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THE FINE PRINT

A leaky oil tank could cost a young couple their dream home

By [Sean P. Murphy](#) Globe Staff, Updated February 20, 2022, 5 minutes ago



Emmaline and Brian Proctor, a young couple with a baby (and another on the way), face devastating financial loss due to a recent leak of home heating oil from the tank in the basement. They bought their home 16 months ago.

JONATHAN WIGGS/GLOBE STAFF

Emmaline and Brian Proctor were busy with routine chores one morning last month when the odor of home heating oil suddenly filled their house in Wareham.

When Brian ran down to the basement, he saw oil leaking from a small hole at the bottom of their oil tank. The concrete floor was already covered in it.

Fearing the fumes, Emmaline, who is pregnant, and the couple's 10-month old baby were out the door with a hastily packed bag, not to return for almost a week. Brian stayed behind, called 911, shut off the furnace, and tried to stop the leak with his finger.

The Proctors now face an estimated cleanup and replacement cost of more than \$185,000 — more than half of what they paid for their heavily mortgaged house — according to written estimates from contractors. They have no idea how they will come up with that much money and will probably lose their home.

About 25 gallons of oil had spilled before the Fire Department arrived and stanching the leak with a wooden plug. Corrosion inside the tank had apparently caused the leak. The Proctors had had the steel tank inspected before they bought the house in 2020 but it looked fine from the outside.

Under strictly enforced state environmental laws, the Proctors are now responsible for removing contamination caused by the spill. That means their contractor must excavate at least 10 feet under the house to test the soil and remove contaminated portions. And to do that, the contractor must temporarily lift the house off its foundation for access.

If cleanup specialists already hired by the Proctors (and paid for through a [GoFundMe](#) page) determine that oil has leached into ground water or the properties of neighbors, the costs will go up exponentially.

Twenty minutes of leaking oil could cost them everything.

“We’re considering all options, but there really aren’t any good ones,” said Brian, 24, a full-time National Guardsman who works as a Blackhawk helicopter mechanic at the military base on Cape Cod.

But what about homeowners insurance? Doesn't it kick in to help pay the cost?

The Proctors pay about \$1,000 a year for what they thought was a comprehensive insurance policy. But they were shocked to find out that their policy — like 90 percent of those written for homes that heat with oil in Massachusetts — does not include specific coverage for oil leaks.

“We had no idea,” said Emmaline, 30, a paralegal who left her job during the pandemic. “It was a total shock.”

About 110 homeowners report oil leaks annually, according to the state Department of Environmental Protection. That's a small percentage of the estimated 650,000 homeowners statewide who heat with oil.

The consequences can be catastrophic. One homeowner testified before a legislative committee last year that he had spent more than \$500,000 cleaning up an oil spill at his Hopkinton house.

Susan J. Crane, an attorney who has for more than 25 years represented homeowners dealing with oil leaks, wrote to the legislative committee that cleanup costs among her clients average more than \$100,000. A few paid more than \$1 million, she wrote.

“It's just heartbreaking,” she said in an interview. “Emotionally and financially, it's devastating.”

Crane and others have long advocated passage by the Legislature of a bill that would require insurers to include oil leak coverage in the policies they sell. They say a 2011 law intended to help protect homeowners like the Proctors has failed because of a major loophole.

The law required all insurers to “make available” insurance to cover oil leaks. But it didn't require them to inform customers of it. And very few homeowners are knowledgeable enough about the risks to request it, Crane said.

As a result, less than 10 percent of homeowners who heat with oil are insured for losses caused by an oil leak.

Now, Crane and others are pushing to make coverage mandatory and automatic.

The insurance industry has long been wary of selling such insurance, in part because oil releases are “extraordinarily risky to cover, due to the potential for full environmental devastation,” said Christopher Stark, executive director of the Massachusetts Insurance Federation, an industry lobby group.

The industry signed off on the 2011 law as a compromise, he said, because it came with a requirement that any homeowner seeking coverage must first prove they have upgraded their furnace and tank with safety equipment intended to prevent or limit spills.

Stark said the industry opposes mandatory coverage because it would no longer require upgrades in exchange for coverage, and because it would force homeowners who heat with natural gas or electricity (about 1.8 million homes) to also pay for oil release coverage.

Mandatory coverage is strongly backed by the association that represents the private, licensed site professionals (LSPs) who are authorized under state law to oversee cleanup of oil and other contamination.

The “fundamental” problem with the current law, according to the LSP association, is “way too few homeowners” have opted for coverage, even though it typically increases annual premiums by less than \$100.

