **OMSIUA Statute Information**

### **3929.50 Mine subsidence insurance definitions.**

As used in sections 3929.50 to 3929.61 of the Revised Code:

(A) "Mine subsidence" means loss caused by the collapse or lateral or vertical movement of structures resulting from the caving in of underground mines, including coal mines, clay mines, limestone mines, and salt mines. "Mine subsidence" does not include loss caused by earthquake, landslide, volcanic eruption, or collapse of strip mines, storm and sewer drains, or rapid transit tunnels.

(B) "Structure" means any one- to four-family dwellings as defined and limited in dwelling fire, homeowners, and farm policies and other structures as described, defined, or limited in the mine subsidence insurance form.

(C) "Basic property insurance" means insurance against direct loss to property as defined and limited in dwelling fire, homeowners, and farm policies and extended coverage endorsements thereon, as approved by the superintendent of insurance, and insurance for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, or theft, as the superintendent shall designate.

(D) "Homeowners insurance" means insurance on owner-occupied dwellings providing personal multi-peril property and liability coverages commonly known as homeowners insurance.

(E) "Mine subsidence coverage" means the limits and type of coverage as defined by the mine subsidence insurance governing board in the coverage form and approved by the superintendent.

(F) "Farm insurance" means insurance providing property coverage on farm dwelling buildings.

(G) "Dwelling fire insurance" means a policy providing property coverage on residential buildings for the perils of fire and lightning and additional coverages.

Effective Date: 01-08-1985; 08-03-1992; 04-27-2005 .

### **3929.51 Mine subsidence insurance underwriting association - reinsurance - governing board.**

(A) The Ohio mine subsidence insurance underwriting association is hereby created, consisting of all insurers authorized to write and engaged in writing within the state, on a direct basis, basic property insurance or any component thereof in multi-peril policies, to operate in accordance with the plan of operation adopted pursuant to section 3929.53 of the Revised Code. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to write such insurance in this state.

(B) The association, pursuant to sections 3929.50 to 3929.61 of the Revised Code, and any plan of operation thereunder with respect to mine subsidence insurance, may assume and cede reinsurance on insurable risks written by its members.

(C) For the purpose of governing the mine subsidence insurance underwriting association, there is hereby created a mine subsidence insurance governing board consisting of the director of natural resources or the director's designee, as chairperson, the treasurer of state or the treasurer of state's designee, and one representative from member companies. The representative from member companies shall be an Ohio domiciled member, elected every three years by members of the association. All actions of the mine subsidence insurance underwriting association shall be approved by the governing board. The board may employ, compensate, and prescribe the duties and powers of such employees and consultants as are necessary to carry out sections 3929.50 to 3929.61 of the Revised Code, and is authorized to enter into a contract with the Ohio fair plan underwriting association for administrative and claims adjusting services.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 01-08-1985; 08-03-1992; 04-27-2005.

### **3929.52 Mine subsidence insurance fund.**

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

(A) The moneys in the fund shall be derived from premiums for reinsurance assumed by the mine subsidence insurance underwriting association on policies written by members of the association.

(B) Premiums on mine subsidence coverage in policies written by members of the association shall be established by the plan of operation at a rate or within a schedule of

rates sufficient to satisfy all foreseeable claims upon the fund during the period of coverage, giving due consideration to relevant loss or claim experience or trends, to cover normal costs of operation of the fund, and to provide a reasonable reserve for unexpected contingencies. No deviation shall be allowed from the premium established by the plan, but the mine subsidence insurance governing board shall periodically review the premium level and the experience data applicable to operation of the fund and, with the approval of the superintendent of insurance, make changes as required. However, the premium level for mine subsidence coverage in any policy delivered, issued for delivery, or renewed in a county designated for optional coverage by the board in accordance with division (A)(2) of section 3929.56 of the Revised Code shall not exceed an annual rate that is greater than twenty dollars, and the premium level for mine subsidence coverage in any policy delivered, issued for delivery, or renewed in a county listed in division (A)(1) of section 3929.56 of the Revised Code shall not exceed an annual rate that is greater than five dollars.

(C) Sections 3929.50 to 3929.61 of the Revised Code do not create any liability on the part of the state beyond the amounts paid into the fund and earned by the fund, nor is any liability created on the part of the mine subsidence insurance underwriting association or its members, the Ohio fair plan underwriting association, or the Ohio insurance guaranty association or its members.

(D) The treasurer of state shall be the custodian of the fund, which shall not be a part of the state treasury. All disbursements from the fund shall be paid by the treasurer of state upon requisitions signed by the chairperson of the mine subsidence insurance governing board or the chairperson's designee. The chairperson of the mine subsidence insurance governing board may designate an authorized representative of the Ohio fair plan underwriting association to sign requisitions on the fund if the mine subsidence insurance underwriting association has entered into a contract with the Ohio fair plan underwriting association for administrative and claims adjusting services. The representative, before signing any requisition, shall file with the secretary of state a good and sufficient bond payable to the state to insure the faithful performance of the representative's duty, in such sum as the board requires.

Effective Date: 01-08-1985; 08-03-1992; 04-27-2005 .

### **3929.53 Proposed plan of operation for economical, fair, and nondiscriminatory administration of mine subsidence insurance fund.**

The mine subsidence insurance governing board shall submit to the superintendent of insurance, for his approval, a proposed plan of operation for the economical, fair, and nondiscriminatory administration of the mine subsidence insurance fund under sections 3929.50 to 3929.61 of the Revised Code. If the superintendent of insurance disapproves the proposed plan of operation, the governing board shall, within fifteen days, submit for

approval an appropriately revised plan of operation and if the governing board fails to do so, or if the revised plan submitted is unacceptable, the superintendent shall promulgate a plan of operation; provided, that the superintendent shall not approve or promulgate a plan of operation until adequate financial resources have been secured for start-up costs and initial reserves for the insurance program established pursuant to sections 3929.50 to 3929.61 of the Revised Code.

If amendment of the plan of operation is requested by the superintendent or the governing board, the governing board shall submit to the superintendent, for his approval, such amendments. If such amendments are not approved by the superintendent, the governing board shall, within fifteen days, submit for approval an appropriately revised amendment. If the governing board fails to do so, or if the amendment is not approved by the superintendent, the superintendent shall promulgate such amendment as he finds necessary.

The superintendent of insurance shall adopt the plan of operation and all amendments thereto pursuant to Chapter 119. of the Revised Code.

Effective Date: 01-08-1985 .

### **3929.55 Auditor of state - annual audit of insurance fund.**

The auditor of state shall, at least once each year, audit the affairs of the mine subsidence insurance fund in order to ascertain its financial condition and ability to fulfill its obligations, whether the mine subsidence insurance underwriting association in managing the fund has complied with the law relating to the fund, and the equity of the association's plans and dealings with its subscribers.

The auditor shall ascertain the expenses incurred in making any such audit and shall certify the amount to the mine subsidence insurance governing board for payment from the fund.

Effective Date: 01-08-1985 .

### **3929.56 Mine subsidence coverage for homeowners in designated counties.**

(A)

(1) Every insurer that offers basic property and homeowners insurance insuring on a direct basis a structure located in the counties of Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull,

Tuscarawas, Vinton, and Washington shall include mine subsidence coverage provided by the Ohio mine subsidence insurance underwriting association in each policy of basic property and homeowners insurance that is delivered, issued for delivery, or renewed in any of such counties .

