



Substitute House Bill No. 7179

Public Act No. 19-192

AN ACT CONCERNING CRUMBLING CONCRETE FOUNDATIONS.

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

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 Subsections (b) to (h), inclusive, of section 38a-91vv of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(b) In addition to any other requirements imposed by law applicable to captive insurance companies, the captive insurance company established pursuant to this section shall:

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

(2) Establish a board of directors who shall serve in a volunteer capacity. The membership of the board of directors shall include, but need not be limited to, a real estate agent or broker, two owners of residential buildings who have concrete foundations that have

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deteriorated due to the presence of pyrrhotite, a chief executive or such chief executive's designee of a municipality in which residential buildings with concrete foundations that have deteriorated due to the presence of pyrrhotite are located, an individual with professional investment experience and currently registered as an investment adviser pursuant to title 36b, the executive directors of the Capitol Region Council of Governments and the [Eastern Region] Northeastern Connecticut Council of Governments or such executive directors' designees and representatives from the insurance and banking industries, who shall not have professional relationships with any bank or insurance company that has a financial interest in residential buildings subject to the provisions of this section and sections 7-374b, 8-441, 8-442, 8-443, 8-444, subparagraph (B) of subdivision (20) of subsection (a) of section 12-701 and section 29-265f. The speaker, the minority leader of the House of Representatives, the president pro tempore of the Senate and the Senate Republican president pro tempore shall each appoint a member of the General Assembly as a nonvoting, ex-officio member of the board of directors. It shall not constitute a conflict of interest for a member of the board of directors, who is the owner of a residential building which has a concrete foundation that has deteriorated due to the presence of pyrrhotite, or the spouse or dependent child of such member, to apply for or receive assistance from the captive insurance company established under this section, to repair or replace such concrete foundation, provided such member shall abstain from deliberation, action or vote by the board of directors in specific respect to such member's application or the application of such spouse or dependent child;

(3) Develop eligibility requirements and underwriting guidelines for financial assistance for repair or replacement of concrete foundations. Such requirements and guidelines shall, not later than [thirty] fifteen days prior to their adoption, amendment or modification, be published

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on a public Internet web site maintained by the captive insurance company;

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

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

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

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

[(8)] (7) Disburse such financial assistance to approved contractors or other vendors on behalf of claimants;

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

[(10)] (9) Require the disclosure of the amount of all financial compensation received by an owner of such a residential building, if any, arising out of a claim for coverage under the property coverage

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provisions of the personal risk insurance policy, including, but not limited to, a homeowners policy, for foundation deterioration due to the presence of pyrrhotite and ensure that such amount is considered when determining the amount of financial assistance offered to such owner;

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

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

(c) Except as provided in subsection (d) of this section, such captive insurance company shall not be considered a state agency for purposes of any provision of the general statutes, and shall not be considered to perform a governmental function for purposes of chapter 14. Such captive insurance company may, subject to the provisions of this section, do all things necessary and desirable in its discretion to accomplish its purposes, including hiring employees and contracting for administrative or operational services, and entering into agreements with the Connecticut Housing Finance Authority created pursuant to section 8-244, as amended by this act, and any participating lender, as defined in section 8-442, to develop and implement additional loan programs or financial products that will

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assist owners of residential buildings to repair or replace concrete foundations that have deteriorated due to the presence of pyrrhotite on terms and conditions that are preferable to the open market. Not more than ten per cent of all moneys allocated or made available to the captive insurance company in any calendar year shall be used for administrative or operational costs.

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

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

(f) In addition to any report required to be filed by not-for-profit entities generally under regulations of the Internal Revenue Service, the captive insurance company shall submit quarterly reports to the joint standing committees of the General Assembly having cognizance of matters relating to insurance, finance, planning and development, housing and public safety on its operation and financial condition. Such quarterly reports shall include, but need not be limited to, information concerning: (1) Moneys allocated or made available to it pursuant to this section, (2) total financial assistance and financial assistance, by town, provided to owners of such residential buildings pursuant to this section, (3) administrative and operational expenditures, (4) the total number and number, by town, of applications for assistance received during the quarter and to date, (5) the total number and number, by town, of applications for assistance

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granted during the quarter and to date, (6) the average time to process applications, and (7) the total number and number, by town, of applications pending and amount of such claims.

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

(h) A decision on an application for assistance pursuant to this section shall be made in writing and provided to the [homeowner] owner and shall include the information relied upon and the basis for such decision, including the relevant eligibility and underwriting criteria. An owner of such a residential building may request a review of any decision by the captive insurance company relating to such [homeowner] owner not later than thirty days after the decision. A final determination on such a request for review shall be made in writing and provided to the [homeowner] owner not later than thirty days after receipt of the [homeowner's] owner's request, unless an extension is agreed to by the [homeowner] owner. The final determination shall be subject to approval by the board of directors. There shall be no right to appeal such final determination.

