

AFTER  
MINE  
SUBSIDENCE  
DAMAGE IS  
CONFIRMED

- What Damages to Expect
- Making Temporary Repairs
  - Insurance Payments
  - Selling Your Home

## OVERVIEW

This information is intended for the owner of property that is being damaged by an active mine subsidence event. Since the Fund has determined that mine subsidence is the cause of damage to your home, your insurance company has been notified. Unfortunately, most occurrences of mine subsidence continue for many years, some longer than 20, and final repairs are not recommended until after damaging movement has ceased. During that time, you may need to make temporary repairs, or possibly request an advance against the estimated cost of full repairs, or perhaps even decide to sell your home. While most communications will be with the designated insurance adjuster and your insurance company, this information provides a summary of important considerations in dealing with a mine subsidence insurance claim. With your continued permission, the Illinois Mine Subsidence Insurance Fund will re-survey your property annually, and advise your insurance company when damaging ground movement has ceased.

## WHAT DAMAGES TO EXPECT

Rock and soil movement caused by mine subsidence often progresses very slowly. Damages may appear suddenly at first, and then continue to occur gradually over many years. Cracks may open in basement floors, then widen or grow. Concrete or brick foundation walls may bulge or crack. The chimney, porch, or steps may tilt in opposite directions, or even separate from the house. Unlike windstorm or other more common property losses, the most severe mine subsidence damages are to the foundation or the lowest level of the structure.

In extremely rare instances, mine subsidence may create conditions that may be viewed as emergency or life threatening in nature. If any life threatening conditions do arise, you may get immediate assistance from the Abandoned Mine Lands Reclamation Division (AMLRD) of the Illinois Department of Natural Resources. During normal business hours, you can reach the AMLRD at 618-650-3197 (Edwardsville) or 217-782-0588 (Springfield). After business hours, contact the Illinois Emergency Management Agency at 800-782-7860. If utility lines are affected, call the emergency numbers of your local gas or electric company. If you are billed for any of these services, such as installation of flexible utility connections, save the receipts and contact your designated insurance adjuster.

## MAKING TEMPORARY REPAIRS

Much more common is the need for temporary (non-emergency) repairs to keep your home as safe and livable as possible. Temporary repairs such as adjustments to allow doors and windows to function properly, and sealing cracks or other openings should be discussed with your designated adjuster. Again, retain documentation of expenses for these repairs, and seek reimbursement through your designated insurance adjuster.



IT IS COMMON TO NEED TEMPORARY  
(NON-EMERGENCY) REPAIRS TO KEEP YOUR  
HOME AS SAFE AND LIVABLE AS POSSIBLE.

## ADVANCE PAYMENTS

Because it is impossible to know the full extent of damage until ground movement ceases, a final claim settlement for all damage cannot be made until the mine subsidence occurrence has ended. However, this does not mean that you must wait to receive payment for damage that has already occurred. You may request an advance payment one year after the original date of loss, providing the mine subsidence geotechnical investigation has confirmed the cause of loss. To do so, contact your designated adjuster. With the approval of your insurance company, the adjuster will prepare an estimate of cost to repair the damages that have occurred to date. Because permanent repairs should not be made while movement is continuing, you may want to save or invest this money for future repairs.

It is important to remember that both the advance payment, as well as the cost of any temporary repairs, reduce the mine subsidence coverage limit remaining. In other words, both the advance payment and payments for temporary repairs will be counted with the final adjustment amount and compared to the mine subsidence coverage limit.

## PERMANENT REPAIRS SHOULD NOT BE MADE WHILE MOVEMENT IS CONTINUING

## FINAL SETTLEMENT PAYMENT

When the Fund's annual re-survey indicates damaging ground movement has ceased, the designated adjuster will make a final estimate of complete repair costs. To assure stability and integrity of the building, the repair of many structures requires extensive foundation renovation, and, in some cases, replacement of the entire foundation. To accomplish this, the home is raised off its foundation, and held in place by jacks or other supports. The damaged foundation is cleared away, and a new one installed. The home is then re-set on the new foundation and leveled. This is an expensive process, but with the foundation of the home compromised by mine subsidence damage, cosmetic repairs are not enough.

