

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Meghan K. Kilcoyne

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to crumbling concrete prevention and protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Meghan K. Kilcoyne</i>	<i>12th Worcester</i>	<i>1/17/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to crumbling concrete prevention and protection.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION XX. Section 97 of chapter 13 of the General Laws is hereby amended by
2 inserting at the end thereof the following paragraphs:-

3 Said board shall require all licensed home inspectors who perform an inspection on a
4 residential home for the purpose of a sale or lease of the home to provide the potential buyer or
5 lessee information regarding the possible presence of pyrrhotite or framboidal pyrite in the
6 concrete foundation, prepared by the crumbling concrete relief agency established by section 2 of
7 chapter 23B.

8 Said board shall require all licensed home inspectors who perform an inspection on a
9 newly constructed residential home for the purpose of a sale or lease of the home to review
10 city/town building officials' inspection documentation in compliance with Massachusetts
11 Building Code, specifically concrete foundations. All findings must be reported in the final home
12 inspection report provided to the potential buyer or lessee.

SECTION XX. Chapter 6C of the General Laws is hereby amended by striking section 79 in its entirety and adding the following section:-

Section 79. (a) The Department in consultation with the state geologist shall promulgate regulations to establish standards for determining the presence of pyrrhotite and framboidal pyrite in cement concrete aggregate for use in building foundations. Such regulations shall require aggregate manufacturers to submit test results, a Geological Source Report, and such other information and documentation as the department may require.

(b) The Department shall publish a list of concrete aggregate sources for use in cement concrete foundations that the department identifies pursuant to the testing requirements under subsection (a).

(c) The Department shall maintain for 30 years information and documentation received from aggregate manufacturers pursuant to the regulations established under subsection (a).

SECTION XX. Section 2(a) of chapter 23B of the General Laws is hereby amended by inserting the following new subsection:-

(xviii) Provide assistance to owners of residential real property with concrete foundations that have tested positive for the presence of pyrrhotite or framboidal pyrite including, without limitation: (a) providing information to the public regarding structurally sound concrete and the dangers of pyrrhotite or framboidal pyrite; (b) administering the crumbling concrete assistance fund established in section 2RRRRR of chapter 29, including establishing eligibility requirements and (c) implementing a process for impacted homeowners to secure foundation repair and replacement funding from the fund. A decision on a request from an impacted homeowner for such financial assistance shall be provided in writing to the homeowner and shall

include the information relied upon and the basis for such decision, including the relevant eligibility and underwriting criteria. An impacted homeowner may request a review of any decision by the agency relating to such homeowner not later than 30 days after the decision. A final determination on such a request for review shall be provided in writing to the homeowner not later than 30 days after receipt of the homeowner's request, unless an extension is agreed to by the homeowner.

SECTION XX. Chapter 29 of the General Laws is hereby amended by inserting after section 2QQQQQ the following section:-

Section 2RRRRR. (a) There shall be a Crumbling Concrete Assistance Fund. The fund shall be expended to provide financial assistance to owners of residential real property for the repair or replacement of concrete foundations of such property that have deteriorated due to the presence of pyrrhotite or framboidal pyrite and to minimize any negative economic impacts on municipalities in which such property are located. The department of housing and livable communities established by chapter 23B of the General Laws shall administer the fund and shall make expenditures from the fund, without further appropriation. The department shall seek to maximize available federal reimbursements for money spent from the fund.

The fund shall consist of: (i) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (ii) interest earned on such revenues; (iii) funds from public and private sources, including but not limited to gifts, grants, donations, and settlements received by the commonwealth that are specifically designated to be credited to the fund; (iv) federal funds paid to the commonwealth under paragraph (b) of this section; (v) monies paid to the commonwealth under paragraph (c) of this section; and (vi)

monies paid to the commonwealth under paragraph (d) of this section. Any bond proceeds deposited into the fund shall be kept separate from any and all other funds deposited into the fund. Any balance in the fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not be transferred to any other fund or revert to the General Fund.

(b) The department of housing and livable communities established by chapter 23B may apply for, receive and deposit any federal funds, including but not limited to funds made available by the United States Department of Housing and Urban Development Section 108 Loan Guarantee program, into the fund established by this section.

(c) Any entity licensed and engaged in the provision of homeowners insurance that has denied or rejected claims for repair or replacement of foundations due to the presence of pyrrhotite or framboidal pyrite at any time during the period beginning January 1, 2000, and continuing through December 31, 2025, inclusive, shall be required to pay to the department of revenue an amount equal to the total estimated or actual cost of repair or replacement, adjusted for inflation as applicable, in each instance of a denial. No later than November 30, 2026, the attorney general shall determine which insurers are subject to the provisions of this paragraph, including through collection and review of claims denial and related documentation from impacted homeowners, and shall provide a list of subject insurers to the department of revenue, the senate and house committees on ways and means, the joint committee on environment and natural resources, and the joint committee on state administration and regulatory oversight no later than December 31, 2024. The department of revenue shall notify subject insurers of penalties owed in writing no later than March 30, 2025. Penalties owed under this paragraph shall be paid on or before June 30, 2027. Penalties collected under this paragraph shall be

80 deposited into the fund established by this section. An entity failing to pay a penalty a penalty
81 owed under this paragraph shall have its license revoked and shall not be eligible for a new or
82 renewed license for a period of five years.