Sec. 2. Section 8-440 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

For purposes of sections 7-374b, sections 8-441 to 8-444, inclusive, [and] sections 12-701, 29-265f and 38a-91vv, as amended by this act, and sections 7 to 11, inclusive, of this act, "residential building" means [a one-family, two-family, three-family or four-family dwelling including, but not limited to, a condominium unit or dwelling in a planned unit development] (1) a single-family or multifamily residential dwelling, including, but not limited to, (A) a residential

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unit in a condominium, as such terms are defined or used in section 47-68a, or (B) a unit that is used for residential purposes and located in a common interest community, as such terms are defined in section 47-202, and (2) a building containing one or more of the units described in subparagraph (A) or (B) of subdivision (1) of this section.

Sec. 3. Section 38a-331 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

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

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

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

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

(b) Payment of the surcharge imposed under subsection (a) of this section shall be the obligation of the person that is first listed as an

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insured under the policy, provided collection and remittance of such surcharge may be effected in such manner as the insurer, insured and any mortgagee may reasonably determine. Such surcharge is payable in full upon commencement or renewal of coverage, and no portion of such surcharge shall be reimbursed, whether on policy cancellation or otherwise.

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

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

(3) The surcharge imposed [pursuant to] under subsection (a) of this section shall constitute a special purpose assessment for the purposes

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of section 12-211.

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

Sec. 4. Subsections (a) and (b) of section 8-446 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established an account to be known as the "Healthy Homes Fund" which shall be a separate, nonlapsing account within the General Fund. The account shall contain any moneys required by law to be deposited in the account. Moneys in the account shall be expended by the Department of Housing for the purposes of:

(1) Funding of not more than one million dollars, from remittances transferred pursuant to section 38a-331, as amended by this act, for the period beginning January 1, 2019, and ending December 31, 2019, shall be remitted to the Department of Economic and Community Development to be used for grants-in-aid to homeowners with homes located in the immediate vicinity of the West River in the Westville section of New Haven and Woodbridge for structurally damaged homes due to subsidence and to homeowners with homes abutting the Yale Golf Course in the Westville section of New Haven for damage to such homes from water infiltration or structural damage due to subsidence; and

(2) Funding a program, and any related administrative expense, to reduce health and safety hazards in residential dwellings in Connecticut, including, but not limited to, lead, radon and other contaminants or conditions, through removal, remediation, abatement and other appropriate methods. For purposes of this subdivision, "administrative expense" means any administrative or other cost or expense incurred by the Department of Housing in carrying out the

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provisions of this section, including, but not limited to the hiring of necessary employees and entering into necessary contracts.

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

Sec. 5. Section 20-327b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(a) Except as otherwise provided in this section, each person who offers residential property in the state for sale, exchange or for lease with option to buy, shall provide a written residential condition report or reports to the prospective purchaser at any time prior to the prospective purchaser's execution of any binder, contract to purchase, option or lease containing a purchase option. A photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of the written residential condition report or reports containing the prospective purchaser's written receipt shall be attached to any written offer, binder or contract to purchase. A photocopy, duplicate original, facsimile transmission or other exact reproduction or duplicate of the written residential condition report or reports containing the signatures of both seller and purchaser shall be attached to any agreement to purchase the property.

(b) The following shall be exempt from the provisions of this section: (1) Any transfer from one or more co-owners solely to one or

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more of the co-owners; (2) transfers made to the spouse, mother, father, brother, sister, child, grandparent or grandchild of the transferor where no consideration is paid; (3) [transfers pursuant to an order of the court; (4)] transfers of newly-constructed residential real property for which an implied warranty is provided under chapter 827; [(5)] (4) transfers made by executors, administrators, trustees or conservators; [(6)] (5) transfers by the federal government, any political subdivision thereof or any corporation, institution or quasi-governmental agency chartered by the federal government; [(7) transfers by deed in lieu of foreclosure; (8)] (6) transfers by [the state of Connecticut or] this state; (7) except as provided in subsections (g) and (h) of this section, transfers by any political subdivision [thereof; (9)] of this state; (8) transfers of property which was the subject of a contract or option entered into prior to January 1, 1996; and [(10)] (9) except as provided in subsections (g) and (h) of this section, any transfer of property acquired by a judgment of strict foreclosure or by foreclosure by sale or by a deed in lieu of foreclosure.

(c) The provisions of this section shall apply only to transfers by sale, exchange or lease with option to buy, of residential real property consisting of not less than one nor more than four dwelling units which shall include cooperatives and condominiums, and shall apply to all transfers, with or without the assistance of a licensed real estate broker or salesperson, as defined in section 20-311.

(d) The Commissioner of Consumer Protection shall, within available appropriations, prescribe the written residential [disclosure report] condition reports required by this section and sections 20-327c to 20-327e, inclusive, as amended by this act. The written residential [disclosure report] condition reports shall be based upon [a template] templates that the commissioner shall prescribe. Such [template] templates shall: Fit on pages being not more than eight and one-half inches in height and eleven inches in width, with type size no smaller

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than nine-point type, other than checkboxes or section headers, which may be in a smaller size; include the address of the subject property on each page; include page numbers on each page; include section headings in bold type and include space for the buyer and the seller's initials on each page, except the signature page. [The report] Each written residential condition report, other than the written residential condition report required pursuant to subsections (g) and (h) of this section, shall contain the following, in the order indicated:

(1) A section entitled "Instructions to Sellers"

You MUST answer ALL questions to the best of your knowledge.