(2) Every insurer that offers basic property and homeowners insurance insuring on a direct basis a structure located in the counties of Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne shall offer to include, on an optional basis, mine subsidence coverage provided by the association in each policy of basic property and homeowners insurance that is delivered, issued for delivery, or renewed in any such designated county .

(B) The premium charged for mine subsidence coverage shall be the same as the premium level set by the plan of operation formulated pursuant to section 3929.53 of the Revised Code. Any deductible shall be expressed in the mine subsidence coverage form as approved by the mine subsidence insurance governing board and approved by the superintendent of insurance, but at no time shall the deductible be less than two hundred fifty dollars or more than five hundred dollars, and the total insured value reinsured by the association shall not exceed three hundred thousand dollars. This section does not preclude any insurance company from selling insurance coverage under this section in excess of three hundred thousand dollars.

Effective Date: 01-08-1985; 09-29-1995; 04-27-2005 .

### **3929.58 Reinsurance agreement with Ohio mine subsidence insurance underwriting association.**

All companies authorized to write basic property insurance in this state shall enter into a reinsurance agreement with the Ohio mine subsidence insurance underwriting association in which each company agrees to cede one hundred per cent, up to three hundred thousand dollars, of any subsidence insurance underwritten to the association and, in consideration of the ceding commission retained by the company, agrees to undertake payment of taxes and all other expenses of the company necessary for sale of policies. The association shall agree to provide a claims adjusting staff and to pay from the mine subsidence insurance fund all valid policyholder claims resulting from subsidence.

Effective Date: 01-08-1985; 04-27-2005 .

### **3929.59 Distribution of premiums collected.**

Thirty per cent of all mine subsidence insurance premiums collected by each insurer for policies delivered, issued for delivery, or renewed in a county designated for optional coverage in accordance with division (A)(2) of section 3929.56 of the Revised Code,



excluding premiums collected under such policies for mine subsidence insurance coverage which is not reinsured by the mine subsidence insurance underwriting association, shall be retained by the insurer as a ceding commission. The remainder of such premiums shall be remitted by the insurer to the mine subsidence insurance underwriting association.

Effective Date: 01-08-1985; 08-03-1992; 04-27-2005

### **3929.60 Report of amount of mine subsidence insurance premiums.**

Every mine subsidence insurance underwriting association member shall report at times designated by the superintendent of insurance the amounts of mine subsidence insurance premiums collected by such member.

### **3929.61 No right of recourse except for fraud.**

Except in case of fraud by the company, the Ohio mine subsidence insurance underwriting association shall have no right of recourse against the company.

## **Plan of Operation**

### **3901-1-48 "Ohio mine subsidence insurance underwriting association" and "mine subsidence insurance fund" plan of operation.**

#### (A) Purpose

The purpose of this rule is to implement sections 3929.50 to 3929.53 and 3929.55 to 3929.56 and 3929.58 to 3929.61 of the Revised Code which:

- (1) Establishes the "Ohio Mine Subsidence Underwriting Association,"
- (2) Provides for the transfer of risk from member insurers to the association, and
- (3) Creates the "Mine Subsidence Insurance Fund."

#### (B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under section 3901.041 of the Revised Code.

#### (C) Definitions

- (1) "Basic property insurance" means insurance against direct loss to property as defined and limited in dwelling fire, homeowners, and farm policies and extended coverage endorsements thereon, and insurance for such types, classes and locations of property against the perils of vandalism, malicious mischief, burglary or theft, as the superintendent of insurance shall designate.
- (2) "Board" means the four-member board of governors, empowered by division (C) of section 3929.51 of the Revised Code to govern the "Ohio Mine Subsidence Insurance Underwriting Association" and the "Ohio Mine Subsidence Insurance Fund."
- (3) "Homeowners insurance" means insurance on owner-occupied dwellings providing personal multi-peril property and liability coverages, commonly known as "homeowners insurance."
- (4) "Farm insurance" means insurance providing property coverage on farm dwelling buildings.
- (5) "Dwelling fire insurance" means a policy providing property coverage on residential buildings for the perils of fire and lightning and additional coverages.

(6) "Member" means all insurers authorized to write engaged in writing within the state, on a direct basis, basic property insurance or any component thereof in multi-peril and policies.

(7) "Mine subsidence" means loss caused by the collapse or lateral or vertical movement of structures resulting from the caving in of underground mines, including coal mines, clay mines, limestone mines, and salt mines. Mine subsidence does not include loss caused by earthquakes, landslide, volcanic eruption, or collapse of strip mines, storm and sewer drains or rapid transit tunnels.

(8) "Mine subsidence coverage" means the limits and type of coverage as defined by the mine subsidence insurance governing board in the coverage form and approved by the superintendent.

(9) "Mine Subsidence Insurance Underwriting Association," hereinafter referred to as "association" means the association of members formed pursuant to section 3929.51 of the Revised Code.

(10) "Mine Subsidence Insurance Fund," hereinafter referred to as "fund," means the fund formed pursuant to section 3929.52 of the Revised Code which is administered by the board for the purpose of making available insurance coverage against mine subsidence. The state treasurer is the custodian of the fund.

(11) "Plan of operation," hereinafter referred to as "plan," means the plan of operation approved by the superintendent for the economical, fair and nondiscriminatory administration of the requirements identified in sections 3929.50 to 3929.53 and 3929.55 to 3929.56 and 3929.58 to 3929.61 of the Revised Code.

(12) "Strip mines" means any surface mine.

(13) "Structure" means any one to four-family dwelling as defined and limited in dwelling fire, homeowners, and farm policies and other structures as described, defined, or limited in the mine subsidence insurance form.

(14) "Superintendent" means the superintendent of insurance of the state of Ohio.

(15) "Treasurer" means the treasurer of the state of Ohio.

(16) "Auditor" means the auditor of the state of Ohio.

(D) Board of governors

(1) The association and fund shall be administered by the board consisting of the director of natural resources or the director's designee, as chairperson, the treasurer of the state or the treasurer of state's designee, the superintendent of insurance or the superintendent's

designee, and one representative from member companies. The representative from the member companies shall be an Ohio-domiciled member of the association.

(2) The board shall approve all actions of the association, have the responsibility of administering the association and fund.

(3) The board shall meet as often as is required to perform the duties of administration, and shall meet upon the request of any single member of the board. In no event shall the board meet less than two times per year.

#### (E) Meeting of members

(1) Members shall elect their authorized representative every three years. The member company representative elected to the board shall be an Ohio-domiciled company.

(2) The members may hold meetings as needed and during any such meeting, a quorum shall consist of a simple majority of members present.

(3) Each member shall be entitled to one vote. Members in the same group of insurers shall be entitled to one vote only.

#### (F) Liability

Every policy of mine subsidence insurance written hereunder shall provide that such policy does not create any liability on the part of the member issuing such policy, the association, or any organization with which it may contract for administrative or claims services, beyond the net premium on such policies paid into the fund. Such policies shall create no liability beyond the amounts in the fund, on the part of the state of Ohio, the "Ohio Insurance Guaranty Association" and its member companies or any other person or organization.

#### (G) Notice of availability of mine subsidence insurance

(1) Every insurer that offers basic property and homeowners insurance insuring on a direct basis a structure located in the counties of Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton and Washington shall include mine subsidence coverage provided by the Ohio mine subsidence insurance underwriting association in each policy of basic property and homeowners insurance that is delivered, issued for delivery or renewed in any of such counties.

