

Crumbling Foundations Legislation

By: Alex Reger, Principal Analyst
January 17, 2024 | 2024-R-0029

Issue

Provide a history of Connecticut legislation intended to address crumbling concrete foundations.

Summary

Certain home foundations, primarily located in northeastern Connecticut, were found to contain the mineral pyrrhotite, which can expand when exposed to water and oxygen. The expansion can cause the concrete to crack and swell, undermining the structural stability of a home's foundation.

The legislature addressed this issue by (1) creating and funding the [Connecticut Foundation Solutions Indemnity Company, Inc.](#) (CFSIC) to assess claims and distribute grants to repair and replace crumbling concrete foundations and (2) establishing the [Collapsing Foundations Supplemental Loan Program](#) to make loans more accessible.

The legislature has also taken steps to document the source of concrete used to build residential homes, provided tax breaks to impacted homeowners, and required residential home sellers to disclose known foundation concerns, among other things.

In addition to the legislation described below, the legislature has taken action to address specific pyrrhotite concerns. For example, PA 19-1, June Special Session, § 12, and PA 22-118, § 387, provide increased school construction reimbursement rates to schools in Tolland and Ellington, respectively, for pyrrhotite related issues.

Legislation

Below we briefly summarize all enacted legislation related to crumbling concrete foundations, in chronological order. More information for each act is available in its Public Act Summary.

PA 16-45

[PA 16-45](#) requires (1) anyone seeking a certificate of occupancy for a new building to give the local building official documentation showing the names of the concrete supplier and installer; (2) municipalities, at an owner's request, to reassess residential properties with foundation problems; (3) the Department of Consumer Protection (DCP) to investigate the cause concrete foundation failure; and (4) executive branch agencies to maintain records related to failing residential concrete foundations as confidential for at least seven years.

PA 17-2 June Special Session

[PA 17-2](#), June Special Session, §§ 334-348 & 553, contained several provisions to address crumbling concrete foundations. It:

1. creates CFSIC to distribute grants and organize assistance programs, and authorized the State Bond Commission to issue bonds of up to \$20 million per year for five years to capitalize and fund CFSIC's activities;
2. creates the Collapsing Foundations Credit Enhancement Program to help homeowners obtain additional funding necessary to replace or repair crumbling concrete foundations;
3. allows taxpayers to reduce their Connecticut adjusted gross income by the amount of certain financial assistance received to repair or replace crumbling concrete foundations;
4. waives certain building permit fees for repairing or replacing crumbling concrete foundations;
5. allows an insured to sue his or her homeowners insurer for up to one year after the insurer denies a claim for coverage of a crumbling concrete foundation; and
6. prohibits using recycled material containing pyrrhotite to produce structural concrete for residential or commercial construction unless certain standards are adopted.

The act also requires a residential property condition disclosure report, which is generally required when selling a residential home, to include:

1. a recommendation that the prospective purchaser have any concrete foundation inspected by a state licensed structural engineer for deterioration and the presence of pyrrhotite,
2. a question on whether the seller knows of any testing or inspection related to the property's foundation, and
3. a question on whether the seller knows of any repairs related to the property's foundation.

Finally, the act also:

1. allows municipalities issue bonds or to jointly borrow funds from any source to pay for all or part a joint project to abate deleterious conditions caused by a crumbling concrete foundation that, if left unabated, would collapse and damage the municipalities' housing stock and economies;
2. establishes a Quarry Quality Control working group (it is unclear if this working group convened, however [PA 19-192](#), § 15 (see below) established a substantially similar group that reported back to the legislature);
3. establishes a homeowner advocate within Department of Housing (DOH) to, among other things, coordinate state efforts to assist homeowners with crumbling concrete foundations (contact information for the homeowner advocate is listed at the bottom of DOH's website [here](#)); and
4. requires the consumer protection commissioner to establish a training program for contractors repairing or replacing crumbling concrete foundations.

PA 18-160

[PA 18-160](#) requires a \$12 surcharge on the named insured under certain homeowners insurance policies and deposits the surcharge revenue into the Healthy Homes Fund, which the act established. Under the act, 85% of the amount collected (after certain administrative expenses) must be deposited into the Crumbling Foundations Assistance Fund to assist homeowners with concrete foundations damaged by the presence of pyrrhotite.

The remaining 15% must be used by the DOH to fund:

1. grants, up to a total of \$1 million, from the Department of Economic and Community Development to certain homeowners in New Haven and Woodbridge with structural damage from subsidence or water infiltration; and
2. lead, radon, and other contaminant abatement activities, including necessary administrative expenses.

[PA 18-179](#) limits the funds listed under item number 2 in the list above to lead removal, remediation, and abatement only (i.e., eliminates using the funds for radon and other contaminant abatement activities).

PA 18-179

[PA 18-179](#) codifies the residential disclosure form requirement, including the questions related to concrete foundations. Previously, the residential disclosure form was required through regulations.

The act also changes the CFSIC's enabling legislation, specifying that it is not considered a state agency for any purpose other than for certain applicable state ethics provisions. It also deems CFSIC as not performing a governmental function for Freedom of Information Act (FOIA) purposes. It also allows individuals associated with CFSIC's governing board to receive aid without it being considered a conflict of interest.