Identify/Disclose any problems regarding the subject property.

YOUR REAL ESTATE LICENSEE CANNOT COMPLETE THIS FORM ON YOUR BEHALF.

UNK means Unknown, N/A means Not Applicable.

If you need additional space to complete any answer or explanation, attach additional page(s) to this form. Include subject property address, seller's name and the date.

(2) Pursuant to the Uniform Property Condition Disclosure Act, the seller is obligated to answer the following questions and to disclose herein any knowledge of any problem regarding the following:

(A) A subsection entitled "Subject Property"

(i) Name of seller(s)

(ii) Street address, municipality, zip code

(B) A subsection entitled "General Information"

(i) Indicate the YEAR the structure was built:

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(ii) Indicate HOW LONG you have occupied the property: If not applicable, indicate with N/A.

(iii) Does anyone else claim to own any part of your property, including, but not limited to, any encroachment(s)? If YES, explain:

(iv) Does anyone other than you have or claim to have any right to use any part of your property, including, but not limited to, any easement or right-of-way? If YES, explain:

(v) Is the property in a flood hazard area or an inland wetlands area? If YES, explain:

(vi) Do you have any reason to believe that the municipality in which the subject property is located may impose any assessment for purposes such as sewer installation, sewer improvements, water main installation, water main improvements, sidewalks or other improvements? If YES, explain:

(vii) Is the property located in a municipally designated village district, municipally designated historic district or listed on the National Register of Historic Places? If YES, explain:

(viii) Special Statement: Information concerning village districts and historic districts may be obtained from the municipality's village or historic district commission, if applicable.

(ix) Is the property located in a special tax district? If YES, please explain:

(x) Is the property subject to any type of land use restrictions, other than those contained within the property's chain of title or that are necessary to comply with state laws or municipal zoning? If YES, explain:

(xi) Is the property located in a common interest community? If

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YES, is it subject to any community or association dues or fees? Please explain:

(xii) Do you have any knowledge of prior or pending litigation, government agency or administrative actions, orders or liens on the property related to the release of any hazardous substance? If YES, please explain:

(C) A subsection entitled "Leased Equipment"

Does the property include any Leased or Rented Equipment that would necessitate or obligate either of the following: The assignment or transfer of the lease or rental agreement(s) to the buyer or the replacement or substitution of the equipment by the buyer? If YES, indicate by checking ALL items that apply: PROPANE FUEL TANK; WATER HEATER; SECURITY ALARM SYSTEM; FIRE ALARM SYSTEM; SATELLITE DISH ANTENNA; WATER TREATMENT SYSTEM; SOLAR DEVICES; MAJOR APPLIANCES; OTHER

(D) A subsection entitled "Mechanical/Utility Systems"

(i) Heating system problems? If YES, explain. List Fuel Types.

(ii) Hot water heater Type: Age: Hot water problems? If YES, explain:

(iii) Is there an underground storage tank? If YES, give AGE of tank and LOCATION.

(iv) Are you aware of any problems with the underground storage tank? If YES, explain:

(v) During the time you have owned the property, has there ever been an underground storage tank located on the property? If YES, has it been removed? If YES, what was the date of removal and what was the name and address of the person or business who removed such

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underground storage tank? Provide any and all written documentation of such removal within your control or possession by attaching a copy of such documentation to this form.

(vi) Air conditioning problems? If YES, explain: Air conditioning Type: Central; Window; Other

(vii) Plumbing system problems? If YES, explain:

(viii) Electrical System problems? If YES, explain:

(ix) Electronic security system problems? If YES, explain:

(x) Are there carbon monoxide or smoke detectors located in a dwelling on the property? If YES, state the NUMBER of such detectors and whether there have been problems with such detectors;

(xi) Fire sprinkler system problems? If YES, explain:

(E) A subsection entitled "Water System"

(i) Domestic Water System Type: Public; Private Well; Other

(ii) If Public Water:

(I) Is there a separate expense/fee for water usage? If YES, is the expense/fee for water usage flat or metered? Give the AMOUNT and explain:

(II) Are there any UNPAID water charges? If YES, state the amount unpaid:

(iii) If Private Well:

Has the well water been tested for contaminants/volatile organic compounds? If YES, attach a copy of the report.

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(iv) If Public Water or Private Well: Are you aware of any problems with the well, or with the water quality, quantity, recovery, or pressure? If YES, explain:

(F) A subsection entitled "Sewage Disposal System"

(i) Sewage Disposal System Type: Public; Septic; Cesspool; Other

(ii) If Public Sewer:

(I) Is there a separate charge made for sewer use? If YES, is it Flat or Metered?