83 (d) Annually not later than May 1, the commissioner of revenue shall assess any entity
84 licensed and engaged in the provision of homeowners insurance in the commonwealth an amount
85 not less than 3 per cent of the entity's net profits from the provision of homeowners insurance in
86 the commonwealth during the immediately preceding tax year. Penalties collected under this
87 paragraph shall be deposited into the fund established by this section.

88 (e) Amounts issued from the fund to impacted homeowners for the repair or replacement
89 of concrete foundations that have deteriorated due to the presence of pyrrhotite or framboidal
90 pyrite shall be exempt from taxation under chapter 62.

91 (f) Annually not later than June 1, the crumbling concrete relief agency shall report on the
92 activities of the fund from the previous calendar year to the senate and house committees on
93 ways and means and the joint committee on environment and natural resources.

94 (g) The crumbling concrete relief agency shall promulgate regulations or issue other
95 guidance for the expenditure of the funds under this section.

96 SECTION XX. Chapter 59 of the General Laws is hereby amended by inserting after
97 section 59A the following section:-

98 Section 59B. (a) Notwithstanding any general or special law to the contrary, an owner of
99 real property in the commonwealth may apply for a residential property tax abatement due to the
100 presence of pyrrhotite or framboidal pyrite in the foundation. The presence of pyrrhotite or

framboidal pyrite shall be established by: (i) not less than 2 core samples from the foundation proving the presence of pyrrhotite or framboidal pyrite; or (ii) a certified visual inspection conducted by a Massachusetts registered professional engineer with experience in structural concrete foundation design and inspection. The owner shall also provide a certified estimate of the cost to repair or replace the foundation from a registered licensed contractor with 5 years experience in concrete foundation repair/replacement. Upon receipt of such documentation, a municipal board of assessors or equivalent entity shall determine a value per square foot of the foundation and percentage of functional obsolescence. If an abatement is sought on multiple properties within a municipality the board of assessors may determine a general value per square foot of foundation and percentage of functional obsolescence to be used for all properties within said municipality. The board of assessors shall use the value and percentage to calculate the reduction in assessment for each affected property. Such reductions shall be effective until the foundation is repaired or replaced.

SECTION XX - Section 3 of Chapter 143 is hereby amended by adding the following paragraphs:-

Any contractor or cement concrete producer shall provide to the inspector of buildings, building commissioner or local inspector concrete mix design details including such information provided pursuant to the regulations required pursuant to subsection (s)(ii) of section 94 of chapter 143 of the general laws.

Every inspector of buildings, building commissioner or local inspector shall collect such information provided pursuant to the regulations required pursuant to subsection (s) of section 94 of chapter 143 of the general laws and submit such information to the department of housing and

123 livable communities, which shall retain and make this information available to homeowners
124 upon request for not less than 30 years.

125 SECTION XX. Section 94 of chapter 143 of the general laws is hereby amended by
126 inserting at the end the following subsection:-

127 (s) In consultation with the Massachusetts Department of Transportation to develop
128 requirements and promulgate regulations as part of the state building code, requiring that cement
129 concrete producers, without limitation: (i) purchase or source materials for use in foundations
130 from aggregate manufacturers pursuant to section 79 of chapter 6C of the general laws; (ii)
131 report and document proposed mix design formulations as part of permitting process prior to
132 construction including mix type, sources of constituent materials, , design qualities, design
133 targets, and the concrete producers plastic concrete trial test results for said given mix type; and
134 (iii) generate batch tickets for each delivery of concrete prior to placement of concrete, which
135 must be retained by the cement concrete producer for a minimum of 30 years.

136 SECTION XX. Chapter 143 of the General Laws is hereby amended by adding the
137 following section:-

138 Section 110. Notwithstanding any general or special law to the contrary, fees for building
139 permits for work associated with crumbling concrete foundations replacement shall be waived.
140 In order to qualify for the waiver of fees, the applicant shall provide written documentation
141 showing that pyrrhotite or framboidal pyrite minerals are present in the foundation to be
142 replaced. Nothing in this section shall waive any of the permit application requirements,
143 including, but not limited to, holding public hearings, associated with a permit application. A
144 determination to waive fees is not a guarantee of the issuance of a permit.

145 SECTION XX. A homeowner harmed by property damage resulting from or related to
146 the use or sale of aggregate or cement concrete produced in violation of this section may bring
147 suit in the Superior Court. A contractor, cement concrete producer, or aggregate manufacturer
148 who uses or sells aggregate or pours cement concrete with said aggregate in violation of this Act
149 or the regulations promulgated pursuant hereto shall be liable to a homeowner in perpetuity for
150 property damage resulting from or related to such aggregate or cement concrete product, unless
151 the violation was intentionally concealed from the contractor, cement concrete producer, or
152 aggregate manufacturer.

153 SECTION 10. The State Board of Building Regulations and Standards shall promulgate
154 the regulations required under Section 7 no later than one year after the effective date of this Act.