Buying or Selling

REAL PROPERTY IN UNDERMINED AREAS OF ILLINOIS

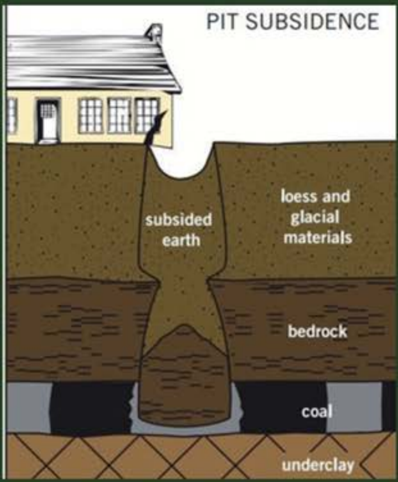
IMSIF
ILLINOIS MINE
SUBSIDENCE
INSURANCE FUND

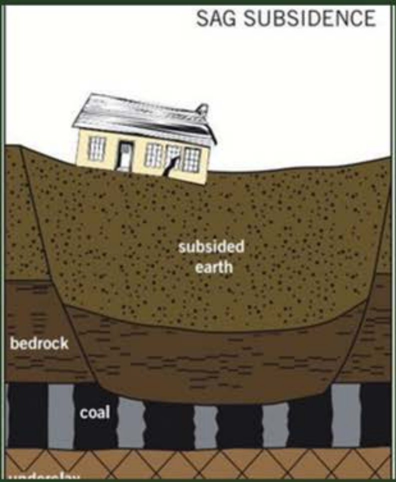
This information is intended to guide both buyers and sellers of real property located in areas susceptible to mine subsidence in Illinois. In addition to a brief explanation of mine subsidence, it provides an overview of insurance available, detailed information on disclosures required by law, and an explanation of insurance claim rights.

All this and more can be found at: WWW.IMSIF.COM

WHAT IS MINE SUBSIDENCE?

Mine subsidence is defined as lateral or vertical ground movement caused by a failure initiated at the mine level that can directly damage structures. Simply stated, when a mine roof or pillar of a subsurface mine collapses, it causes the ground above to sink or subside. A property does not need to be located directly over a mine to be affected by mine subsidence. Each subsidence event is unique, and the range of ground movement is influenced by many factors. If a structure is in close proximity to underground mining operations, it may be susceptible to damage by mine subsidence.



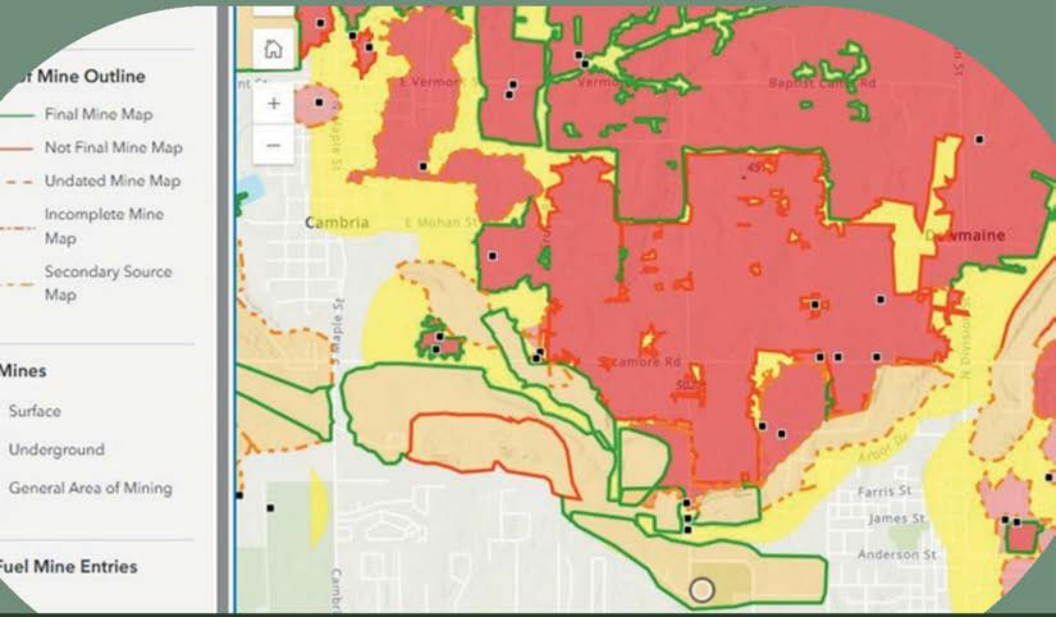


IS MY PROPERTY UNDERMINED?

The Illinois State Geological Survey (ISGS) estimates that over 323,500 acres of urban land and 360,100 homes in Illinois may sit directly above or in close proximity to underground coal mines. ISGS maintains the state's largest collection of historical coal mine maps. Although experts constantly update the oldest records with new data, these maps are the most reliable tool available to determine if a specific property is undermined.

Property owners may verify whether their building is located in a known coal-undermined area by entering the property address on the ISGS website:

http://www.isgs.illinois.edu/ilmines



TRANSFERRING PROPERTY DURING AN ONGOING MINE SUBSIDENCE CLAIM

Mine subsidence in Illinois is prevalent, and a mine subsidence event can last over a decade. Oftentimes, real property is purchased or sold in the middle of an event. Many factors determine what information needs to be disclosed as well as what additional paperwork may be warranted. Due to the extended nature of a typical mine subsidence event and the potentially serious damage that an affected property may experience, it is strongly encouraged that an attorney assists in navigating the appropriate paperwork for the sale or purchase process.