(II) If it is a Flat amount, state amount and due dates:

(III) Are there any UNPAID sewer charges? If any unpaid sewer charges, state the amount:

(iii) If Private:

(I) Name of service company

(II) Date last pumped: AND frequency:

(III) For any sewage system, are there problems? If YES, explain:

(G) A subsection entitled "Asbestos/Lead"

(i) Are asbestos containing insulation or building materials present? If YES, location:

(ii) Is lead paint present? If YES, location:

(iii) Is lead plumbing present? If YES, location:

(H) A subsection entitled "Building/Structure/Improvements"

(i) Is the foundation made of concrete? If NO, explain:

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(ii) Foundation/Slab problems or settling? If YES, explain:

(iii) Basement Water Seepage/Dampness? If YES, explain Amount, Frequency and Location:

(iv) Sump pump problems? If YES, explain:

(v) Do you have any knowledge of any testing or inspection done by a licensed professional related to a foundation on the property? If YES, disclose the testing or inspection method, the areas or locations that were tested or inspected, the results of such testing or inspection and attach a copy of the report concerning such testing or inspection.

(vi) Do you have any knowledge of any repairs related to a foundation on the property? If YES, [explain:] describe such repairs, disclose the areas repaired and attach a copy of the report concerning such repairs.

(vii) Do you have any knowledge related to the presence of pyrrhotite in a foundation on the property? If YES, explain:

[(vii)] (viii) Roof type; Age?

[(viii)] (ix) Roof leaks? If YES, explain:

[(ix)] (x) Exterior siding problems? If YES, explain:

[(x)] (xi) Chimney, Fireplace, Wood or Coal Stove problems? If YES, explain:

[(xi)] (xii) Patio/deck problems? If YES, explain:

[(xii)] (xiii) If constructed of Wood, is the Wood Treated or Untreated?

[(xiii)] (xiv) Driveway problems? If YES, explain:

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[(xiv)] (xv) Water drainage problems? If YES, explain:

[(xv)] (xvi) Interior Floor, Wall and/or Ceiling problems? If YES, explain:

[(xvi)] (xvii) Fire and/or Smoke damage? If YES, explain:

[(xvii)] (xviii) Termite, Insect, Rodent or Pest Infestation problems? If YES, explain:

[(xviii)] (xix) Rot or Water damage problems? If YES, explain:

[(xix)] (xx) Is house insulated? If YES, Type: Location:

[(xx)] (xxi) Has a test for Radon been performed? If YES, attach a copy of the report.

[(xxi)] (xxii) Is there a Radon Control System in place? If YES, explain:

[(xxii)] (xxiii) Has a Radon control system been in place in the previous 12 months? If YES, explain:

(I) The Seller should attach additional pages to further explain any item(s) above. Indicate here the number of additional pages attached:

(J) Questions contained in subparagraphs (A) to (I), inclusive, of this subdivision shall contain checkboxes indicating "yes", "no", "not applicable" or "unknown".

(3) The written residential [disclosure] condition report shall contain the following immediately below the questions contained in subparagraphs (A) to (I), inclusive, of subdivision (2) of this subsection:

A certification by the seller in the following form:

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SELLER'S CERTIFICATION

"To the extent of the seller's knowledge as a property owner, the seller acknowledges that the information contained above is true and accurate for those areas of the property listed. In the event a real estate broker or salesperson is utilized, the seller authorizes the brokers or salespersons to provide the above information to prospective buyers, selling agents or buyers' agents.

.... (Date)

.... (Seller)

.... (Date)

.... (Seller)"

(4) The written residential [disclosure] condition report shall contain the following in a separate section immediately below the seller's certification:

IMPORTANT INFORMATION

(A) RESPONSIBILITIES OF REAL ESTATE BROKERS

This report in no way relieves a real estate broker of the broker's obligation under the provisions of section 20-328-5a of the Regulations of Connecticut State Agencies to disclose any material facts. Failure to do so could result in punitive action taken against the broker, such as fines, suspension or revocation of license.

(B) STATEMENTS NOT TO CONSTITUTE A WARRANTY

Any representations made by the seller on the written residential [disclosure] condition report shall not constitute a warranty to the buyer.

(C) NATURE OF [DISCLOSURE] REPORT

This Residential Property Condition [Disclosure] Report is not a substitute for inspections, tests and other methods of determining the

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physical condition of property.

(D) INFORMATION ON THE RESIDENCE OF CONVICTED FELONS

Information concerning the residence address of a person convicted of a crime may be available from law enforcement agencies or the Department of Public Safety.

(E) BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Prospective buyers should consult with the municipal building official in the municipality in which the property is located to confirm that building permits and certificates of occupancy have been issued for work on the property.

(F) HOME INSPECTION

Buyers should have the property inspected by a licensed home inspector.

(G) CONCRETE FOUNDATION

Prospective buyers may have a concrete foundation inspected by a licensed professional engineer who is a structural engineer for deterioration of the foundation due to the presence of pyrrhotite.

(5) The written residential [disclosure] condition report shall contain the following immediately below the statements contained in subparagraphs (A) to (G), inclusive, of subdivision (4) of this subsection:

A certification by the buyer in the following form:

BUYER'S CERTIFICATION

"The buyer is urged to carefully inspect the property and, if desired,

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to have the property inspected by an expert. The buyer understands that there are areas of the property for which the seller has no knowledge and that this [disclosure statement] report does not encompass those areas. The buyer also acknowledges that the buyer has read and received a signed copy of this [statement] report from the seller or seller's agent.