Failure to make full repairs to the structure once the mine subsidence occurrence has ended could result in your insurance company, or any subsequent insurer's refusal to provide mine subsidence coverage for future events. The statute allows any insurer to refuse to provide mine subsidence coverage on any property with unrepaired mine subsidence damage until such damage is repaired. Unrepaired damage could result in non-renewal of your homeowner's policy or a denial of coverage if you, or a subsequent owner, applies to a different insurance company.

## MAXIMUM AMOUNT PAYABLE

The Loss Settlement provisions of your insurance policy explain how the policy will respond for a covered property loss. The maximum amount payable for a mine subsidence occurrence may also be affected by the terms of the Mine Subsidence Endorsement. Although policy language may vary by company, Mine Subsidence Coverage endorsements frequently include statements similar to the following:

*a. The amount of insurance shall be limited to the amount of insurance in force at the time when the damage first becomes reasonably observable.*

In most instances this means your loss recovery is limited to the amount of insurance in force when damage was first observed (most often this becomes the date of loss). If you sell your property before the mine subsidence occurrence ceases, the new owner may purchase insurance and pay premium for mine subsidence coverage. However, his recovery will be subject to the limit on your policy on the date of loss, less any amount already paid to you (see Assignment of Claims Rights below). This is a very important reason to provide complete disclosure during the real estate sale process.

In rare instances, the geotechnical investigation has proved that the time when the damage first became reasonably observable actually preceded the time when the damage was first observed and reported by the policyholder. In those few situations, the earlier date becomes the date of loss, and recovery is limited to the amount of mine subsidence insurance in force (if any) on that date.

*b. All damage caused by a single mine subsidence event or several subsidence events which are continuous shall constitute one occurrence.*

This means the limit of coverage cannot be increased while the mine subsidence is continuing. To avoid paying mine subsidence premium for successive years on values that may increase annually, you may wish to ask your insurance company to delete mine subsidence coverage, or waive the mine subsidence premium until the mine subsidence occurrence ends. With your ongoing permission, the Fund will continue to survey your property annually, and will advise your insurance company when damaging ground movement has ended. At that time, you may wish to add mine subsidence coverage back onto your policy.

WITH YOUR ONGOING PERMISSION, THE FUND WILL  
CONTINUE TO SURVEY YOUR PROPERTY ANNUALLY,  
AND WILL ADVISE YOUR INSURANCE COMPANY WHEN  
DAMAGING GROUND MOVEMENT HAS ENDED.

*c. The limit of liability under this coverage will be the amount of coverage shown for the structure (or dwelling) on the Declarations, or the statutory maximum limit for mine subsidence insurance, whichever is lower.*

This means the limit for a mine subsidence loss may be lower than the policy limit for other types of property loss such as fire or windstorm. Over the years, the statutory maximum limit for mine subsidence has increased several times. Ask your designated adjuster for the statutory maximum limit on your date of loss. Compare it to the limit of liability on the declarations page of your policy, and the lower of the two will apply.

OVER THE YEARS, THE STATUTORY MAXIMUM LIMIT FOR MINE SUBSIDENCE HAS INCREASED SEVERAL TIMES. ASK YOUR DESIGNATED ADJUSTER FOR THE STATUTORY MAXIMUM LIMIT ON YOUR DATE OF LOSS.

## SELLING YOUR HOME

### Disclosure Laws

Should you decide to sell your home before the mine subsidence occurrence is over, you will be required to disclose that the home has been damaged by mine subsidence. There are two statutes in Illinois that pertain to disclosure when selling residential property. The first, the Residential Real Property Disclosure Act (765ILCS 77/Art.2), states:

*Sec. 25 (b) The seller shall disclose material defects of which the seller has actual knowledge.*

The statute defines “material defects” as a condition that would have a substantial adverse effect on the value of the residential real property or that would significantly impair the health or safety of future occupants of the property unless the seller reasonably believes that the condition has been corrected.

If you have received confirmation from the Fund or your insurance company that your property is being damaged by mine subsidence, or if you purchased the property having knowledge of previous mine subsidence damage, you are required to disclose that information to prospective buyers.

The second disclosure law is contained in the Mine Subsidence Disclosure Act (765 ILCS 95/) which states:

*Sec.3 (a) At the time an agreement to transfer real property is made, the transferor shall disclose in writing to the transferee and lender all insurance claims paid to the transferor for mine subsidence on the real property.*

If you have received payment from your insurance company for temporary repairs, an advance payment, or a final settlement payment, you must disclose this information to the buyer.