(2) The mine subsidence insurance governing board herein designates Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit and Wayne counties as counties in which mine subsidence coverage must be offered, on an optional basis, by an insurer.

(a) Every insurer that offers basic property and homeowners insurance insuring on a direct basis to a structure located in any county designated in paragraph (G)(2) of this rule shall offer to include, on an optional basis, mine subsidence coverage provided by the association in each policy of basic property insurance that is delivered, issued for delivery, or renewed in any such designated county.

(b) This offer shall contain language and be in a form approved by the superintendent which includes a description of mine subsidence coverage, a statement that the purchase of the coverage is optional, and the premium charged for the coverage.

(H) Application for coverage

A member insurer who receives a request from a named insured or applicant for mine subsidence shall forward to that named insured or applicant an application for mine subsidence coverage. Such application may be included, at the insurer's option, with the offer described in paragraph (G)(2)(a) of this rule. The form of the application shall be approved by the superintendent.

(I) Administration and claims processing

The board may retain a contractor to provide administrative and claims processing. When a contractor is retained, the board may from time to time review:

- (1) The performance of the contractor;
- (2) The procedures and standards used by the contractor for administration and claims processing; and
- (3) The application of those procedures and standards to applicants for insurance and to claims of insureds.

(J) Underwriting

(1) Mine subsidence coverage will be available on eligible property. Eligible property must be:

- (a) A structure as defined in this rule;
- (b) Covered by a valid basic property or homeowners insurance policy.

(2) The member may refuse to provide mine subsidence coverage on an otherwise eligible property where:

- (a) The structure evidences un-repaired subsidence damage; or
- (b) The structure evidences any mine subsidence damage in progress.

(3) The limit of liability for direct loss caused by mine subsidence under this plan of operation shall not exceed an amount equal to the coverage on the dwelling provided by a basic property or homeowners policy, or three hundred thousand dollars, whichever is less, and shall not exceed the amount expressed in the mine subsidence coverage form as approved by the mine subsidence insurance governing board and approved by the superintendent of insurance.

(4) All coverage provided pursuant to this plan of operation is subject to a deductible as expressed in the mine subsidence coverage form as approved by the mine subsidence insurance governing board and approved by the superintendent of insurance, but at no time shall the deductible be less than two hundred fifty dollars, or more than five hundred dollars.

#### (K) Rates and forms

(1) Rates. The board shall periodically review the premium level and experience data and recommend to the superintendent a rate or schedule of rates sufficient to satisfy:

- (a) All foreseeable claims;
- (b) Normal cost of operation; and
- (c) A reserve for unexpected contingencies.

However, the premium level for mine subsidence coverage in a county designated for optional coverage shall not exceed an annual rate that is greater than twenty dollars. The premium level for mine subsidence coverage in a county as designated in paragraph (G)(1) of this rule shall not exceed an annual rate that is greater than five dollars.

(2) Forms. The policy forms and language shall be approved by the superintendent.

#### (L) Audits

The auditor shall audit the affairs of the fund in accordance with section 3929.55 of the Revised Code at least once each year. The auditor shall ascertain the expenses incurred in making any such audit and shall certify the amount to the board for payment from the fund.

#### (M) Reporting and statistics

(1) Claim reports. Members shall, upon receipt of notice of claims from policyholder(s), confirm coverage and provide formal notice of claim to the association.

(2) Financial reports:

- (a) The fiscal period shall be the calendar year.

(b) Members reports are required quarterly and shall be due on the forty-fifth day following the close of the quarter.

(c) Members' reports shall be in forms approved by the board and shall include, at minimum:

(i) Gross written premium on a per county basis.

(ii) Premium cancelled/returned on a per county basis.

(iii) Ceding commission withheld (for optional counties only).

(d) Members reports shall be accompanied by the appropriate remittance which shall be full premium collected for mine subsidence coverage in the counties denoted in paragraph (G)(1) of this rule and the net premium (gross premium written, less ceding commission) in the counties denoted in paragraph (G)(2) of this rule less any cancellation/returns. In the event a balance is due to the insurer, that balance shall be carried forward as a credit against future written premiums. An insurer may apply for a refund only if it ceases to issue basic property or homeowner insurance coverage.

(e) Members shall report and pay premium taxes as required.

(f) The association shall review, verify and reconcile members' reports and research, and rectify any inconsistencies.

(g) The association shall remit receipts to the fund, said remittance to be supported by a summary report of premium written, cancelled/ non-renewed, net premium written and commission taken.

(3) Statistical reports. Members shall compile and file, on a quarterly basis with the financial reports, a summary report of statistics in a form approved by the board. Such reports shall, at minimum, contain:

(a) Quarter and year-to-date policy count by county and in total;

(b) Quarter and year-to-date premium written by county.

(N) "Mine Subsidence Insurance Fund"

The fund shall receive all revenues, appropriations and investment earnings pursuant to this plan of operation. Premiums collected will be considered program income in accordance with the uniform administrative requirements for grants to state and local governments and be used:

(1) To enable the fund to be self-sustaining, with the fund invested by the treasurer of state under guidelines established by the board;

(2) To provide a reserve for payment of claims for verified claims from all types of mine subsidence, including non-coal mining, post-1977 underground mines and active underground mines;

(O) Investment of custodial funds

With the approval of the board, the treasurer of state may invest any monies in the fund that are in excess of the amounts required to meet the immediate cash needs and operating expenses of the fund. The board shall not provide guidelines for the investment of excess funds that are broader or more liberal than the investment provisions for property casualty insurance companies set forth in Chapter 3925. of the Revised Code.

(P) Reinsurance agreement

(1) Every insurer authorized and engaged in writing on a direct basis any property coverages in the state of Ohio shall execute a reinsurance agreement with the association. The form of the reinsurance agreement shall be in a form approved by the board.

(2) An insurer may request exemption from the requirements of paragraph (P) of this rule by filing the exemption form with the superintendent. The exemption shall be effective after review and approved by the superintendent of insurance.

(3) Any insurer who has received an exemption shall notify the association of any change in any circumstances that would be reason to revoke the exemption.

(Q) Effective date of the plan

This plan of operation shall be effective upon the effective date of this rule.

(R) Amendments

Amendments to the plan may be requested by the board or superintendent of insurance in accordance with the provisions of section 3929.53 of the Revised Code.

(S) Meeting notice

(1) The board and each of its committees and subcommittees shall provide notice of regular, special, and emergency meetings as the same are scheduled by posting the dates, times, locations, and agendas (if applicable) on the board's official web site.

(2) The board maintains a list of individuals who have requested individual notice of each meeting. Individual notice may be given via mail, electronic mail, or facsimile.

(a) Any person who desires individual mail notice of the meetings described in paragraph (S)(1) of this rule shall make the request in writing to the board at its business address. The board may refuse to honor a request for individual mail notice unless the person



requesting such notice has first supplied the board with a self-addressed, stamped envelope for the transmission of each requested notice.

(b) Any person who desires individual electronic mail notice of the meetings described in paragraph (S)(1) of this rule shall make a request in writing to the board at its business address. The board shall maintain a list of all persons who have requested individual electronic mail notice in this manner. The board may purge the list of all entries as it deems appropriate provided, however, that the board shall first provide notice to any individual whose contact information will be purged at least thirty days in advance.

