



General Assembly

January Session, 2019

***Raised Bill No. 7179***

LCO No. 4397



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

***AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2019*) (a) For the purposes of this  
2 section:

3 (1) "Applicant" means a person that files an application with the  
4 commissioner pursuant to subdivision (1) of subsection (c) of this  
5 section;

6 (2) "Captive insurance company" means the captive insurance  
7 company established pursuant to section 38a-91vv of the general  
8 statutes, as amended by this act;

9 (3) "Commissioner" means the Commissioner of Housing; and

10 (4) "Person" means an individual, corporation, partnership, limited  
11 liability company, association, joint stock company, business trust,  
12 unincorporated organization or other legal entity.

13 (b) The commissioner shall establish, within available

14 appropriations, a grant program to support the development of  
15 methods and technologies that reduce, by an amount that is not less  
16 than one hundred thirty-five thousand dollars, the average cost of  
17 repairing or replacing concrete foundations in this state that have  
18 deteriorated due to the presence of pyrrhotite. For the purposes of this  
19 section, the General Assembly finds and declares that the average cost  
20 of repairing or replacing such a foundation is one hundred seventy-  
21 five thousand dollars.

22 (c) (1) Each person that develops a method or technology described  
23 in subsection (b) of this section and wishes to receive a grant under this  
24 section shall file an application with the commissioner that includes:

25 (A) Such person's name and address;

26 (B) A description of such method or technology;

27 (C) Information sufficient to demonstrate, to the satisfaction of the  
28 captive insurance company, (i) that such method or technology will  
29 reduce the average cost of repairing or replacing concrete foundations  
30 in this state that have deteriorated due to the presence of pyrrhotite,  
31 and (ii) the amount of such reduction; and

32 (D) Such additional information that the commissioner, in the  
33 commissioner's discretion and in consultation with the captive  
34 insurance company, may prescribe.

35 (2) Not later than thirty days after a person files an application with  
36 the commissioner pursuant to subdivision (1) of this subsection, the  
37 commissioner shall file the application with the captive insurance  
38 company.

39 (d) If the captive insurance company notifies the commissioner,  
40 pursuant to subparagraph (A) of subdivision (13) of subsection (b) of  
41 section 38a-91vv of the general statutes, as amended by this act, that an  
42 applicant is eligible to receive a grant pursuant to subsection (b) of this

43 section, the commissioner shall, not later than thirty days after  
44 receiving such notice, award a grant to such applicant in one of the  
45 following amounts:

46 (1) One million dollars, if the captive insurance company  
47 determines that the method or technology described in the applicant's  
48 application will reduce the average cost of repairing or replacing  
49 concrete foundations in this state that have deteriorated due to the  
50 presence of pyrrhotite by an amount that is not less than one hundred  
51 thirty-five thousand dollars;

52 (2) Two million dollars, if the captive insurance company  
53 determines that the method or technology described in the applicant's  
54 application will reduce the average cost of repairing or replacing  
55 concrete foundations in this state that have deteriorated due to the  
56 presence of pyrrhotite by an amount that is greater than one hundred  
57 thirty-five thousand dollars but less than one hundred sixty-five  
58 thousand dollars; or

59 (3) Five million dollars, if the captive insurance company  
60 determines that the method or technology described in the applicant's  
61 application will reduce the average cost of repairing or replacing  
62 concrete foundations in this state that have deteriorated due to the  
63 presence of pyrrhotite by an amount that is not less than one hundred  
64 sixty-five thousand dollars.

65 (e) The commissioner may adopt regulations, in accordance with  
66 chapter 54 of the general statutes, to carry out the provisions of this  
67 section.