### Assignment of Claim Rights

Should you decide to sell your home before the mine subsidence has ended, you may be asked to execute an Assignment of Claim Rights (sample below) for the buyer. This is a legal document and should be drawn by an attorney. If, at the time of sale, you have not received any insurance payments for mine subsidence damage, the Assignment transfers your rights regarding the covered loss to the buyer. If you have received some payment, not exceeding the mine subsidence coverage limit, the Assignment allows the buyer to receive future payments, if any, to compensate for additional loss that may be due. However, the total amount payable per occurrence to both seller and buyer is subject to the limit on the insurance policy in effect on the date of loss.

<b>ASSIGNMENT OF CLAIM RIGHTS</b>	
<p><i>John A. and Jane B. Doe, of Falling, Illinois, ("Assignors") hereby assign to George C. and Mary D. Smith ("Assignees") all claims for damages and rights thereunder payable by Protector Insurance Company upon Policy Number: 12345678, Claim Number: 111-222-333 related to mine subsidence beginning on or about June, 2003 upon those premises described at:</i></p>	
<p>Lot No. 44 of "First addition to Mitchell Place Subdivision, a subdivision of part of lot 4 of the northeast quarter of section 12, T. 1 N. 9 W. 3 P.M. St Anne County, Illinois in Book of Plats "54" on page 52.</p>	
<p>Commonly known as <i>123 Eileen Place, Falling, Illinois 99999</i>, together with all sums of money due or to become due upon said policy and claim in connection with mine subsidence damage to said property. Assignors hereby authorize <i>Protector Insurance Company</i> to deal exclusively with Assignees and Assignors shall be omitted from any future documents related to said claims including claim drafts, etc.</p>	
<p>All rights of the Assignees hereunder shall inure to their benefit and to the benefit of their legal representatives and assigns.</p>	
<p>In witness whereof, the Assignors have signed and sealed this instrument on the dates indicated hereinbelow.</p>	
Dated: _____	Sellers _____
Dated: _____	Buyers _____

**FOR A QUICK SUMMARY OF IMPORTANT DATES,  
INSURANCE COVERAGE, AND PAYMENT AMOUNTS,  
KEEP THIS INFORMATION CURRENT:**

1. Date mine subsidence damage was first observed, often referred to as the date of loss.

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2. Name of insurance company and Coverage A Limit of Liability on the date of loss.

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3. Mine Subsidence statutory maximum limit on date of loss.  
Ask your designated adjuster.

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4. Date mine subsidence was confirmed as cause of loss.

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5. Temporary Repair Payment – Date and amount

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6. Advance Payment – Date and amount – You may request an advance after mine subsidence is confirmed and one year after date of loss.

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7. Final Settlement Payment — Date and amount

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8. Full Repairs Completed – Date and total cost

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9. Notes:

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Please contact your Designated Adjuster for information relating to your claim. Your Designated Adjuster is:

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For more information on this topic, not related to a specific claim, contact:

**Kathleen A. Moran, Industry and Public Relations**

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(800) 433-6743 ext. 261

Fax (312) 819-0065

Illinois Mine Subsidence Insurance Fund

130 East Randolph Drive, Suite 1130


Chicago, Illinois 60601

## THE FUND AS REINSURER

The Illinois Mine Subsidence statute requires all Illinois Class 3 property insurers to make mine subsidence coverage available. The Fund is not a Class 3 property insurer. The Fund provides reinsurance for the property insurers who pay mine subsidence losses.

As a reinsurer, the Fund has a contractual relationship with the primary insurers, not with the consumers who purchase mine subsidence coverage. This is a very important distinction, particularly with respect to the handling of mine subsidence claims.

Once the Fund has determined whether or not a property has been damaged by mine subsidence, the primary insurance company is responsible for administering and supervising the claim in its entirety. The primary insurer may request the Fund to provide technical assistance to identify methods of repairing the damaged property, and to estimate the cost of those repairs. When requested, the Fund provides those services to the primary insurer. The primary insurer may accept, modify or reject the results of that technical assistance. The primary insurer controls the claim valuation and settlement process.





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