(c) Any person who desires individual facsimile mail notice of the meetings described in paragraph (S)(1) of this rule shall make a request in writing to the board at its business address. The board shall maintain a list of all persons who have requested individual facsimile notice in this manner. The board may purge the list of all entries as it deems appropriate provided, however, that the board shall first provide notice to any individual whose contact information will be purged at least thirty days in advance.

(d) The board may, at its sole option, provide for an electronic means of requesting individual electronic mail or facsimile notice of the meetings described in paragraph (S)(1) of this rule.

(3) A representative of the news media may obtain notice of all special or emergency meetings of the council, its committees or its subcommittees by requesting such in writing to the "Ohio Mine Subsidence Insurance Governing Board" at its business address.

(a) The request must provide the name of the person to be contacted, the agency whom the person represents, and shall state whether the person wishes to be notified of regular, special, or emergency meetings, or any combination thereof. Additionally, the request shall specify whether the person wishes to be notified by mail, electronic mail, or facsimile, and shall include the appropriate contact information.

(b) The board shall maintain a list of all news media representatives requesting notice of special meetings. The board may purge the list of all entries as it deems appropriate provided, however, that the board shall first provide notice to an individual whose contact information will be purged at least thirty days in advance.

(c) Notice of special meetings shall be provided to news media representatives at least twenty-four hours prior to the special meeting. Notice of emergency meetings shall be provided to news media representatives by telephone or electronic means as soon as practicable.

(4) Notice given by mail is effective upon mailing. Notice given by telephone is effective upon providing actual notice, leaving a message containing the meeting information with any individual who answers the number provided by the requestor or leaving a recorded message, or, if the board makes three unsuccessful attempts to contact the requestor

directly or to leave a voice message. Notice given by electronic means shall be complete upon transmission.

(T) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.

Five Year Review (FYR) Dates: 08/19/2016 and 08/19/2021

Promulgated Under: 119.03

Statutory Authority: 3901.041

Rule Amplifies: 3929.50 to 3929.53, 3929.55, 3929.56, 3929.58 to 3929.61

Prior Effective Dates: 7/23/1987, 1/1/1993, 12/28/1995, 7/18/2005, 9/25/2011

## **Eligibility Requirements**

In order for structures to be eligible for mine subsidence insurance these eligibility requirements must be met.

- (1) Structure must be an occupied 1-4 family dwelling. All dwellings must have at least 50% of the total living area occupied. Seasonal properties are eligible for coverage. Builders' risks are also eligible for coverage if construction/reconstruction is intended to result in the creation of a 1-4 family occupied dwelling structure.
- (2) Structures with incidental business occupancy are permitted if the occupancy does not cause the structure to use a commercial rating formula, and qualifies for homeowners or dwelling fire policies.
- (3) Structure must be located in an eligible county.
- (4) Structure must be covered by a valid basic property, homeowners, farm owners, or mobile home owners policy.
- (5) Coverage will be denied if material misrepresentation of facts or circumstances concerning mine subsidence is made and if the hazard of occupancy is increased by any means within the control and knowledge of the insured.

## **Eligible Counties and Required Premium**

### **Mandatory Counties - \$1.00 Premium**

Athens  
Belmont  
Carroll  
Columbiana  
Coshocton  
Gallia  
Guernsey  
Harrison  
Hocking  
Holmes  
Jackson  
Jefferson  
Lawrence  
Mahoning  
Meigs  
Monroe  
Morgan  
Muskingum  
Noble  
Perry  
Scioto  
Stark  
Trumbull  
Tuscarawas  
Vinton  
Washington

### **Optional Counties - \$5.00 Premium**

Delaware  
Erie  
Geauga  
Lake  
Licking  
Medina  
Ottawa  
Portage  
Preble  
Summit  
Wayne

## Coverage Overview

This section identifies the limits of liability and coverage under the Ohio Mine Subsidence Insurance Association program.

- (1) Maximum coverage permitted is the limit of coverage for the structure on the insured's current policy or \$300,000, whichever is less.
- (2) If there is more than one coverage for mine subsidence for any structure then the limit of liability is the largest limit of coverage A in a single policy or one single limit of \$300,000, whichever is less.
- (3) A 2% deductible will apply on a per occurrence basis to the mine subsidence coverage being provided. A minimum deductible of \$250 and a maximum deductible of \$500 will apply.
- (4) Coverage applies to the structure at the described location including:
  - (a) Cost of excavation or grading.
  - (b) Foundations of buildings, boilers or engines which are below the under surface of the lowest basement floor or where there is no basement, below the surface of the ground.
  - (c) Underground pilings, piers, pipes, flues and drains and/or pilings below the watermark.

This coverage may apply to private garages within the Special Limits of Liability of the Mine Subsidence Insurance Coverage Form.

This coverage may apply to sidewalks and driveways, but only if there is subsidence damage by the same occurrence to the insured structure. This coverage is applicable within the Special Limits of Liability of the Mine Subsidence Insurance Coverage Form.

- (5) Coverage does not extend to land, -trees, -crops, -plants, contents, barns, commercial, or industrial buildings.
- (6) The limit of liability for loss to the structure at the described location under the mine subsidence insurance coverage form shall not exceed the smallest of the following amounts:
  - (a) The limit of liability on the dwelling in the insurance policy to which the mine subsidence insurance coverage form attaches or \$300,000, whichever is less;
  - (b) If more than one coverage for mine subsidence insures any given structure, the limit of liability is the largest limit of coverage on a single insurance policy to which the mine subsidence insurance

coverage form attaches or one single limit of \$300,000, whichever is less;

- (c) The actual cash value of the loss if repairs will not be made to the property damaged by mine subsidence. Actual cash value is defined as replacement cost less depreciation or betterment;
- (d) The amount actually and necessarily expended in repairing or replacing the insured structure with modern building materials only if that structure's repair or replacement is made intending that the structure have the same occupancy and use;
- (e) The amount available in the Mine Subsidence Insurance Fund administered by the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association.

Special Limits of Liability apply to the coverage for driveways, sidewalks, and private garages as follows:

- (i) The total limit of liability for all sidewalks and driveways is an amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure. In no case will the limit of liability exceed the amount actually and necessarily expended by the insured in repairing or replacing any sidewalks and driveways for which the insured has the responsibility for repair or replacement.
- (ii) The total limit of liability for all private garages is an amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure. In no case will this limit of liability exceed the amount actually and necessarily expended in repairing or replacing the private garages with modern building material and payment will be made only if the repair is made intending that the building(s) be private garage(s) after repaired or replaced.

An amount of coverage of up to \$5,000 will be paid for Additional Living Expense and/or Fair Rental Value if the insured structure is not fit to live in due to a mine subsidence occurrence. Payment will be for the shortest time required for repair of the mine subsidence damage.

The total of all amounts of coverage compensable to an insured will not exceed \$300,000.

- (7) Mine subsidence policies are not subject to the valued policy law.

## **Effective Dates for Coverage**

There is a 15-day waiting period if coverage is purchased mid-term or if the coverage is not purchased at the time the policy is initially bought.

## **Claims Procedure**

The Ohio FAIR Plan Underwriting Association claims department will adjust all claims on behalf of the Ohio Mine Subsidence Insurance Underwriting Association.