68 Sec. 2. Subsections (b) to (h), inclusive, of section 38a-91vv of the  
69 general statutes are repealed and the following is substituted in lieu  
70 thereof (*Effective July 1, 2019*):

71 (b) In addition to any other requirements imposed by law applicable  
72 to captive insurance companies, the captive insurance company

73 established pursuant to this section shall:

74 (1) Upon request of the joint standing committees of the General  
75 Assembly having cognizance of matters relating to planning and  
76 development, public safety and housing, or the Governor, make  
77 recommendations regarding the expansion of eligibility for financial  
78 assistance pursuant to this section and modifications to improve the  
79 efficiency and operation of the captive insurance company in order to  
80 serve its public purpose;

81 (2) Establish a board of directors who shall serve in a volunteer  
82 capacity. The membership of the board of directors shall include, but  
83 need not be limited to, a real estate agent or broker, two owners of  
84 residential buildings who have concrete foundations that have  
85 deteriorated due to the presence of pyrrhotite, a chief executive or such  
86 chief executive's designee of a municipality in which residential  
87 buildings with concrete foundations that have deteriorated due to the  
88 presence of pyrrhotite are located, an individual with professional  
89 investment experience and currently registered as an investment  
90 adviser pursuant to title 36b, the executive directors of the Capitol  
91 Region Council of Governments and the Eastern Region Council of  
92 Governments or such executive directors' designees and  
93 representatives from the insurance and banking industries, who shall  
94 not have professional relationships with any bank or insurance  
95 company that has a financial interest in residential buildings subject to  
96 the provisions of this section and sections 7-374b, 8-441, 8-442, 8-443, 8-  
97 444, subparagraph (B) of subdivision (20) of subsection (a) of section  
98 12-701 and section 29-265f. The speaker, the minority leader of the  
99 House of Representatives, the president pro tempore of the Senate and  
100 the Senate Republican president pro tempore shall each appoint a  
101 member of the General Assembly as a nonvoting, ex-officio member of  
102 the board of directors. It shall not constitute a conflict of interest for a  
103 member of the board of directors, who is the owner of a residential  
104 building which has a concrete foundation that has deteriorated due to  
105 the presence of pyrrhotite, or the spouse or dependent child of such

106 member, to apply for or receive assistance from the captive insurance  
107 company established under this section, to repair or replace such  
108 concrete foundation, provided such member shall abstain from  
109 deliberation, action or vote by the board of directors in specific respect  
110 to such member's application or the application of such spouse or  
111 dependent child;

112 (3) Develop eligibility requirements and underwriting guidelines for  
113 financial assistance for repair or replacement of concrete foundations.  
114 Such requirements and guidelines shall, not later than thirty days prior  
115 to their adoption, amendment or modification, be published on a  
116 public Internet web site maintained by the captive insurance company;

117 (4) Develop in coordination with the Department of Housing,  
118 Connecticut Housing Finance Authority and participating lenders in  
119 the Collapsing Foundations Credit Enhancements Program,  
120 established pursuant to section 8-442, a single, unified application for  
121 owners of residential buildings to apply for all financial assistance  
122 available pursuant to this section and sections 8-442 and 8-443;

123 (5) Provide financial assistance to such owners of residential  
124 buildings for the repair or replacement of concrete foundations that  
125 have deteriorated due to the presence of pyrrhotite, including, but not  
126 limited to, financial reimbursement to [homeowners] owners who  
127 have had such repair or replacement performed prior to October 31,  
128 2017;

129 (6) Assist such owners of residential buildings to obtain additional  
130 financing necessary to fully fund the repair or replacement of concrete  
131 foundations that have deteriorated due to the presence of pyrrhotite;

132 (7) Approve contractors or other vendors for eligibility to perform  
133 foundation repairs or replacements on behalf of claimants;

134 (8) Disburse such financial assistance to approved contractors or  
135 other vendors on behalf of claimants;

136 (9) Ensure that the financial assistance is used solely for costs of  
137 repairing and replacing concrete foundations that have deteriorated  
138 due to the presence of pyrrhotite;

139 (10) Require the disclosure of the amount of all financial  
140 compensation received by an owner of such a residential building, if  
141 any, arising out of a claim for coverage under the property coverage  
142 provisions of the personal risk insurance policy, including, but not  
143 limited to, a homeowners policy, for foundation deterioration due to  
144 the presence of pyrrhotite and ensure that such amount is considered  
145 when determining the amount of financial assistance offered to such  
146 owner;