.... (Date)

.... [(Seller)] (Buyer)

.... (Date)

.... [(Seller)] (Buyer)"

(e) On or after January 1, 1996, the Commissioner of Consumer Protection shall make available the written residential [disclosure report] condition reports prescribed in accordance with the provisions of this section and sections 20-327c to 20-327e, inclusive, as amended by this act, to the Division of Real Estate, all municipal town clerks, the Connecticut Association of Realtors, Inc., and any other person or institution that the commissioner believes would aid in the dissemination and distribution of such [form] forms. The commissioner shall also cause information concerning such [form] forms and the completion of such [form] forms to be disseminated in a manner best calculated, in the commissioner's judgment, to reach members of the public, attorneys and real estate licensees.

(f) Any written residential [disclosure] condition report prescribed in accordance with the provisions of this section and sections 20-327c to 20-327e, inclusive, as amended by this act, shall take effect for new listings thirty days following posting of the notice regarding such report on the Department of Consumer Protection's Internet web site.

(g) In any transfer of residential real property that is located in a municipality that the Capitol Region Council of Governments determines is affected, or potentially affected, by crumbling foundations and was acquired by a political subdivision of this state or was acquired by a judgment of strict foreclosure or by foreclosure by

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sale or by a deed in lieu of foreclosure, the owner or political subdivision shall, through a written residential condition report described in subsection (h) of this section, disclose to the prospective purchaser of such real property, at any time prior to the prospective purchaser's execution of any binder, contract to purchase, option or lease containing a purchase option, any facts that are within such owner's or political subdivision's actual knowledge concerning:

(1) The presence of pyrrhotite in any concrete foundation on such property;

(2) Any damage or deterioration in any concrete foundation on such property, including, but not limited to, any damage or deterioration caused by the presence of pyrrhotite in any foundation on such property; and

(3) Any repairs or remediation to any concrete foundation on such property.

(h) In any transfer of residential real property that is located in a municipality that the Capitol Region Council of Governments determines is affected, or potentially affected, by crumbling foundations and was acquired by a political subdivision of this state or was acquired by a judgment of strict foreclosure or by foreclosure by sale or by a deed in lieu of foreclosure, the owner or political subdivision shall satisfy the provisions of subsection (g) of this section through a written residential condition report prescribed by the Commissioner of Consumer Protection pursuant to subsection (d) of this section, which report shall be entitled "Residential Foundation Condition Report" and exclusively contain the following in the following order:

(1) A section entitled "Instructions to Sellers"

You MUST answer ALL questions based on your knowledge. You

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are not required to undertake investigations or inspections of the foundation to verify your answers.

YOUR REAL ESTATE LICENSEE CANNOT COMPLETE THIS FORM ON YOUR BEHALF.

UNK means Unknown, N/A means Not Applicable.

If you need additional space to complete any answer or explanation, attach additional page(s) to this form. Include subject property address, seller's name and the date.

(2) Pursuant to the Uniform Property Condition Disclosure Act, the seller is obligated to answer the following questions and to disclose herein any knowledge of any problem regarding the following:

(A) A subsection entitled "Subject Property"

(i) Name of seller(s)

(ii) Street address, municipality, zip code

(B) A subsection entitled "Information About the Foundation"

(i) Do you have any knowledge related to the presence of pyrrhotite in any concrete foundation on the subject property? If YES, explain:

(ii) Are you aware of any damage or deterioration in any concrete foundation on the subject property, including, but not limited to, any damage or deterioration caused by the presence of pyrrhotite in any concrete foundation on the property? If YES, explain:

(iii) Are you aware of any repairs or remediation to any concrete foundation on the subject property? If YES, explain:

(3) In a separate section immediately below the questions contained in subdivision (2) of this subsection, the following information in the

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following form:

IMPORTANT INFORMATION

(A) RESPONSIBILITIES OF REAL ESTATE BROKERS

This report in no way relieves a real estate broker of the broker's obligation under the provisions of section 20-328-5a of the Regulations of Connecticut State Agencies to disclose any material facts. Failure to do so could result in punitive action taken against the broker, such as fines, suspension or revocation of license.

(B) STATEMENTS NOT TO CONSTITUTE A WARRANTY

Any representations made by the seller in this residential foundation condition report shall not constitute a warranty to the buyer.

(C) NATURE OF REPORT

This report is not a substitute for inspections, tests and other methods of determining the physical condition of the foundation. Prospective buyers may have a concrete foundation inspected by a licensed professional engineer who is a structural engineer for deterioration of the foundation due to the presence of pyrrhotite.

(4) Immediately following the information contained in subdivision (3) of this subsection, a certification by the buyer in the following form:

BUYER'S CERTIFICATION

"The buyer is urged to carefully inspect the foundation and, if desired, to have the foundation inspected by an expert. The buyer understands that there are parts of the property, including the foundation, for which the seller has no knowledge and that this report does not encompass those parts. The buyer also acknowledges that the

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buyer has read and reviewed a signed copy of this report from the seller or the seller's agent.