**Claims should be reported through [www.ohiominesubsidence.com](http://www.ohiominesubsidence.com).**

The use of a standard ACORD or comparable loss notification form is also acceptable. Coverage must be verified by the insurance company prior to reporting the claim and this information must be noted on the ACORD form. All correspondence is to be directed to:

Ohio MSIUA Claim Department  
2500 Corporate Exchange Dr., Suite 250  
Columbus, OH 43231

If the claim requires immediate attention, contact may be made by telephone at 614-823-6008.

Claim payments are made directly by the Ohio Mine Subsidence Insurance Underwriting Association from the Mine Subsidence Insurance Fund.



## **Offer and Application for Optional Mine Subsidence Insurance Coverage**

Mine subsidence is the caving in of underground mines. If a cave-in occurs, it can cause movement or damage to the structures above it.

Dwelling structures that contain 1-4 units in Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne counties are eligible for optional Mine Subsidence Insurance coverage provided by the Ohio Mine Subsidence Insurance Underwriting Association.

This optional insurance provides coverage for damage to your dwelling when caused by mine subsidence.

The annual premium for this optional coverage is \$5.00.

Would you like this coverage?

Yes       No

~~~~~  
Applicant's Name: \_\_\_\_\_

Address of Property: \_\_\_\_\_

I understand that there is no coverage for mine subsidence damage that exists prior to the effective date of this coverage. I understand that if I add this coverage to my policy after the policy's effective date, there is a 15 day waiting period for the mine subsidence insurance coverage to be effective.

I understand that the coverage limit for mine subsidence insurance will not exceed the insurance coverage on my dwelling structure, or \$300,000, whichever is less. I understand that any person, who with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **Instructions for the Combined Offer and Application for Optional Mine Subsidence Insurance Coverage (OH-MSI-4)**

The OH-MSI-1 and OH-MSI-3 forms are not being withdrawn. The OH-MSI-4 is intended to provide more flexibility in how member companies present the offer to customers.

- 1) This form may be used in lieu of the separate OH-MSI-1 and OH-MSI-3 forms.
- 2) The format of text may be changed to accommodate your technical requirements.
- 3) The text of the application may not be changed.
- 4) If this form is presented electronically, the text of the application is required to be immediately available to the customer, but is not required to be constantly displayed (for example, it may be in a pop-up window or similar device.). The member company should be able to demonstrate that the customer had the opportunity to review the application.
- 5) If this form is presented in a paper format, the phone number and address of the Ohio Mine Subsidence Insurance Association is not to appear on the form. However, the member company's address and phone number should be on the form to assist the customer in returning it.
- 6) A signature is required if the member company requires signatures on its applications.
- 7) The OH-MSI-4 has been filed with the Ohio Department of Insurance. Member companies do not need to make any additional filings or notifications to ODI in regards to this form.

## **Offer of Mine Subsidence Insurance Coverage**

This constitutes an offer to include optional mine subsidence insurance coverage in your property insurance policy if the policy covers a one to four family dwelling structure located in one of the following Ohio counties: Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit & Wayne. Mine Subsidence insurance, provided by the Ohio Mine Subsidence Insurance Underwriting Association, provides up to \$300,000 of coverage or the amount of insurance on the dwelling, whichever is less, for property damage to the structure caused by mine subsidence. Mine subsidence is loss caused by the collapse or lateral or vertical movement of structures resulting from the caving in of underground mines. The annual premium for this coverage is \$5.00. To accept this offer you must complete an application for mine subsidence coverage and return it to your agent. You may obtain this application from your insurance agent who obtained the insurance on your home for you.

**OH-MSI-1 (7/2009)**

**OHIO MINE SUBSIDENCE INSURANCE UNDERWRITING ASSOCIATION  
APPLICATION**

---

NAME

---

ADDRESS OF PROPERTY

---

POLICY #

---

COUNTY

---

NAME OF INSURANCE COMPANY

---

NAME OF INSURANCE AGENT

I HEREBY APPLY FOR MINE SUBSIDENCE INSURANCE COVERAGE. I AGREE THAT NO COVERAGE WILL BE MADE AVAILABLE FOR MINE SUBSIDENCE DAMAGE THAT EXISTS PRIOR TO THE EFFECTIVE DATE OF THIS COVERAGE. I UNDERSTAND THAT IF I ADD THIS COVERAGE TO MY BASIC FIRE OR HOMEOWNERS POLICY AFTER THE POLICY'S EFFECTIVE DATE, THERE IS A 15 DAY WAITING PERIOD FOR THE MINE SUBSIDENCE COVERAGE TO BE EFFECTIVE.

I UNDERSTAND THAT THE COVERAGE LIMIT FOR MINE SUBSIDENCE INSURANCE WILL NOT EXCEED THE COVERAGE ON MY DWELLING STRUCTURE, OR \$300,000, WHICHEVER IS LESS. I UNDERSTAND THAT ANY PERSON, WHO WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

---

SIGNATURE

---

DATE

**THIS APPLICATION IS TO BE GIVEN TO YOUR INSURANCE AGENT**

OH-MSI-3 (7/2009)

## **OHIO MINE SUBSIDENCE INSURANCE UNDERWRITING ASSOCIATION**

### **MINE SUBSIDENCE INSURANCE COVERAGE FORM**

In consideration of an additional premium the structure at the described location per the insurance policy to which this mine subsidence insurance coverage form attaches is insured against direct loss on an occurrence basis caused by mine subsidence as herein defined and for the limit(s) of liability as stated below. This mine subsidence insurance is provided by the Mine Subsidence Insurance Fund. This endorsement creates no liability on the part of the insurance company issuing the policy to which this endorsement attaches or the Ohio Mine Subsidence Insurance Underwriting Association or its members, or the Ohio FAIR Plan Underwriting Association or the Ohio Guaranty Association or its members. Also, no liability is created on the part of the state of Ohio beyond the premiums paid into the Fund.

#### **DEFINITIONS**

1. “Mine subsidence” means lateral or vertical movement including the collapse, which results from such movement as a result of man made underground coal mines, clay mines, limestone mines and salt mines. Mine subsidence does not include loss caused by earthquake, landslide, volcanic eruption, or collapse of strip mines, any surface mines, storm and sewer drains, or rapid transit tunnels.
2. An “occurrence” is a single subsidence event or several subsidence events which are continuous.
3. A “structure” means a 1-4 family dwelling building fixed to realty but does not include the land, trees, plants, crops, sidewalks, driveways, outbuildings, detached garages, industrial, or commercial buildings.
4. “Private garages” are other structures at the described location, set apart from the dwelling structure by clear space. This includes structures connected to the dwelling structure by only a fence, utility line, or similar connection. However, these other structures may not be used in whole or in part for commercial, manufacturing, or farming purposes nor be rented by or held for rental to any person not a tenant of the dwelling structure.
5. “Sidewalks and driveways” are those that are usual to a 1-4 family dwelling structure and that are used primarily by the residents of the structure at the described location.
6. “Additional living expense” is any necessary increase in living expenses due to damage to the structure at the described location by mine subsidence which causes the structure to be unfit for habitation.
7. “Fair rental value” is the rental income lost net of non-continuing expenses if a part of the structure is damaged by mine subsidence

and that damage causes the rental structure or the rented part of the structure to be unfit for habitation.

### **PROPERTY COVERED**

This coverage applies to the structure at the described location including:

- (1) The cost of excavation or grading.
- (2) Foundations of buildings, boilers or engines which are below the under surface of the lowest basement floor or where there is no basement below the surface of the ground.
- (3) Underground pilings, piers, pipes, flues and drains and/or pilings, which are below the watermark.

This coverage may apply to private garages within the special limits of liability of the following loss payment clause of this coverage form.

This coverage may apply to sidewalks and driveways but only if there is subsidence damage by the same occurrence to the insured structure. See the special limits of liability within the following loss payment clause of this coverage form.

