DEPARTMENT OF INSURANCE

June 22, 2015
Bulletin 217
Mine Subsidence Insurance

This bulletin is directed to all insurance companies writing property and casualty insurance, Class 3(a) under IC 27-1-5-1, in the state of Indiana. Indiana law requires that mine subsidence insurance be made available to Hoosiers under certain circumstances, and recently enacted legislation means limits of coverage will soon change. Bulletin 209 is withdrawn and replaced by this bulletin.

Pursuant to IC 27-7-9-8, Indiana Mine Subsidence coverage must be offered to all prospective policyholders and insureds in eligible counties, both at policy inception and at renewal. An offer of coverage for mine subsidence insurance is currently required in 26 Indiana counties located at least partially in the Illinois Coal Basin, identified by the Department of Natural Resources, and listed on the Department of Insurance website. Companies must offer mine subsidence coverage to certain types of property located in any of those counties, regardless of where the insurance sale takes place. However, upon renewal, the Department does not consider an offer of coverage to require written notice in mailings. Nevertheless, if an insured requests mine subsidence coverage at renewal, it must be provided.

Coverage is available up to $500,000 per structure insured, with a deductible of 2%, with a minimum deductible of $250 and a maximum deductible of $500. Mine subsidence coverage limits should reflect the limit provided in the property policy for each structure – or the actual cash value of a structure if its limit in the property policy is stated as a percentage – up to the statutory maximum. Premium rates for mine subsidence coverage can be found on the Department of Insurance website and must be stated separately from the premium for other coverage provided by the policy. The Department of Insurance does not prescribe a form for evidencing an offer of mine subsidence insurance coverage; however, companies should note that an ACORD form is available if a company chooses not to develop its own form. Although the statute does not expressly require a written declination of coverage, the Department of Insurance notes that best practices would include retention of a written declination.

Insurers writing mine subsidence coverage must enter into a written reinsurance agreement with the Department. With the increase in available coverage, each insurer must execute a new reinsurance agreement. The form of the new agreement is available at the Mine Subsidence page of the Department's website, http://www.in.gov/idoi/2575.htm. Insurers who write mine subsidence coverage must return an executed agreement to the Department on or before June 30, 2015.

Additionally, insurers writing mine subsidence coverage must submit quarterly reports of ceded coverage to the Department. Beginning with the report for the fourth quarter of 2015 (due February 15, 2016), the format will include additional information. Electronic forms and instructions are available at the Mine Subsidence page of the Department's website, http://www.in.gov/idoi/2575.htm. Insurers are reminded that these reports must be submitted electronically.

Insurers writing mine subsidence coverage must also submit semiannual reports of losses paid, including the policy number and the location of the structure for which a loss was paid. These reports should be sent electronically, in the format provided on the Mine Subsidence page of the Department's website, http://www.in.gov/idoi/2575.htm, beginning with a report for the third and fourth quarters of 2015 (due February 15, 2016).

An insurer must decline coverage on any structure evidencing ongoing or unrepaired mine subsidence damage. Coverage may be issued once preexisting damage has been repaired, so long as there is no ongoing subsidence event. An insurer is not required to do any extraordinary or technical underwriting investigation for mine subsidence; however, the Department of Insurance expects insurers to use all reasonable and customary underwriting practices. The Mine Subsidence Fund will not reimburse an insurer for damage to a structure if the damage or mine subsidence event predated the effective date of the coverage.

When a claim is made, insurers are expected to provide an initial adjustment of all losses until such time as it appears that mine subsidence may be present. The Department of Insurance will not provide technical assistance for claims adjusting until the insurer has undertaken all reasonable and customary adjusting and the company has reason to believe there has been mine subsidence.

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INDIANA DEPARTMENT OF INSURANCE
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