.... (Date) (Buyer)
.... (Date) (Buyer)"

(5) Immediately below the buyer's certification, a certification by the seller in the following form:

SELLER'S CERTIFICATION

"To the extent of the seller's knowledge as an owner of a property acquired through foreclosure or deed in lieu of foreclosure, the seller acknowledges that the information contained above is true and accurate. In the event a real estate broker or salesperson is utilized, the seller authorizes the broker or salesperson to provide the above information to prospective buyers, selling agents or buyers' agents.

.... (Date) (Seller)
.... (Date) (Seller)"

Sec. 6. Section 20-327c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2020*):

(a) On or after January 1, 1996, every agreement to purchase residential real estate, for which a written residential condition report is, or written residential condition reports are, required pursuant to section 20-327b, as amended by this act, shall include a requirement that the seller credit the purchaser with the sum of five hundred dollars at closing should the seller fail to furnish the written residential condition report or reports as required by sections 20-327b to 20-327e, inclusive, as amended by this act.

(b) (1) No seller who credits a purchaser pursuant to subsection (a) of this section shall, by reason of such credit, be excused from

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disclosing to the purchaser any defect in the residential real estate if such defect:

(A) Is subject to disclosure pursuant to section 20-327b, as amended by this act;

(B) Is within the seller's actual knowledge of such residential real estate; and

(C) Significantly impairs (i) the value of such residential real estate, (ii) the health or safety of future occupants of such residential real estate, or (iii) the useful life of such residential real estate.

(2) A purchaser may, without limiting any other remedies available to the purchaser, bring a civil action in the judicial district in which the residential real estate is located to recover actual damages from a seller who fails to disclose any defect described in subdivision (1) of this subsection to such purchaser.

Sec. 7. (NEW) (*Effective from passage*) As used in this section and sections 8 to 11, inclusive, of this act:

(1) "Authority" means the Connecticut Housing Finance Authority created under section 8-244 of the general statutes, as amended by this act;

(2) "Bank" means a bank or an out-of-state bank, each as defined in section 36a-2 of the general statutes;

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

(4) "Credit union" means a Connecticut credit union or a federal credit union, each as defined in section 36a-2 of the general statutes;

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(5) "Department" means the Department of Banking;

(6) "Eligible borrower" means the owner or occupant of a residential building who has received a participation agreement from the captive insurance company;

(7) "Eligible financial institution" means a bank or credit union that has a physical presence in this state;

(8) "Participation agreement" means an agreement by the captive insurance company to pay for a portion of the cost to repair or replace a concrete foundation that has deteriorated due to the presence of pyrrhotite; and

(9) "Residential building" has the same meaning as provided in section 8-440 of the general statutes, as amended by this act.

Sec. 8. (NEW) (*Effective from passage*) (a) The authority shall administer a supplemental collapsing foundation loan program to guarantee the repayment of loans made by an eligible financial institution to an eligible borrower pursuant to sections 7 to 11, inclusive, of this act. Subject to the cessation of new claim approvals under subsection (d) of section 10 of this act, the authority shall submit all processed claims to the Comptroller, who shall pay from the General Fund any and all claims submitted by the authority.

(b) (1) Except as provided in subsection (d) of this section, any eligible financial institution may participate in the loan guarantee program after providing the department and the authority with advance written notice of the eligible financial institution's intention to participate in the program. Such notice shall be in the form and manner prescribed by the department and the authority, and shall include contact information for the eligible financial institution. Nothing in this section shall be construed to preclude an eligible financial institution that has elected to participate in the program from

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issuing loans to eligible borrowers outside of the loan guarantee program.

(2) An eligible financial institution may suspend its participation in, or withdraw from, the loan guarantee program five business days after providing advance written notice to the department and the authority specifying the date on which such suspension or withdrawal becomes effective. Such withdrawal or suspension shall not affect the eligible financial institution's ability to submit a guarantee claim on any loan for which the eligible financial institution provided notice to the authority pursuant to subsection (d) of this section prior to the effective date of the withdrawal or suspension.

(3) Not later than September 1, 2019, the department and the authority shall each publish on their Internet web sites a summary of the program and a list of the eligible financial institutions that have elected to participate in the program. The list shall be updated from time to time and shall include the contact information of each participating eligible financial institution. The department shall also provide information concerning the loan guarantee program to mortgage servicers licensed pursuant to section 36a-718 of the general statutes.

(c) (1) The authority may develop, in consultation with representatives from the banking industry, one or more standard promissory note and mortgage deed forms that may be used by eligible financial institutions making loans under the program pursuant to section 9 of this act.

(2) Not later than September 1, 2019, the authority shall develop, in consultation with representatives from the banking industry, (A) reasonable standards an eligible financial institution may rely upon to demonstrate good faith collection efforts described in subsection (a) of section 10 of this act, and (B) a readily accessible communication portal

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by which participating eligible financial institutions may verify in real time the total dollar amount of loans that have been reported to the authority pursuant to subsection (d) of this section and the total dollar amount of claims submitted to the Comptroller pursuant to subsection (a) of section 10 of this act. The forms and standards developed pursuant to this section shall, to the maximum extent feasible, be closely aligned with existing forms, policies and procedures used by eligible financial institutions participating in the program, but shall not require post-delinquency collection efforts extending beyond ninety days.