### **LOSS PAYMENT**

The limit of liability for loss to the structure at the described location under this coverage form shall not exceed the smallest of the following amounts:

- (1) The limit of liability on your dwelling in the insurance policy to which this mine subsidence insurance coverage form attaches or \$300,000, whichever is less;
- (2) If more than one coverage for mine subsidence insures any given structure, the limit of liability is the largest limit of coverage on a single insurance policy to which this mine subsidence insurance coverage form attaches or one single limit of \$300,000, whichever is less;
- (3) The actual cash value of the loss if repairs will not be made to the property damaged by mine subsidence. Actual cash value is defined as replacement cost less depreciation or betterment;
- (4) The amount actually and necessarily expended in repairing or replacing the insured structure with modern building materials only if that structure's repair or replacement is made intending that the structure have the same occupancy and use;
- (5) The amount available in the Mine Subsidence Insurance Fund administered by the Governing Board of the Mine Subsidence Insurance Underwriting Association.

Special limits of liability apply to the coverage for driveways, sidewalks, and private garages as follows:

- (1) The total limit of liability for all sidewalks and driveways is an amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure. In no case will this limit of liability exceed the amount actually and necessarily expended by the insured in repairing or replacing any sidewalks and driveways for which the insured has the responsibility for repair or replacement.
- (2) The total limit of liability for all private garages is an amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure. In no case will this limit of liability exceed the amount actually and necessarily expended in repairing or replacing the private garages with modern building material and payment will be made only if the repair is made intending that the building(s) be private garage(s) after repaired or replaced.

An amount of coverage of up to \$5,000 will be paid for additional living expense and/or fair rental value if the insured structure is not fit to live in due to a mine subsidence occurrence. Payment will be for the shortest time required for repair of the mine subsidence damage.

The total of all amounts of coverage compensable to an insured will not exceed \$300,000.

### **PERILS NOT INSURED AGAINST**

The mine subsidence coverage does not insure against loss caused by earthquake, landslide, volcanic eruption, or collapse of strip mines, any surface mines, storm and sewer drains or rapid transit tunnels, or other earth movement.

### **DEDUCTIBLE**

The following deductible provision applies per occurrence:

2% of the coverage available with a minimum deductible of \$250 and a maximum deductible of \$500.

### **OTHER PROVISIONS**

- (1) This coverage is provided by provisions of Ohio Revised Code 3929.50 to 3929.53 and 3929.55 to 3929.56 and 3929.58 to 3929.61 and any subsequent amendments thereof enacted by the Ohio legislature. The amounts payable under this coverage are limited to the balance in the Mine Subsidence Insurance Fund from which all claims and other expenses of administering this Fund are paid.
- (2) The coverage afforded herein shall not be subject to provisions 3929.25 commonly known as the valued policy law.
- (3) All claims authorized for payment shall be paid directly by the Mine Subsidence Insurance Fund.

- (4) This entire coverage shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.
- (5) There is no coverage for any loss occurring:
  - (a) While the hazard is increased by any means within the control or knowledge of the insured; or
  - (b) While a described building, whether intended for occupancy by owner or tenant, is vacant, or more than 50% unoccupied beyond a period of sixty consecutive days.
- (6) This coverage shall terminate when the insurance policy to which this mine subsidence insurance coverage form attaches is cancelled or non-renewed. The insured shall receive a pro-rata refund of the unearned premium provided that if the unearned premium to be refunded is less than \$3.00, it will be refunded only if the first named insured specifically requests in writing that it be returned.
- (7) If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, and if the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may payoff the mortgage debt and require an assignment thereof and the mortgage.
- (8) The insured shall give immediate written notice of any loss to the Fund through his insurance company, protect the property from further damage, put it in the best possible order, furnish an estimate of the damaged property showing in detail, the amount of loss claimed; and within sixty (60) days after the loss, unless such time is extended in writing, by the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association, the insured shall render a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any structure herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if destroyed or damaged, the insured, as often as may be reasonably required, shall exhibit to any



person designated by the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association all that remains of any property herein described, and submit to examinations under oath by any person named by the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association and subscribe the same; and, as often as may be reasonably required, shall produce for examination of all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association or its representative, and shall permit extracts and copies thereof to be made.

- (9) In case the insured and the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association shall fail to agree as to the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately the loss to each item; and failing to agree; shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association shall determine the amount of loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.
- (10) There can be no abandonment to the Ohio Mine Subsidence Insurance Fund Association of any property.
- (11) No suit or action on this coverage for the recovery of any claims shall be sustainable in any court of law or equity unless all the requirements of this coverage shall be complied with, and unless commenced within twelve months next after inception of the loss.
- (12) As part of consideration given for the coverage provided by this endorsement, the insured agrees that the Governing Board of the Ohio Mine Subsidence Insurance Underwriting Association will receive full subrogation rights to the extent of any payment made to the insured. The Board's right shall be against any party who might be legally liable for the loss as determined by the Board. These subrogation rights shall be considered both contractual and equitable and shall be self-executing at the time any payment is made by the Board through the Ohio Mine Subsidence Insurance Fund, without the necessity of any written assignment. The Board's rights of assignment, subrogation and reimbursement are primary and shall take priority over any rights held by the insured, the insured's attorney, representative or any other party to any recovery. The insured agrees that the insured will reimburse the Board for

any amounts which are later recovered from any third party, third party's insurer, or any other person, by way of settlement or in the satisfaction of any judgment of or upon any claims arising from a loss paid under this mine subsidence endorsement, irrespective of whether any such settlement or judgment may or may not provide reimbursement to the insured for all of the insured's injuries or other damages. The insured covenants to refrain from damaging, destroying or releasing the Board's right of recovery against any third party. Any breach of the conditions of this paragraph will result in the forfeiture of all rights to recover any benefits under this mine subsidence endorsement.

- (13) Nothing in this endorsement supplements, expands, increases, affects, or is affected by the coverage grants contained in the main policy to which this endorsement is affixed. The insured understands that the coverage given in this endorsement stands alone and is wholly separate and distinct from the main policy. This endorsement, therefore, shall not be construed to expand or enlarge the obligations of the company issuing the main policy for any of the coverages contained in the main policy. The language contained in the mine subsidence endorsement shall not be included by references in the body of the main policy to "other coverages" or other endorsements unless the mine subsidence endorsement is specifically named in the reference.