The association says spreading the cost to all policyholders, including those who do not heat with oil, will make the increase in premiums “relatively low.”

The association also points out that premiums paid by policyholders who heat with oil help pay for losses caused by natural gas, even though those policyholders don’t use gas in their homes.

Brian Proctor said he would have been interested in buying insurance for oil spills if he had known about it when he and his wife bought their Cape-style house for \$275,000.

But the insurance agent who sold them their policy never mentioned it, he said. Nor did the home inspector, he said. During a walk-through of the basement, Brian and the inspector looked at the 275-gallon oil tank, but there was little discussion. (It was equipped with the kind of safety equipment required under the 2011 law.)

The inspector wrote in his report: “Be advised that steel oil tanks tend to corrode from the inside outward and telltale signs of problems may not always be visible.”

The current assumption among those who have looked at the Proctors’ tank is that it inexplicably corroded, even though it was only 18 years old and designed to last for 30. (Its warranty expired after 10 years and the manufacturer makes a general disavowal of liability for corrosion, Brian said.)

A GoFundMe page for the Proctors started by a family member raised almost \$10,000.

But there’s got to be a better way to protect homeowners who act responsibly by getting their property properly inspected and insured. Can we really look the other way when families like the Proctors get ruined through no fault of their own?

I think a solution is long overdue. State lawmakers should find it.

And although mandatory coverage may help homeowners going forward, something needs to be done for people like the Proctors who are dealing with a catastrophe now. Billions of dollars in public money have been used to clean up “Superfund” sites polluted and abandoned by corporations. There should be a way for the government to fund some measure of relief for ordinary people.

To live at their home, the Proctors are now relying on a temporary oil tank installed outside their house.

“We love our beautiful little house,” said Emmaline, sitting in the kitchen. “We were so proud of it. We saved and saved and did it all on our own. Now this.”

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THE FINE PRINT

In shift, insurance company now says Wareham couple is covered for oil leak

By [Sean P. Murphy](#) Globe Staff, Updated February 25, 2022, 29 minutes ago

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Brian Proctor and Emmaline, a young couple with a baby (and another on the way) face devastating financial loss due to a recent leak of home heating oil from the tank in the basement. JONATHAN WIGGS/GLOBE STAFF

In a reversal of its earlier position, an insurance company now says it will “extend” coverage to a young Wareham couple under their homeowners insurance policy for the very expensive cleanup caused by a leaky oil tank in the basement of their home.

On Jan. 17, the insurer, Narragansett Bay Insurance Company of Providence, had denied coverage to the couple, Emmaline and Brian Proctor, who had paid about \$1,000 a year for what they thought was a comprehensive homeowners policy.

In its detailed, six-page denial letter, NBIC had informed the Proctors that coverage for a leak apparently caused by corrosion in the tank was excluded from their policy.

The Proctors thought they would lose their house as the estimates for cleaning up the contamination, which include plans to jack the house off its foundation to excavate 10 feet below the basement floor — topped more than \$185,000. Such cleanups are strictly enforced under state environmental laws.

Emmaline, 30, who is pregnant, and Brian, 24, have a 10-month-old girl. She is a paralegal who left work during the pandemic, and he is a full-time National Guardsman who works as a Blackhawk helicopter mechanic at the military base on Cape Cod.

They said they were shocked to learn their policy, which is 68 pages long, did not cover an oil leak, even though they had their home, including the tank, inspected before buying the Cape-style house for \$275,000 in 2020.

A report written by the Proctor's home inspector noted that corrosion in oil tanks often begins on the inside and is not detectable from the outside.

They said their insurance agent never discussed with them the option of buying special coverage for a possible oil leak. NBIC did not respond to a Globe email seeking comment.

NBIC reversed its earlier position on Thursday, saying in an e-mail to the Proctors' lawyer that it will "immediately extend" coverage. NBIC also said it was reserving its right to make new evaluations as facts surrounding the leak "continue to develop."

"We're thrilled," said Brian Proctor. "We're hoping to get this quickly behind us so we can get on with the rest of our lives."

The Proctors were featured in a page-one [Globe column](#) on Monday that highlighted how the vast majority of the estimated 650,000 homeowners who heat with oil in Massachusetts do not have specific oil leak coverage in their policies.

The column recounted the case of a Hopkinton man who testified before a legislative committee last year that he had spent more than \$500,000 cleaning up oil that leaked from a tank in his house.

A bill that would make oil coverage in homeowners policies mandatory and automatic is pending before the Legislature, where it is opposed by the insurance industry.