(d) Each eligible financial institution that makes a loan pursuant to section 9 of this act, shall notify the authority in writing not later than one business day after making the loan, specifying the amount of the loan and any other information about the borrower and the loan the authority may request. When the total amount of loans reported to the authority reaches twenty million dollars, the authority shall immediately close participation in the program under subsection (a) of this section and notify each eligible financial institution participating in the program. A participating eligible financial institution may condition the availability of any loan commitment on the availability of the loan guarantee program.

Sec. 9. (NEW) (*Effective from passage*) Each eligible financial institution that is participating in the program may make loans to an eligible borrower, provided:

(1) The eligible borrower demonstrates to the satisfaction of the financial institution that the eligible borrower has a participation agreement with the captive insurance company.

(2) The loan shall (A) be secured by a mortgage deed on the eligible borrower's residential building, (B) be made in accordance with the eligible financial institution's underwriting policy and standards, (C)

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be in an amount not to exceed seventy-five thousand dollars, and (D) bear an interest rate that does not exceed the applicable rate of the Federal Home Loan Bank of Boston for Amortizing Advances through the New England Fund program. For the purposes of this subdivision, "applicable rate" means the New England Fund rate that (i) is published on the Internet web site of the Federal Home Loan Bank of Boston as of the date the interest rate is locked-in by the eligible borrower and financial institution, and (ii) has an advance term and amortization schedule that most closely corresponds to the term and amortization schedule of the loan being made by the participating eligible financial institution.

(3) The eligible financial institution may recover up to eight hundred dollars from the eligible borrower for expenses paid by the eligible financial institution to third parties for services related to processing the application and closing the loan, including obtaining a credit report, flood certification, title search, appraisal or other valuation, and any recording fees. Such expenses may be financed as part of the loan subject to the seventy-five-thousand-dollar limit described in subparagraph (C) of subdivision (2) of this subsection or paid separately by the eligible borrower.

(4) The loan agreement shall require the eligible borrower to repay the loan in full not later than twenty years after the date the loan is issued.

(5) The loan proceeds shall be used by the borrower only for eligible repair expenses. For the purposes of this subdivision, "eligible repair expenses" means repair or replacement expenses that are (A) necessary to complete the repair or replacement of the foundation, or (B) otherwise necessary to restore the functionality and appearance of the property to the extent that the functionality and appearance of the property were compromised by the deterioration of the foundation or the demolition and construction process, including, but not limited to,

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the repair or replacement of wall framing, drywall, paint and other wall finishes, porches or decks, gutters, landscaping, outbuildings or sheds and swimming pools. "Eligible repair expenses" do not include any costs associated with significant upgrades to the property that are not otherwise included in subparagraphs (A) and (B) of this subdivision. A participating eligible financial institution may decline an application for a loan under the program that includes a request to fund expenses associated with upgrades to the property that may not qualify as eligible repair expenses, but the failure to do so shall not affect the ability of the eligible financial institution to include the loan in the loan guarantee program for the full amount of principal extended to the eligible borrower.

Sec. 10. (NEW) (*Effective from passage*) (a) An eligible financial institution that has made a good faith effort to collect the outstanding principal from a loan issued pursuant to section 9 of this act may make a claim to the authority for recovery of an amount equal to the outstanding principal for such loan. Except as provided in subsection (d) of this section, if the eligible financial institution demonstrates to the satisfaction of the authority that the eligible financial institution has made a good faith effort to collect the outstanding principal from the eligible borrower in accordance with the financial institution's loan servicing and collection policies, the authority shall process and submit the claim to the Comptroller for payment. Upon payment of a claim by the Comptroller, and as a condition of such payment, (1) the loan shall be assigned to the state, and (2) the authority, as agent for the state, shall have the right to continue collection efforts on the loan. Any amount necessary for payment by the Comptroller to honor loan guarantees under this section shall be deemed appropriated from the General Fund, and any funds collected by the authority in accordance with this subsection shall be deposited to the General Fund.

(b) The authority shall maintain records in the regular course of

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administration of the loan guarantee program, including a record of loans issued and of payments made to honor loan guarantees issued under this section.

(c) The authority may terminate any loan guarantee if the financial institution misrepresents any information pertaining to the guarantee or fails to comply with any requirements of this section in connection with the guarantee of the underlying loan.

(d) The total amount of claims processed by the authority and paid by the Comptroller to honor loan guarantees under this section shall not exceed two million dollars. When the total amount of claims processed by the authority and paid by the Comptroller reaches two million dollars, the authority shall immediately cease to process claims and shall notify the Comptroller and each eligible financial institution participating in the program that the authority has ceased honoring loan guarantees.

Sec. 11. (NEW) (*Effective from passage*) The Comptroller, the authority and the department may enter into a memorandum of understanding to carry out the provisions of sections 7 to 12, inclusive, of this act.