**OH-MSI-2 (9/2013)**

## **Member Company Reporting**

All member companies must complete statutorily-required self-audits and quarterly reporting of premium and exposure. This reporting is done at [www.ohiominesubsidence.com](http://www.ohiominesubsidence.com).

# OHIO MINE SUBSIDENCE INSURANCE UNDERWRITING ASSOCIATION

## ASSUMPTION AGREEMENT

Company: \_\_\_\_\_

NAIC # \_\_\_\_\_ Group \_\_\_\_\_

Assured: Various named insureds provided with Mine Subsidence coverage on or in connection with Mine Subsidence coverage issued or renewed on and after the date of this agreement.

Date: July 1, 2009

Amount: The "Amount" of the Reinsurance provided to Members of the Ohio Mine Subsidence Insurance Underwriting Association by the Ohio Mine Subsidence Insurance Underwriting Association is 100%, but not to exceed the compensable limits of liability per the Ohio Mine Subsidence Insurance Coverage Form, OH-MSI-2 (7/2009). Those compensable amounts for mine subsidence damage may include:

1. The Member Company's policy limit of liability for any dwelling insured by the OMSIUA Member Company's policy to which the mine subsidence insurance coverage form attaches or \$300,000, whichever is less,
2. A limit of liability for all sidewalks and driveways for an amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure. In no case will this limit of liability exceed the amount actually and necessarily expended by the insured in repairing or replacing any sidewalks and driveways for which the insured has the responsibility for repair or replacement.
3. A total limit of liability for all private garages for an amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure. In no case will this limit of liability exceed the amount actually and necessarily expended in repairing or replacing the private garages with modern building material and payment will be made only if the repair is made intending that the building(s) be private garage(s) after repaired or replaced.
4. An amount of coverage of up to \$5,000 for additional living expense and/or fair rental value if the insured structure is not fit to live in due to a mine subsidence occurrence. Payment will be for the shortest time required for repair of the mine subsidence damage.

The total of all amounts of coverage compensable to an insured will not exceed \$300,000.

These amounts are subject to the conditions, definitions, provisions, and terms of OH-MSI-2 (7/2009).

In consideration of the provisions and stipulations herein or added hereto, and of premiums ceded by the above-named insurance company, the Ohio Mine Subsidence Insurance Underwriting Association and not otherwise, does reinsure and assume from the above-named insurance company, all Ohio Mine Subsidence losses and allocated loss adjustment expense reasonably incurred, for coverages provided pursuant to the requirements of the Mine Subsidence Insurance Law, enacted as sections of the Ohio Revised Code, sections 3929.50 *et seq.*

It is understood and agreed that the Association shall pay the named insured from the Fund for claims resulting from mine subsidence; and shall pay the costs of administration incurred by the Board, to the Board.

It is further understood and agreed that the above-named insurance company shall charge and collect premium from its insureds who have Mine Subsidence Insurance in accordance with the Ohio Mine Subsidence Insurance Law, Plan of Operations, and Rates as filed and approved by the Superintendent of the Ohio Insurance Department. Such premiums will be deposited with the Ohio Mine Subsidence Insurance Underwriting Association in accordance with their directions. A 30% ceding commission may be retained by the above-named insured for Mine Subsidence coverage provided through the Ohio Mine Subsidence Insurance Underwriting Association in counties designated as "optional counties" via the Plan of Operations for the Mine Subsidence Insurance Program of Ohio.

This agreement shall remain in effect unless and until terminated by one of the following:

- 1) It may be terminated, upon written notice thereof by the above-named insurance company, accompanied by written approval of the Superintendent of the Ohio Insurance Department.
- 2) An insurer may file an exemption certificate that indicates it has no obligation to participate since it writes no basic property, homeowners, farm owners or mobile homeowners insurance to which an obligation of notice attaches.
- 3) It will terminate upon repeal of the Ohio Mine Subsidence Insurance Law; provided, however, that the obligations hereunder will continue as to any coverages provided under the Ohio Mine Subsidence Insurance Law.

Any prior reinsurance agreement shall be superseded as of the effective date of this reinsurance agreement.

Ohio Mine Subsidence Insurance Underwriting Association

By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
(Name of Insurance Company)

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**Each Member Insurer must complete, sign, and mail this Agreement to the Ohio Mine Subsidence Insurance Underwriting Association:**

**OHIO MINE SUBSIDENCE INSURANCE UNDERWRITING ASSOCIATION  
2500 Corporate Exchange Drive-Suite 250  
Columbus, Ohio 43231**

**You should make a copy of this signed document for your company's records.**

(07/2009)

**OHIO MINE SUBSIDENCE INSURANCE UNDERWRITING ASSOCIATION  
2500 CORPORATE EXCHANGE DR., SUITE 250  
COLUMBUS, OHIO 43231**

**EXEMPTION FROM PARTICIPATION**

Company: \_\_\_\_\_

NAIC # \_\_\_\_\_ Group \_\_\_\_\_

The undersigned insurer hereby states that it is exempt from participation in the activities of the Ohio Mine Subsidence Insurance Underwriting Association and shall be relieved of providing notice or distribution of Mine Subsidence coverage for Mine Subsidence losses to its policyholders because:

- ( ) The company does not write any property insurance coverages which subject it to the requirement of giving notice and providing coverage.
  
- ( ) Other: \_\_\_\_\_  
\_\_\_\_\_

The undersigned further understands that it will notify the Ohio Mine Subsidence Insurance Underwriting Association of any circumstances which would invalidate this exemption.

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Company Address

\_\_\_\_\_  
Officer

Exemption Accepted: \_\_\_\_\_

Date: \_\_\_\_\_

8/4/87  
(OH-MSI-5, 87)

## **Frequently Asked Questions (FAQ)**

**1. Can we modify coverage form numbers to meet our needs?**

You may delete the dashes and leave a blank space to accommodate your database. If this number is completely replaced by your own number, then you must file your variation with the Department of Insurance.

**2. Are builders' risk policies eligible for mine subsidence coverage?**

Yes, if the intended occupancy upon completion is a 1-4 family dwelling.

**3. Is coverage available for condominium owners under an HO-6?**

Yes, if the entire building houses 1-4 families only.

**4. Can we add our company logo or letterhead to the forms?**

Yes. If the form is printed, to assist the customer in returning the form to you, at least your address should be added.

**5. Are rules and forms going to be printed by Insurance Services Office?**

No.

**6. Can we print the eligibility notice on one side and print the application on the reverse side?**

Yes. Instead, you may wish to use the OFP-MSI-4 which combines both forms into one.

**7. Can we require the insured/applicant to provide a written "yes" or "no" response indicating their desire for or decision against purchasing mine subsidence coverage?**

Each company is obligated to notify its existing policyholders and new applicants of mine subsidence coverage availability. If you prefer to require a formal response from the insured or applicant, this is acceptable, but it is not required. Certainly, a formal response could be helpful to you should your company be called upon to prove that the offer was made.



**8.** To whom should checks be made payable when our company forwards premium with its quarterly reports?

Your company should make its check payable to: Treasurer of State - Mine Subsidence Insurance Fund.

**9.** Our company provides coverage for some 1-4 family dwellings under commercial coverage forms. Are these 1-4 family dwellings eligible for mine subsidence coverage?

Yes, as long as the property is located in an eligible county and is occupied as a 1-4 family dwelling.

**10.** Our company provides coverage under 3, 6, 9 and 12 month policies. If mine subsidence coverage is written, how much premium should be collected?

The annual premium for mine subsidence coverage is \$5.00 for optional counties and \$1.00 for mandatory counties. Therefore, the premium for an optional county on a 3 month contract would be \$1.25, on a 6 month, \$2.50, and on a 9 month, \$3.75. The premium for a mandatory county on a 3 month contract would be \$.25, on a 6 month, \$.50, and on a 9 month, \$.75.