PA 19-117

[PA 19-117](#), § 336, exempts from the real estate conveyance tax transfers of certain 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 certain evidence of pyrrhotite is obtained, but it is not available to a transferor who received financial assistance to repair or replace the foundation from the Crumbling Foundations Assistance Fund.

PA 19-192

[PA 19-192](#) makes more buildings and building owners eligible for several assistance programs that support repairing or replacing crumbling concrete foundations by broadening the definition of "residential building" to include, among other things, buildings containing more than four condominium units. It also correspondingly expands a concrete seller disclosure requirement and certain municipal bonding authorities.

The act also changes the residential property condition report, which property owners must use to make disclosures to potential buyers, by:

1. requiring owners to disclose and explain any information they have related to crumbling concrete;
2. establishing additional disclosure requirements for regions affected by crumbling concrete foundations and anyone selling foreclosed residential property in an affected municipality; and
3. requiring the disclosure of all significant defects in a property's foundation, even if the seller fails to complete the residential disclosure report.

The act creates a private right of action allowing buyers to bring a civil suit to recover actual damages from sellers who fail to make the required disclosures. Additionally, the act:

1. establishes a collapsing foundation supplemental loan program to guarantee loans made by banks and credit unions in Connecticut to owners of pyrrhotite-damaged buildings;
2. removes an obligation for CFSIC to create a unified aid application and shortens certain application deadlines;

3. changes the \$12 Healthy Homes Fund insurance surcharge, including (a) when and on whom the surcharge is assessed and (b) requiring surplus lines brokers to collect and remit the surcharge on applicable policies;
4. specifies that a grant of up to \$1 million from the Healthy Homes Fund to aid certain homeowners in New Haven and Woodbridge with homes suffering from subsidence damage and water infiltration, must come from money accrued in the Healthy Homes Fund during the 2019 calendar year (see PA 18-60 above);
5. establishes a program through Connecticut Innovations, Inc. to encourage the development of technologies and techniques to prevent, identify, and repair crumbling concrete foundations (§ 13);
6. requires the state's chief data officer to develop and implement a plan for collecting data needed to conduct crumbling concrete foundation research; and
7. establishes a working group to (a) develop a model quality control plan for quarries and (b) study the workforce of contractors repairing and replacing crumbling concrete foundations.

PA 20-3, September Special Session

[PA 20-3](#) expands eligibility for the Supplemental Collapsing Foundation Loan Program to include:

1. condominium and common interest ownership associations with a CFSIC participation agreement, and
2. residential association unit owners and occupants without a CFSIC participation agreement, if the association that the unit is a part of has one covering it.

PA 21-111

[PA 21-111](#), § 95, increases the existing authorization for the Crumbling Foundations Assistance Fund by \$100 million, in the amounts of \$25 million per year for FYs 23-26.

PA 21-120

[PA 21-120](#) makes CFSIC permanent by eliminating its June 30, 2022, sunset date, and makes changes to its board of directors. It also requires CFSIC to study the extent of pyrrhotite-related foundation damage in nonresidential buildings (and remits up to \$175,000 from the Healthy Homes Fund for the study's expenses).

It also (1) requires concrete aggregate quarry operators to test and report on their aggregate's total sulfur content ("total S"); (2) imposes restrictions on using aggregate that has a relatively high total S; and (3) in certain circumstances, requires additional testing to identify the presence of pyrrhotite. The act authorizes the Department of Energy and Environmental Protection (DEEP) commissioner to

adopt regulations on aggregate testing and impose restrictions on aggregate that contains pyrrhotite.

The act also:

1. eliminates the five-year cap on reduced assessments for properties made with defective concrete and
2. requires concrete aggregate quarries to (a) submit an operations plan to the state geologist and DEEP commissioner annually and (b) prepare a geological source report (GSR) every four years and submit it to the same entities.

Additionally, the act permanently exempts certain executive branch agency records related to faulty or failing concrete foundations in residential buildings from disclosure under FOIA and applies the exemption to the same types of records held by public higher education institutions. The act requires executive branch agencies to keep information about claims of faulty or failing foundations confidential in perpetuity.

PA 21-2, June Special Session

[PA 21-2](#), § 58, specifies that the governor's nonvoting CFSIC board appointee required under PA 21-120 (see above) is an ex-officio member under CFSIC's bylaws.

PA 23-185

[PA 23-185](#) establishes material testing and related reporting requirements for entities that process coarse aggregate intended to be mixed with other component ingredients to create concrete for use in a residential or commercial concrete foundation (i.e., producers). It also requires concrete producers mixing concrete for residential or commercial foundations to confirm that the coarse aggregate they plan to mix into concrete (1) complies with the act and existing law's requirements related to total S and pyrrhotite concentrations and (2) comes from a producer or quarry that has filed a current GSR with the state.

PA 23-205

[PA 23-205](#), § 159, broadens the purposes for which the Healthy Homes Fund may be used to include giving grants to (1) remediate structurally deficient foundations in owner-occupied condominium units in Hamden, or (2) relocate these unit owners. Grants for these units or unit owners must come from remittances to the Healthy Homes Fund between May 1, 2022, and April 30, 2023, and may not exceed the actual cost of remediation or relocation.

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