Sec. 12. Subsection (a) of section 8-244 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is created a body politic and corporate to be known as the "Connecticut Housing Finance Authority". Said authority is constituted a public instrumentality and political subdivision of this state and the exercise by the authority of the powers conferred by this chapter and sections 7 to 11, inclusive, of this act shall be deemed and held to be the performance of an essential public and governmental function. The Connecticut Housing Finance Authority shall not be construed to be a department, institution or agency of the state. The board of directors of

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the authority shall consist of sixteen members as follows: (1) The Commissioner of Economic and Community Development, the Commissioner of Housing, the Secretary of the Office of Policy and Management, the Banking Commissioner and the State Treasurer, ex officio, or their designees, with the right to vote, (2) seven members to be appointed by the Governor, and (3) four members appointed as follows: One by the president pro tempore of the Senate, one by the speaker of the House of Representatives, one by the minority leader of the Senate and one by the minority leader of the House of Representatives. The member initially appointed by the speaker of the House of Representatives shall serve a term of five years; the member initially appointed by the president pro tempore of the Senate shall serve a term of four years. The members initially appointed by the Senate minority leader shall serve a term of three years. The member initially appointed by the minority leader of the House of Representatives shall serve a term of two years. Thereafter, each member appointed by a member of the General Assembly shall serve a term of five years. The members appointed by the Governor and the members of the General Assembly shall be appointed in accordance with section 4-9b and among them be experienced in all aspects of housing, including housing design, development, finance, management and state and municipal finance, and at least one of whom shall be selected from among the officers or employees of the state. At least one shall have experience in the provision of housing to very low, low and moderate income families. On or before July first, annually, the Governor shall appoint a member for a term of five years from said July first to succeed the member whose term expires and until such member's successor has been appointed, except that in 1974 and 1995 and quinquennially thereafter, the Governor shall appoint two members. The chairperson of the board shall be appointed by the Governor. The board shall annually elect one of its appointed members as vice-chairperson of the board. Members shall receive no compensation for the performance of their duties hereunder but shall

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be reimbursed for necessary expenses incurred in the performance thereof. The Governor or appointing member of the General Assembly, as the case may be, shall fill any vacancy for the unexpired term. A member of the board shall be eligible for reappointment. Any member of the board may be removed by the Governor or appointing member of the General Assembly, as the case may be, for misfeasance, malfeasance or wilful neglect of duty. Each member of the board before entering upon such member's duties shall take and subscribe the oath of affirmation required by article XI, section 1, of the State Constitution. A record of each such oath shall be filed in the office of the Secretary of the State. Each ex-officio member may designate such member's deputy or any member of such member's staff to represent such member at meetings of the board with full power to act and vote on such member's behalf.

Sec. 13. (NEW) (*Effective July 1, 2019*) (a) There is established a program to encourage the development of technologies and techniques regarding the prevention, identification and repair of properties that have, or may suffer from, crumbling foundations due to the presence of pyrrhotite.

(b) Connecticut Innovations, Incorporated, shall administer the program established under subsection (a) of this section within existing resources and, in conjunction with a volunteer panel of subject matter experts convened by Connecticut Innovations, Incorporated, develop criteria for the program established under subsection (a) of this section.

(c) Connecticut Innovations, Incorporated, may administer the program established under subsection (a) of this section in coordination with the coordinating agency from another state or other states.

Sec. 14. (NEW) (*Effective July 1, 2019*) (a) The Chief Data Officer

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shall, in consultation with the Department of Housing, the State Geologist, the captive insurance company established pursuant to section 38a-91vv of the general statutes, as amended by this act, and the volunteer panel convened pursuant to subsection (b) of section 13 of this act, develop and implement a plan to collect the data necessary to conduct research regarding crumbling foundations.

(b) Any data collected under the plan developed and implemented pursuant to subsection (a) of this section shall be confidential and exempt from the Freedom of Information Act, as defined in section 1-200 of the general statutes, except that the Chief Data Officer may make such data available for research purposes subject to data sharing agreements that maintain the confidentiality of personally identifying information and the specific location of any property.

Sec. 15. (*Effective from passage*) (a) There is established a working group to develop a model quality control plan for quarries and to study the workforce of contractors engaged in the repair and replacement of concrete foundations that have deteriorated due to the presence of pyrrhotite.

(b) The working group shall consist of the following members:

(1) Two appointed by the speaker of the House of Representatives, one of whom shall have expertise in residential home building and one of whom shall have expertise in the construction industry;

(2) Two appointed by the president pro tempore of the Senate, one of whom shall be a member of the Capitol Region Council of Governments;

(3) One appointed by the majority leader of the House of Representatives;

(4) One appointed by the majority leader of the Senate;

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(5) One appointed by the minority leader of the House of Representatives; and

(6) One appointed by the minority leader of the Senate.

(c) Any member of the working group may be a member of the General Assembly.

(d) All appointments to the working group shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the working group from among the members of the working group. Such chairpersons shall schedule the first meeting of the working group, which shall be held not later than sixty days after the effective date of this section.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to consumer protection shall serve as administrative staff of the working group.

(g) Not later than February 1, 2020, the working group shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to consumer protection, in accordance with the provisions of section 11-4a of the general statutes. The working group shall terminate on the date that it submits such report or February 1, 2020, whichever is later.

Approved July 8, 2019