

**PROGRAM DIVISION
BULLETIN**

2005-51

September 20, 2005

**IMPORTANT NOTICE REGARDING
PROPERTY INSURANCE IN OKLAHOMA**

Oklahoma has created the Oklahoma Mine Subsidence Insurance Act, which requires insurers to offer mine subsidence insurance beginning January 1, 2006. A copy of Senate Bill 321 follows for your information. If you are writing Commercial Property insurance (on an admitted basis) in Oklahoma, you will need to offer mine subsidence coverage.

If you have any questions regarding this notice, please contact your Program Manager.

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LEXINGTON INSURANCE COMPANY

PROGRAM DIVISION

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3 Senate Bill No. 321

4 SENATE BILL NO. 321 - By: LERBLANCE of the Senate and MASS of the
5 House.

6 An Act relating to insurance; creating the Oklahoma
7 Subsidence Insurance Act; providing short title; stating
8 purpose; defining terms; requiring that certain insurance
9 coverage be offered; providing for exemptions; authorizing
10 certain additional coverage; authorizing the insurer to
11 refuse coverage in certain circumstances; providing for
12 right of subrogation; providing for codification; and
13 providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 999.1 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 Sections 1 through 7 of this act shall constitute Article 9C of
19 the Insurance Code and shall be known and may be cited as the
20 "Oklahoma Subsidence Insurance Act".

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 999.2 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

24 The purpose of the Oklahoma Subsidence Insurance Act is to make
25 mine subsidence insurance coverage available for residences, living
26 units and commercial buildings located in this state.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 999.3 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Subsidence Insurance Act:

5 1. "Commercial building" means any building, other than a
6 residence or living unit, permanently affixed to realty located in
7 this state, including basements, footings, foundations, septic
8 systems and underground pipes directly servicing the building, but
9 does not include sidewalks, driveways, parking lots, swimming pools,
10 patios, pilings, piers, wharves, docks, retaining walls, fences,
11 land, trees, plants, crops or agricultural field drainage tile;

12 2. "Commercial coverage" means mine subsidence insurance for a
13 commercial building;

14 3. "Insurer" or "insurers" means insurance companies and
15 reciprocals licensed and authorized to write homeowner's insurance
16 and commercial property insurance policies in this state;

17 4. "Living unit" means the physical portion designated for
18 separate ownership or occupancy for residential purposes, of a
19 building or group of buildings, permanently affixed to realty
20 located in this state, having elements which are owned or used in
21 common, including an apartment unit, a condominium unit, a
22 cooperative unit or any other similar unit, including appurtenant
23 structures, basements, footings, foundations, septic systems and

1 underground pipes directly servicing the dwelling or building, but
2 does not include swimming pools, patios, pilings, wharves, docks,
3 retaining walls, fences, sidewalks, driveways, land, trees, plants,
4 crops or agricultural field drainage tile;

5 5. "Living unit coverage" means mine subsidence insurance for a
6 living unit;

7 6. "Mine subsidence" means lateral or vertical ground movement
8 caused by a failure initiated at the mine level, of man-made
9 underground mines, including, but not limited to, coal mines, clay
10 mines, lead and zinc mines, limestone mines, and fluorspar mines
11 that directly damage residences or commercial buildings. "Mine
12 subsidence" does not include lateral or vertical ground movement
13 caused by earthquake, landslide, volcanic eruption, soil conditions,
14 soil erosion, soil freezing and thawing, improperly compacted soil,
15 construction defects, roots of trees and shrubs or collapse of storm
16 and sewer drains and rapid transit tunnels;

17 7. "Policy" or "policies" means any contract or contracts of
18 insurance providing the coverage of the Standard Fire Policy and
19 Extended Coverage Endorsement on any residence, living unit or
20 commercial building. It does not include those insurance contracts
21 that are referred to as marine or inland marine policies;

22 8. "Residence" means a building used principally for
23 residential purposes up to and including a four-family dwelling,

1 permanently affixed to realty located in Oklahoma, including
2 appurtenant structures, basements, footings, foundations, septic
3 systems and underground pipes directly servicing the dwelling or
4 building, but does not include living units, swimming pools, patios,
5 pilings, wharves, docks, retaining walls, fences, sidewalks,
6 driveways, land, trees, plants, crops or agricultural field drainage
7 tile; and

8 9. "Residential coverage" means mine subsidence insurance for a
9 residence.

10 SECTION 4. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 999.4 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Beginning January 1, 2006, every insurer, as defined by
14 Section 2 of this act, may offer mine subsidence coverage, upon the
15 request by the policy holder, on policies, as defined by Section 2
16 of this act, issued or renewed, insuring residences, living units
17 and commercial buildings.

18 B. The Insurance Commissioner may exempt policies insuring
19 residences, living units or commercial buildings located in any
20 specified county of this state from the provisions of this section
21 if the Commissioner determines that such coverage is not necessary
22 for a specified county.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 999.5 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 The residential coverage provided pursuant to the Oklahoma
5 Subsidence Insurance Act may also cover the additional living
6 expenses reasonably and necessarily incurred by the owner of a
7 residence who has been temporarily displaced as the direct result of
8 damage to the residence caused by mine subsidence if the underlying
9 policy also covers this type of loss; provided, however, that the
10 loss covered under living unit coverage shall be limited to losses
11 to improvements and betterments, and reimbursement of additional
12 living expenses and assessments made against the insured on account
13 of mine subsidence loss.

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 999.6 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 An insurer may refuse to provide mine subsidence coverage on a
18 residence, living unit or commercial building evidencing unrepaired
19 mine subsidence damage until such damage has been repaired.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 999.7 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

1 All insurers issuing mine subsidence policies shall retain the
2 right of subrogation.

3 SECTION 8. This act shall become effective January 1, 2006.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-7-05 -
5 DO PASS, As Coauthored.