



General Assembly

**Substitute Bill No. 7179**

January Session, 2019



**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 from passage*):

274 (a) (1) [Beginning on January 1, 2019, until December 31, 2029, there  
275 shall be imposed a surcharge at the rate of twelve dollars on the named  
276 insured under each policy of homeowners insurance delivered, issued  
277 for delivery, renewed, amended or endorsed on or after January 1,  
278 2019, for a personal risk insurance policy on owned dwellings with  
279 four or fewer units or on condominiums.] There is imposed a twelve-  
280 dollar surcharge on the issuance or renewal of each insurance policy  
281 providing:

282 (A) Personal risk insurance coverage for an owned dwelling in this  
283 state with four or fewer units, except for a mobile home;

284 (B) Coverage for an individual unit in this state that is part of a  
285 condominium, as such terms are defined in section 47-68a; or

286 (C) Coverage for an individual unit in this state that is part of a  
287 common interest community and exclusively used for residential  
288 purposes, as such terms are defined in section 47-202.

289 (2) The surcharge imposed under this subsection shall be assessed  
290 on insurance policies issued or renewed during the period beginning  
291 on January 1, 2019, and ending on December 31, 2029. Such surcharge  
292 is not premium and shall not be considered premium for any purpose.

293 (b) Payment of the surcharge imposed under subsection (a) of this  
294 section shall be the obligation of the person that is first listed as an  
295 insured under the policy, provided collection and remittance of such  
296 surcharge may be effected in such manner as the insurer, insured and  
297 any mortgagee may reasonably determine. Such surcharge is payable  
298 in full upon commencement or renewal of coverage, and no portion of  
299 such surcharge shall be reimbursed, whether on policy cancellation or  
300 otherwise.

301 [(b)] (c) (1) Acting on behalf of, and as a collection agent of the

302 Healthy Homes Fund established pursuant to section 8-446, as  
303 amended by this act, each admitted and nonadmitted insurer, or one  
304 or more surplus lines brokers licensed pursuant to section 38a-794  
305 procuring from a nonadmitted insurer an insurance policy providing  
306 coverage of a type described in subdivision (1) of subsection (a) of this  
307 section, shall remit to the Insurance Commissioner, not later than the  
308 thirtieth day of April annually, all surcharges imposed under  
309 subsection (a) of this section on the named insured that were collected  
310 during the calendar year next preceding. [for each such policy  
311 delivered, issued or renewed before January first of the then current  
312 calendar year.] Each such remittance shall include documentation, in  
313 the form and manner prescribed by the commissioner, to substantiate  
314 the total surcharge amount being remitted by such [insurer or licensee]  
315 admitted or nonadmitted insurer or surplus lines broker.

316 (2) All such remittances under subdivision (1) of this subsection,  
317 except for the amount of remittances equal to the cost of funding an  
318 administrative officer position at the Insurance Department to facilitate  
319 the surcharge collection, shall be deposited in the Healthy Homes  
320 Fund established in section 8-446, as amended by this act. Not later  
321 than thirty days after such deposit in the Healthy Homes Fund, eighty-  
322 five per cent of such deposits shall be transferred to the Crumbling  
323 Foundations Assistance Fund established in section 8-441.

324 (3) The surcharge imposed [pursuant to] under subsection (a) of this  
325 section shall constitute a special purpose assessment for the purposes  
326 of section 12-211.

327 [(c)] (d) The commissioner may adopt regulations, in accordance  
328 with chapter 54, to implement the provisions of this section.

329 Sec. 5. Subsection (b) of section 8-446 of the general statutes is  
330 repealed and the following is substituted in lieu thereof (*Effective from*  
331 *passage*):

332 (b) The Department of Housing shall notify the Department of

333 Public Health not later than thirty days after the deposit of remittances  
 334 in the Healthy Homes Fund pursuant to subdivision (2) of subsection  
 335 [(b)] (c) of section 38a-331, as amended by this act. Not later than thirty  
 336 days after the deposit of remittances pursuant to subdivision (2) of  
 337 subsection [(b)] (c) of section 38a-331, as amended by this act, the  
 338 Department of Public Health shall notify each municipal health  
 339 department in the state annually regarding funds available pursuant to  
 340 the Healthy Homes Fund established pursuant to subsection (a) of this  
 341 section.

342 Sec. 6. (*Effective July 1, 2019*) The sum of eight million dollars is  
 343 appropriated to the Department of Housing, from the General Fund,  
 344 for the fiscal year ending June 30, 2020, to fund grants awarded by the  
 345 Commissioner of Housing as part of the grant program established  
 346 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>from passage</i>	38a-331
Sec. 5	<i>from passage</i>	8-446(b)
Sec. 6	<i>July 1, 2019</i>	New section

**Statement of Legislative Commissioners:**

In Section 5(b), "(b)" was bracketed and "(c)" was inserted after the closing bracket to conform with the changes being made in Section 4.

**INS**      *Joint Favorable Subst.*