147 (11) When appropriate, apply for, qualify for and receive any  
148 federal funds made available under any federal act, for assistance to  
149 owners of residential buildings [and residential condominium units]  
150 having concrete foundations that have deteriorated due to the presence  
151 of pyrrhotite. To the extent permissible under federal law, all such  
152 federal funds shall be deposited into the Crumbling Foundations  
153 Assistance Fund established pursuant to section 8-441; [and]

154 (12) Enter into agreements, as necessary, with the Connecticut  
155 Housing Finance Authority and any participating lender, as defined in  
156 section 8-442, to develop and implement additional loan programs or  
157 financial products to assist such owners to repair or replace concrete  
158 foundations that have deteriorated due to the presence of pyrrhotite,  
159 while employing terms and conditions that are preferable to the open  
160 market; [.] and

161 (13) (A) Establish an innovation board within the captive insurance  
162 company that consists of volunteer members. The membership of the  
163 innovation board shall include, but need not be limited to, an attorney  
164 who is a member of the bar of this state with experience in intellectual  
165 property law, a chemist, an individual with experience in the  
166 construction industry, a licensed professional engineer who is a

167 structural engineer, a materials scientist, an individual with experience  
168 in the technology industry and a venture capitalist. The board of  
169 directors of the captive insurance company shall appoint the members  
170 of the innovation board and each member of the innovation board  
171 shall have one vote on such innovation board. The innovation board  
172 shall, on behalf of the captive insurance company, (i) review each  
173 application filed by the Commissioner of Housing with the captive  
174 insurance company pursuant to subdivision (2) of subsection (c) of  
175 section 1 of this act, (ii) determine, by a majority of the members of  
176 such board voting, (I) whether the person who filed such application is  
177 eligible for a grant pursuant to said section, and (II) if the method or  
178 technology described in such application will reduce the average cost  
179 of repairing or replacing concrete foundations in this state that have  
180 deteriorated due to the presence of pyrrhotite by an amount that is not  
181 less than one hundred thirty-five thousand dollars, greater than one  
182 hundred thirty-five thousand dollars but less than one hundred sixty-  
183 five thousand dollars or not less than one hundred sixty-five thousand  
184 dollars, and (III) notify the commissioner, not later than thirty days  
185 after the innovation board received such application, of such  
186 determination.

187 (B) No member of the innovation board established pursuant to  
188 subparagraph (A) of this subdivision shall participate in any  
189 deliberations concerning, vote on or otherwise take any action with  
190 respect to an application filed with the innovation board pursuant to  
191 subdivision (2) of subsection (c) of section 1 of this act if such member,  
192 or a spouse or dependent child of such member, has a pecuniary  
193 interest in the person who filed such application.

194 (c) Except as provided in subsection (d) of this section, such captive  
195 insurance company shall not be considered a state agency for purposes  
196 of any provision of the general statutes, and shall not be considered to  
197 perform a governmental function for purposes of chapter 14. Such  
198 captive insurance company may, subject to the provisions of this  
199 section, do all things necessary and desirable in its discretion to

200 accomplish its purposes, including hiring employees and contracting  
201 for administrative or operational services, and entering into  
202 agreements with the Connecticut Housing Finance Authority created  
203 pursuant to section 8-244 and any participating lender, as defined in  
204 section 8-442, to develop and implement additional loan programs or  
205 financial products that will assist owners of residential buildings to  
206 repair or replace concrete foundations that have deteriorated due to  
207 the presence of pyrrhotite on terms and conditions that are preferable  
208 to the open market. Not more than ten per cent of all moneys allocated  
209 or made available to the captive insurance company in any calendar  
210 year shall be used for administrative or operational costs.

211 (d) Employees and agents of the captive insurance company shall  
212 not be deemed state employees, except that employees and directors  
213 shall be subject to the provisions of sections 1-84, 1-84a, 1-84b, 1-85 and  
214 1-86. Any agent, consultant or contractor of the captive insurance  
215 company shall be subject to the provisions of sections 1-86e and 1-  
216 101nn. The Office of State Ethics shall have the authority to enforce the  
217 provisions of this subsection.