**11.** Our company intends to mail the Notice of Mine Subsidence Insurance with every expiration notice on 1-4 family dwelling policies. Is this all right? And, if so, if an insured in an exempt county wants to buy the mine subsidence coverage, can we collect the premium and attach the coverage form to their contract?

The Notice of Mine Subsidence Coverage may be given to all insureds and prospective insureds. However, the property must be located in an eligible county for MSI coverage to be provided.

**12.** Is any variation to the Notice of Mine Subsidence Insurance, the application or the coverage form permissible?

No variation is permissible in the verbiage of any of the forms. However, your company may have the forms printed in any format.

**13.** Does the 2% deductible apply to the policy's total insured value or to the amount of coverage for mine subsidence?

The 2% deductible applies on a per occurrence basis and to the mine subsidence coverage being provided. There is a minimum deductible of \$250 and a maximum of \$500. E.g. – MSI coverage of \$12,500 or less will have a \$250 deductible, MSI coverage of \$25,000-\$300,000 will have a \$500 deductible.

**14.** Are there any buildings covered for mine subsidence damage besides the dwelling?

Yes, private garages are covered. Please refer to the Mine Subsidence Insurance Coverage Form for eligibility and limitations.

**15.** How does our company report data?

Companies report their quarterly activity on line. Please access our website at [www.ohiominesubsidence.com](http://www.ohiominesubsidence.com). To register, go to “Member Companies” and click Login/Register.

**16.** Must the companies provide the supplies of applications, coverage forms and notices of mine subsidence insurance to their agents?

Yes – the verbiage must be identical to that provided in the sample forms; these sample forms may also be duplicated by the company for distribution to agents.

**17.** What should our company do when a mine subsidence claim is presented?

The Ohio FAIR Plan Claim Department will adjust all claims on behalf of the Ohio Mine Subsidence Insurance Underwriting Association. Please report claims at [www.ohiominesubsidence.com](http://www.ohiominesubsidence.com). If the claim requires immediate attention, please contact the claims department at 614-823-6008.

**18.** My company feels it qualifies for an exemption from the Mine Subsidence Insurance Underwriting Association. To whom should we forward the Exemption From Participation Form?

The form should be completed and returned to OMSIUA at 2500 Corporate Exchange Dr., Suite 250, Columbus, OH 43231. The forms will be forwarded to the Superintendent of Insurance for approval of the exemption.

**19.** Must my company file the MSI Coverage Form with the Department of Insurance?

No, the coverage form has been approved for use by the Department of Insurance for all members of the OMSIUA.

**20.** The coverage form indicates that the OMSIUA may cancel the mine subsidence coverage. For what reason might the OMSIUA cancel the mine subsidence coverage and will my company be advised of such cancellation?

On rare occasions, the Association may give a direct Notice of Cancellation. Reasons include fraud, material misrepresentation or other appropriate reasons. If such notice is given, the company who has provided the coverage would be provided a copy of such notice. The company would then refund the unearned portion of the premium for the mine subsidence coverage and would indicate that refund as a debit to premium collected

when filing its next quarterly report. Note that a cancellation can only be issued on a property in an optional mine subsidence county.

**21.** Are vacant and/or unoccupied properties eligible for mine subsidence coverage?

No.

**22.** If my company cancels its policy and the insured requests that the mine subsidence coverage be left intact, can we allow this?

No, under the Mine Subsidence Insurance Coverage Form, the mine subsidence coverage will terminate when your company's policy terminates.

**23.** Can an insured endorse the mine subsidence coverage onto a policy mid-term?

Yes; however, there will be a 15 day waiting period for coverage being provided mid-term. Such an endorsement would only be made for properties in optional counties.

**24.** Our Company issues some basic property insurance policies on a schedule providing coverage to more than one location. Should an application for MSI be completed for each location? Should the appropriate premium be remitted for each location?

One application may be completed by the applicant indicating that the "Address of Property" is "scheduled per the attached." A schedule listing specific amounts for each location should then be attached to the application and should be retained by your company. The appropriate premium should be remitted for each of the 1-4 family dwelling properties to be insured. If the 1-4 family dwelling are in a mandatory county, the coverage would automatically be "rolled on" and premium collected for each structure.

**25.** Are condo units eligible for coverage?

1-4 family condo units used for residential purposes in mandatory and optional counties are eligible for coverage.

**26.** Are condo associations eligible for coverage?

The Ohio Revised Code states that 1-4 family buildings used for residential purposes in mandatory and optional counties are eligible for coverage.

**27.** What if my condo unit is covered but the association isn't?

In the event of a claim, covered damage will be limited to the ownership interest you have in the property. For example, if the association owns the foundation of your unit, and you own the drywall of your unit and both are damaged, there would not be coverage

for the damage to the foundation. Unit owners and associations are encouraged to review their contracts and/or bylaws.

**28. Can our company decline to provide mine subsidence insurance coverage?**

Yes, but only in an optional county. The Plan of Operations indicates that a structure may not have evidence of unrepaired subsidence damage or mine subsidence damage in progress. Also, the coverage form indicates that property which is vacant or 50% unoccupied for more than 60 consecutive days is not eligible.

**29. If our company is providing basic property insurance or tenant homeowners insurance only, can mine subsidence coverage be written with the “contents only” contract?**

No, contents coverage is not afforded by the Mine Subsidence Insurance Coverage Form, whether owner or tenant occupied.

**30. How can my company be exempt?**

A request for exemption may be started by filling out an exemption form. These are available in the OMSIUA Procedural Guide or on the OMSIUA website (<https://members.ohiofairplan.com/OMSI/OMSIHome.aspx>) under the Member Companies section. Once it is received by the OMSIUA, it will be submitted to the Ohio Department of Insurance for approval. If it is approved, the company will be marked as exempt in the OMSUA system and a copy of the approved exemption will be sent to the company. Unless approved, quarterly reports are required by state law.

**31. How can I get my new company setup with the OMSIUA?**

Once a company has been licensed by the Ohio Department of Insurance, the OMSIUA will send a letter to the company outlining anything that is needed.

**32. When are you sending the email for the self-audit?**

The email for the self-audit will be sent out in the beginning of the 2<sup>nd</sup> quarter. A company only has to submit a self-audit once every three years. If a self-audit is needed that year, an email will be sent outlining all due dates for the acknowledgement and the audit.

# Ohio Mine Subsidence Insurance Underwriting Association

## Company Contact Information

Company Name \_\_\_\_\_

\*Contact Person for Reporting Purposes \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Email \_\_\_\_\_

\*Contact Person for Mailings/Bulletins/Changes \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Email \_\_\_\_\_

\*Additional Contact Person \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Email \_\_\_\_\_

Please Return To: Ohio Mine Subsidence Insurance Underwriting Association  
2500 Corporate Exchange Dr., Suite 250  
Columbus, OH 43231  
Fax : 614-839-1467

\* OMSIUA recognizes that companies have different individuals handling different aspects of the Ohio Mine Subsidence Insurance Program. Please provide the appropriate names and addresses for Statistical Reporting, for MSI Program Changes (eg, changes to premium, mandatory or optional counties, coverages, deductibles, etc.), and for any other individual wanting to be apprised of any changes to or inquiries from OMSIUA. Note that we will send all mailings to all individuals shown on this form.