

## Crumbling Concrete Foundations Legislation (2019)

### Overview

Certain home foundations located in northeastern Connecticut may contain pyrrhotite, a mineral that expands when exposed to water and oxygen. This causes concrete containing it to crack and swell.

In 2017, the legislature established a captive insurance company, Connecticut Foundation Solutions Indemnity Company, Inc. (CFSIC), to assess claims and distribute grants to repair and replace crumbling concrete foundations. The following year, the legislature funded CFSIC through bonds and a Healthy Homes Fund insurance surcharge. Specifically, it authorized \$20 million in bonds per year for five years (\$100 million total over FYs 18 - 22), \$60 million of which has already been allocated. The surcharge is \$12 annually on homeowners' insurance policies, approximately 85% of which goes towards the captive's activities.

This year, the legislature expanded the number of homes eligible for aid, established a new low interest loan program for homeowners who need supplemental support, made changes to the insurance surcharge, and established a tax exemption for homeowners selling homes with crumbling concrete foundations. The legislature also required sellers of certain residential homes, including municipalities, to disclose the presence of pyrrhotite and other significant defects in a property. More information on these changes is provided on the next page.

### Timeline of Major Crumbling Foundations Legislation

**2016:** [PA 16-45](#), generally requires builders to document concrete suppliers, municipalities to reassess impacted homes, and the executive branch to investigate foundations.

**2017:** [PA 17- 2](#), June Special Session (§§ 334-348) established CFSIC; created a credit enhancement program; waives certain building and repair fees; allows insureds to sue an insurer for up to a year after a crumbling foundation claim is denied; and prohibits, until standards are adopted, using recycled concrete containing pyrrhotite.

**2018:** [PA 18-160](#) establishes the \$12 Healthy Homes Fund surcharge.

**2019:** [PA 19-192](#) makes more homeowners eligible for aid, expands residential disclosure requirements, creates a private right of action, modifies the Healthy Homes Fund surcharge, and establishes a new loan program. [PA 19-117](#) establishes a new tax exemption.

## 2019 Crumbling Foundations Legislation

### Changes to the Residential Property Condition Report ([PA 19-192](#), §§ 5 & 6)

**Pyrrhotite Disclosures.** The act expands the contents of the residential condition report, which residential property owners must use to make specific disclosures about a property's condition to a prospective purchaser. Among other things, it requires sellers to disclose and explain any knowledge they have about pyrrhotite in the foundation.

**Municipal Disclosure Requirements.** The act requires certain municipalities to disclose specified information to prospective purchasers when selling residential properties. Specifically, municipalities that the Capitol Region Council of Governments determines are affected, or potentially affected, by crumbling foundations must disclose to prospective purchasers any information they have about: (1) the presence of pyrrhotite, (2) any damage and deterioration in the foundations, and (3) foundation repairs or remediation.

**Foreclosed Property Disclosure Requirements.** Under the act, anyone selling residential property acquired through a foreclosure and located in an affected municipality must disclose any knowledge they have of significant defects in the property's foundation, including the presence of pyrrhotite.

**Private Right of Action.** The act also creates a private right of action for buyers to bring a civil suit to recover actual damages from sellers who fail to make the required disclosures, including disclosures about a property's foundation.

**Required Disclosure of Significant Problems.** Under existing law, sellers of residential real estate must complete the residential condition report or credit the purchaser \$500 at closing. However, under the act, crediting a buyer does not excuse a seller from disclosing defects in the property covered by the report if he or she has actual knowledge of the defect and it significantly impairs the (1) property's value or useful life span or (2) health and safety of its future occupants.

### Tax Exemption

[PA 19-117](#) (§ 336) exempts from the real estate conveyance tax transfers of principal residences with concrete foundations that have deteriorated due to the presence of pyrrhotite. The exemption applies to the first transfer of the residence after a written evaluation of the foundation is obtained; it is generally not available to a transferor who received financial assistance to repair or replace the foundation from the Crumbling Foundations Assistance Fund.

### Healthy Homes Fund Insurance Surcharge

[PA 19-192](#) (§ 3) makes changes to the Healthy Homes Fund \$12 surcharge on homeowners insurance policies. The act imposes the charge (1) on the policy's first named insured, rather than on all named insureds; (2) only when a policy begins or renews, instead of each time it is amended; and (3) on all policies covering individual condominium units, individual units in common interest communities, or owned homes with four or fewer units, excluding mobile homes.

### More Residential Buildings Eligible for Aid

[PA 19-192](#) (§ 2) broadens the definition of "residential building" that applies to several programs and statutory requirements. Among other things, this means that more people are eligible for CFSIC grants and certain other loans to repair or replace crumbling concrete foundations. Under the law, a "residential building" is a (1) single- or multi-family residential unit, including a condominium unit or unit in a common interest community, or (2) building containing one or more of these units.

### New Loan Program

[PA 19-192](#) (§§ 7-12) establishes the Crumbling Concrete Foundations Collapsing Foundation Supplemental Loan Program that allows homeowners receiving CFSIC funds to apply for supplemental loans to help repair or replace crumbling concrete foundations. The Connecticut Housing Finance Authority guarantees the loans, up to a total of \$2 million. Participating banks and credit unions may issue loans of up to \$75,000, capped at an aggregate maximum of \$20 million for all loans. The program also establishes maximum closing costs and interest rates.

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OLR Report: [Crumbling Concrete Foundations in Connecticut](#)

["Concrete Foundations: Information and Quick Facts,"](#) Connecticut Department of Consumer Protection

[Connecticut Foundations Indemnity Company, Inc.](#)

