

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.