218 (e) Notwithstanding sections 38a-11 and 38a-91bb, the captive  
219 insurance company shall not be required to pay a license fee for the  
220 first year of licensure or a renewal fee for any year thereafter, as set  
221 forth in said sections.

222 (f) In addition to any report required to be filed by not-for-profit  
223 entities generally under regulations of the Internal Revenue Service,  
224 the captive insurance company shall submit quarterly reports to the  
225 joint standing committees of the General Assembly having cognizance  
226 of matters relating to insurance, finance, planning and development,  
227 housing and public safety on its operation and financial condition.  
228 Such quarterly reports shall include, but need not be limited to,  
229 information concerning: (1) Moneys allocated or made available to it  
230 pursuant to this section, (2) total financial assistance and financial  
231 assistance, by town, provided to owners of such residential buildings



232 pursuant to this section, (3) administrative and operational  
233 expenditures, (4) the total number and number, by town, of  
234 applications for assistance received during the quarter and to date, (5)  
235 the total number and number, by town, of applications for assistance  
236 granted during the quarter and to date, (6) the average time to process  
237 applications, and (7) the total number and number, by town, of  
238 applications pending and amount of such claims.

239 (g) The joint standing committees of the General Assembly having  
240 cognizance of matters relating to insurance, finance, planning and  
241 development, housing and public safety shall, not less than annually,  
242 hold a joint public hearing on the operation and financial condition of  
243 the captive insurance company.

244 (h) [A] Except for an application filed with the innovation board  
245 established pursuant to subdivision (13) of subsection (b) of this  
246 section, a decision on an application for assistance pursuant to this  
247 section shall be made in writing and provided to the [homeowner]  
248 owner and shall include the information relied upon and the basis for  
249 such decision, including the relevant eligibility and underwriting  
250 criteria. An owner of such a residential building may request a review  
251 of any decision by the captive insurance company relating to such  
252 [homeowner] owner not later than thirty days after the decision. A  
253 final determination on such a request for review shall be made in  
254 writing and provided to the [homeowner] owner not later than thirty  
255 days after receipt of the [homeowner's] owner's request, unless an  
256 extension is agreed to by the [homeowner] owner. The final  
257 determination shall be subject to approval by the board of directors.  
258 There shall be no right to appeal such final determination.

259 Sec. 3. Section 8-440 of the general statutes is repealed and the  
260 following is substituted in lieu thereof (*Effective July 1, 2019*):

261 For purposes of sections 7-374b, sections 8-441 to 8-444, inclusive,  
262 and sections 12-701, 29-265f and 38a-91vv, as amended by this act,

263 "residential building" means [a one-family, two-family, three-family or  
264 four-family dwelling including, but not limited to, a condominium  
265 unit or dwelling in a planned unit development] (1) a single-family or  
266 multifamily residential dwelling, including, but not limited to, (A) a  
267 residential unit in a condominium, as such terms are defined or used  
268 in section 47-68a, and (B) a unit that is used for residential purposes  
269 and located in a common interest community, as such terms are  
270 defined in section 47-202, and (2) a building containing one or more of  
271 the residential dwellings described in subdivision (1) of this section.

272 Sec. 4. Section 38a-331 of the general statutes is repealed and the  
273 following is substituted in lieu thereof (*Effective July 1, 2019*):

274 (a) (1) [Beginning on January 1, 2019, until December 31, 2029, there]  
275 There shall be imposed a surcharge at the rate of twelve dollars: [on  
276 the named insured under]

277 (A) For the period beginning on January 1, 2019, and ending on June  
278 30, 2019, on the first person named as an insured under each [policy of]  
279 homeowners insurance policy delivered, issued for delivery, renewed,  
280 amended or endorsed [on or after January 1, 2019, for a] during such  
281 period providing personal risk insurance [policy on] coverage for (i) an  
282 owned [dwellings] dwelling with four or fewer units, or [on  
283 condominiums. Such] (ii) a condominium; and

284 (B) For the period beginning on July 1, 2019, and ending on  
285 December 31, 2029, on the first person named as an insured under each  
286 personal risk insurance policy delivered, issued for delivery or  
287 renewed during such period providing coverage for (i) a single-family  
288 or multifamily residential dwelling that is not a mobile manufactured  
289 home, (ii) a residential unit in a condominium or a building containing  
290 one or more of such residential units, as such terms are defined or used  
291 in section 47-68a, (iii) a unit that is used for residential purposes and  
292 located in a common interest community or a building containing one  
293 or more of such units, as such terms are defined in section 47-202 or

294 used in chapter 828.