Considerations during this process include:

1. Has the property experienced mine subsidence damage?
2. Is there an open/active claim on the property?
3. Is the seller willing to transfer the claim rights?

To Note:
Some municipalities provide property tax relief on homes that sustain mine subsidence damage. Consult with your local tax assessor's office to determine if this is applicable to you.

DISCLOSURE LAWS

There are two statutes in Illinois that pertain to disclosure during the sale of residential property with confirmed or suspected mine subsidence damage. Both the seller and buyer should be aware of these requirements and discuss any mine subsidence-related disclosure in detail:

Residential Real Property Disclosure Act (765 ILCS 77/Art.2), states:

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

- The Act requires completion of the Residential Real Property Disclosure Report, found in 765ILCS 77/35, which consists of questions pertaining to material defects in the property, with question 18 specifically addressing mine subsidence.

- The statute defines "material defect" 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 residential real property unless the seller reasonably believes that the condition has been corrected.

- If the seller believes they have actual knowledge of past or present mine subsidence damage to the property, the seller should consult with an attorney about their obligation to disclose that information to prospective buyers.

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 the seller has received payment from their insurance company on a mine subsidence claim, whether for temporary repairs, an advance payment, or a final settlement payment, the seller is obligated to disclose this information to the buyer and the buyer's lender.

Since an insurer may decline to provide mine subsidence coverage for a structure with unrepaired mine subsidence damage, the buyer may also wish to request the following from the seller:

1. Letter from insurance company stating damaging ground movement has ended.
2. Insurance company estimate of repair costs.
3. Paid bills documenting repairs have been fully completed.

ASSIGNMENT OF CLAIM RIGHTS

The Assignment of Claim Rights entitles the buyer to any future loss payments on an open claim. It is often a necessary component of the real estate transaction when a home is being affected by active mine subsidence. In the event that the policy limits have been fully exhausted, or the total amount of damages has previously been disbursed to the seller, the buyer shall not be entitled to receive any further compensation.

All insurance companies involved should be notified and approve of any Assignment of Claim Rights before execution.

ASSIGNMENT OF CLAIM RIGHTS
(SAMPLE ONLY)

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:

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.

Commonly known as 123 Eileen Place ,Falling, Illinois 99999.

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 Protector Insurance Company to deal exclusively with Assignees and Assignors shall
be omitted from any future documents related to said claims including claim drafts, etc. This Assignment does not apply to any payments made by Protector Insurance Company to Assignors prior to execution of this Assignment of Claim Rights.

All rights of the Assignees hereunder shall inure to their benefit and to the benefit of their legal representatives and assigns.

In witness whereof, the Assignors have signed and sealed this instrument on the dates indicated hereinbelow.

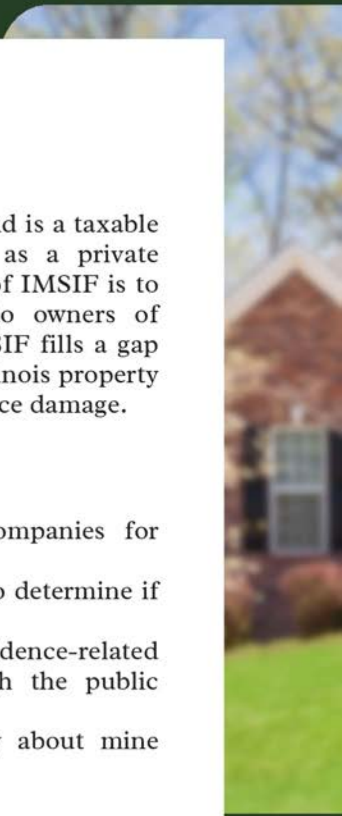
Dated:_______________ Sellers_______________
Dated: _______________ Buyers: _______________

The above is a sample to be used for reference only. Each real estate transaction is unique, and the Assignment of Claim Rights should be completed by a legal professional to ensure all aspects of your transaction are addressed.

ABOUT IMSIF

Prior to 1979, insurance coverage for loss resulting from mine subsidence was not readily available in Illinois. Through an Act of the Illinois General Assembly, all property Insurers licensed in Illinois are required to offer mine subsidence coverage. The statute (215 ILCS 5/801.1) also created the Illinois Mine Subsidence Insurance Fund to provide reinsurance for primary insurance companies offering the coverage.

IMSIF is governed by an eleven-member Board of Directors comprised of insurance industry-elected and publicly appointed directors. The Illinois Department of Insurance provides regulatory oversight.



MISSION STATEMENT

The Illinois Mine Subsidence Insurance Fund is a taxable enterprise created by Statute to operate as a private solution to a public problem. The purpose of IMSIF is to assure financial resources are available to owners of property damaged by mine subsidence. IMSIF fills a gap in the insurance market for the benefit of Illinois property owners at risk of experiencing mine subsidence damage.

IMSIF does this by:

- providing reinsurance to insurance companies for damage caused by mine subsidence,
- conducting geotechnical investigations to determine if mine subsidence caused the damage,
- supporting and sponsoring mine subsidence-related research and initiatives consistent with the public interest, and
- educating the public and the industry about mine subsidence and related issues.

Discover more on this topic and others at:
WWW.IMSIF.COM

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

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