Susan J. Crane, the Proctor's attorney, said she made her case on behalf of the Proctors to NBIC on Wednesday.

"Neither the Proctors nor I ever imagined this [NBIC's reversal] would be possible until yesterday, after I did a deep dive into their insurance documents and spoke with claims reps at the company," she wrote in an e-mail.

Still, Crane cautioned, homeowners who heat with oil should obtain specific coverage for oil leaks — a "liquid fuel rider," in insurance parlance. It usually costs under \$100 a year.

The Proctor's case "is an unusual outcome," she said. "No one should count on getting coverage without a liquid fuel rider.

She declined to discuss the specifics of the Proctors' case.

Crane also urged the Legislature to pass the pending bill. "It's critical," she said.

A [GoFundMe](#) page set up by a Proctor family member shortly after the Jan. 7 leak raised almost \$10,000. After publication of the Globe column, which included a link to the page, the fund swelled to almost \$83,000.

The Proctors on Thursday stopped accepting donations in light of the NBIC's new position, even though "we continue to pay legal fees and still may be facing significant uninsured costs," they Proctors wrote on the GoFundMe page.

“When the cleanup is all done, if there are any remaining funds, they will be donated to charity. We are overwhelmed with love and gratitude,” they wrote.

It was signed by “Emmy, Brian, Aria & baby-on-the-way!”

Got a problem? Send your consumer issue to sean.murphy@globe.com.

Follow him on Twitter [@spmurphyboston](https://twitter.com/spmurphyboston).

EDITORIAL

For the 650,000 homes that use oil heat, a lurking financial danger the Legislature should address

The Legislature should pass a measure requiring insurers to cover clean-up costs for homeowners.

By The Editorial Board Updated February 26, 2022, 4:00 a.m.



Brian and Emmaline Proctor (here with their daughter, Aria) faced devastating financial loss due to a recent leak of home heating oil from the tank in their basement. They assumed they were insured for an oil leak, but they were not. JONATHAN WIGGS/GLOBE STAFF

A catastrophic expense can be life-altering. People can lose their homes. Forgo important medical treatment. Empty out their kids' college savings accounts. Sink into depression.

In this country, much of the attention has focused on the catastrophic health care costs that are too often imposed on ordinary people. But [a recent story](#) by Globe consumer advocacy reporter Sean Murphy highlighted another, lesser-known problem: the enormous expense that can come with a home heating oil leak.

Heating homes with oil is rare outside the Northeast, but about 650,000 homeowners in Massachusetts still use oil for heat. The piece focused on a young couple, Emmaline and Brian Proctor, who seemed likely to lose their Wareham home after their oil tank spilled about 25 gallons of oil in their basement. State environmental laws require them to pay for a clean-up that could cost \$185,000, according to contractors' estimates — or more than half of what they paid for the house. And their insurance, it appeared, wouldn't cover it.

After the story appeared, the couple's insurer agreed to provide coverage. But other homeowners haven't been so lucky. They've been stunned to find out that what they thought was a comprehensive insurance policy didn't provide coverage, forcing them to come up with hundreds of thousands of dollars. Some have faced costs topping \$1 million. And the financial hardship can lead to clean-up delays, putting groundwater and surface water at risk of contamination.

The state Legislature can make sure that no other Massachusetts family faces this kind of hardship — and protect the environment to boot.

home heating oil leaks. But it didn't mandate that they actually tell customers about it. The result has been very low uptake, with less than 10 percent of customers who heat their homes with oil getting the coverage.

Susan Crane, a lawyer who has been working on the oil leak issue for years, says some standard-issue homeowner policies may provide coverage. But increasingly common "pollution exclusions" leave too many families stranded.

A bill before lawmakers now, filed by state Senator Anne M. Gobi of Central Massachusetts, would secure the protection Massachusetts homeowners deserve — requiring insurers to provide oil leak coverage. The insurance lobby has argued that the measure is unfair because it would force customers who heat with natural gas or electricity to pay for oil leak coverage. But that argument isn't very convincing. Insurance is designed to spread risk. Indeed, oil heat customers are already subsidizing coverage for fires caused by electrical heating systems and explosions caused by natural gas heating systems.

To be sure, an oil leak insurance requirement will mean more risk for insurers. But with more and more homeowners converting from oil to natural gas, and new construction favoring gas, that risk is likely to decline. State law also requires homeowners to install safety equipment designed to limit and prevent oil spills, and they have been gradually putting it in place — often at the prompting of oil companies conducting annual inspections. That, too, is reducing risk.

Catastrophic expenses can be, well, catastrophic. And if lawmakers can easily prevent them, they should.

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