295 (2) The first person named as an insured under each policy that is  
296 subject to the surcharge imposed under subdivision (1) of this  
297 subsection shall be responsible for paying such surcharge, and such  
298 insured shall pay such surcharge, in full, (A) at the time that such  
299 policy is delivered, issued for delivery, renewed, amended or  
300 endorsed, as applicable, and (B) in any reasonable manner jointly  
301 determined by (i) such insured, (ii) the insurer that delivered, issued  
302 for delivery, renewed, amended or endorsed such policy, as  
303 applicable, and (iii) any person who holds a mortgage upon the real  
304 property that is insured under such policy.

305 (3) The surcharge imposed under subdivision (1) of this subsection  
306 shall not be considered premium for any purpose and no portion of  
307 such surcharge shall be refundable.

308 (b) (1) Acting on behalf of, and as a collection agent of the Healthy  
309 Homes Fund established pursuant to section 8-446, each admitted and  
310 nonadmitted insurer, or one or more insurance producers licensed in  
311 this state acting on behalf of such nonadmitted insurer, shall remit to  
312 the [Insurance Commissioner] commissioner, not later than the  
313 thirtieth day of April annually, all surcharges imposed under  
314 subdivision (1) of subsection (a) of this section [on the named insured]  
315 that were collected [during] for the calendar year [next] immediately  
316 preceding. [for each such policy delivered, issued or renewed before  
317 January first of the then current calendar year.] Each such remittance  
318 shall include documentation, in [the] a form and manner prescribed by  
319 the commissioner, to substantiate the total surcharge amount being  
320 remitted by such admitted insurer, nonadmitted insurer or [licensee]  
321 insurance producer acting on behalf of such nonadmitted insurer.

322 (2) All such remittances under subdivision (1) of this subsection,  
323 except for the amount of remittances equal to the cost of funding an  
324 administrative officer position at the Insurance Department to facilitate

325 the surcharge collection, shall be deposited in the Healthy Homes  
 326 Fund established in section 8-446. Not later than thirty days after such  
 327 deposit in the Healthy Homes Fund, eighty-five per cent of such  
 328 deposits shall be transferred to the Crumbling Foundations Assistance  
 329 Fund established in section 8-441.

330 (3) The surcharge imposed [pursuant to] under subdivision (1) of  
 331 subsection (a) of this section shall constitute a special purpose  
 332 assessment for the purposes of section 12-211.

333 (c) The commissioner may adopt regulations, in accordance with  
 334 chapter 54, to implement the provisions of this section.

335 Sec. 5. (NEW) (*Effective July 1, 2019*) The sum of eight million dollars  
 336 is appropriated to the Department of Housing, from the General Fund,  
 337 for the fiscal year ending June 30, 2020, to fund grants awarded by the  
 338 Commissioner of Housing as part of the grant program established  
 339 pursuant to section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	New section
Sec. 2	<i>July 1, 2019</i>	38a-91vv(b) to (h)
Sec. 3	<i>July 1, 2019</i>	8-440
Sec. 4	<i>July 1, 2019</i>	38a-331
Sec. 5	<i>July 1, 2019</i>	New section

**Statement of Purpose:**

To (1) require the Commissioner of Housing to establish a grant program to support the development of methods and technologies that reduce the average cost of repairing and replacing concrete foundations in this state that have deteriorated due to the presence of pyrrhotite, (2) establish an innovation board to review applications for grants filed as part of such program, (3) appropriate the sum of eight million dollars to fund grants awarded as part of such program, (4) modify the Healthy Homes Fund surcharge, and (5) redefine the term

"residential building" as such term applies to various statutes concerning crumbling concrete foundations.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*