

§ 134-1 Legislative intent.

The Commonwealth of Pennsylvania has enacted Act 98 of 1992 and Act 93 of 1994, both amending the Insurance Company Law of 1921,¹ to provide procedures for the payment of certain fire loss claims. It is the purpose of Act 98 of 1992 and Act 93 of 1994 to deter the commission of arson, to discourage the abandonment of property and to facilitate payment of taxes and other charges due to municipalities. The Borough of Mount Joy desires to enact a chapter pursuant to these Acts to provide for the payment of proceeds from certain fire loss claims to the Borough.

[1]:

Editor's Note: See 40 P.S. § 341 et seq.

§ 134-2 Short title.

This chapter shall be known and may be cited as the "Fire Insurance Proceeds Ordinance."

§ 134-3 Definitions; word usage.

In the interpretation of this chapter, the singular shall include the plural, and the masculine shall include the feminine and the neuter. All words and phrases shall have the meanings provided herein:

ACT

The Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended by Act 98 of 1992 and Act 93 of 1994, 40 P.S. § 341 et seq.

AUTHORITY

Mount Joy Borough Authority.

BOROUGH

The Borough of Mount Joy, Lancaster County, Pennsylvania.

CODE OFFICIAL

The person appointed by Borough Council to enforce Borough ordinances, including, but not limited to:

A.

Chapter **110**, Construction Codes, Uniform;

B.

Chapter **136**, Article **II**, Fire Prevention Code; and

C.

Chapter **195**, Property Maintenance.

INSURER

Any insurance company, association or exchange, as those terms are defined in the Act, doing business in the Commonwealth of Pennsylvania.

MANAGER

The appointed Manager of the Borough or his duly appointed designee.

MUNICIPAL CLAIMS

All delinquent real estate taxes, streetlight taxes, hydrant taxes, assessments, user charges (including but not limited to water and sewer rates imposed by the Authority) or any other unpaid costs or assessments which may become a lien against real property under the Municipal Claims Law, 53 P.S. § 7101 et seq.

MUNICIPAL EXPENSES

All expenses which the Borough has incurred as costs for the removal, repair or securing of a building or other structure on a property.

PERSON

Any individual, association, partnership, public or private corporation, whether for profit or not for profit, trust, estate or other legally recognized entity. Whenever the term "person" is used in connection with any clause providing for the imposition of a fine or penalty or the ordering of the action to comply with the terms of this chapter, the term "person" shall include the members of an association, partnership or firm and the officers of any public or private corporation, whether for profit or not for profit.

SECRETARY

The appointed Secretary of the Borough or, in the absence of the Secretary, the appointed Assistant Secretary.

TAX COLLECTOR

The elected or appointed Tax Collector of the Borough.

TREASURER

The appointed Treasurer of the Borough or, in the absence of the Treasurer, the appointed Assistant Treasurer.

§ 134-4 Payment of claims.

A.

No insurer shall pay a claim of a named insured for fire damage to a structure located within the Borough where the amount recoverable for the fire loss to the structure under all policies of insurance exceeds \$7,500, unless the insurer has complied with Section 508 of the Act¹¹ and this chapter.

[1]:

Editor's Note: See 40 P.S. § 638.

B.

An insurer which has been presented with a loss report which would result in an amount recoverable under all policies in excess of \$7,500 shall request, in a writing which specifies the address and Lancaster County Tax Map parcel number of the property, the name and address of the insurer and the named insured and the date of the receipt of a loss report from the named insured, a certification from the Borough under this chapter. The written request for a certification shall be forwarded to the Manager with a copy to the Tax Collector.

C.

Within 14 working days after receipt of a written request from an insurer for a certification under this chapter, the Manager shall consult with the Treasurer, Tax

Collector and the Authority and thereafter shall certify, in writing or by verbal notification to the insurer, either that there are no unpaid municipal claims or municipal expenses against the property or that there are either municipal claims or municipal expenses, specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts. If the Manager makes a verbal certification, the insurer shall confirm the certification in writing.

D.

Where the Manager has issued a certificate stating that there are no unpaid municipal claims or municipal expenses, the insurer may pay the claim of the named insured subject to Subsection F below.

E.

Where the Manager has issued a certificate identifying municipal claims or municipal expenses, the insurer shall transfer to the Borough an amount from the insurance proceeds necessary to pay the municipal claims and/or municipal expenses. The Manager shall ensure that the payment received from the insurer is properly credited.

F.

When all municipal claims and municipal expenses identified pursuant to this section have been paid, or where the Treasurer has issued a certificate described in Subsection C indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures shall be followed:

(1)

The insurer shall transfer from the insurance proceeds to the Borough, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof. If, at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough, a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Borough from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.

(2)

Upon receipt of the above-described portion of the insurance proceeds, the Manager shall:

(a)

Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Borough to be required in removing, repairing or securing the building or structure. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing or any proceedings related thereto.

(b)

Mail to the named insured, at the address received from the insurer, a notice that the proceeds have been received by the Borough and that the procedures under this subsection shall be followed.

(3)

After the transfer, the named insured may submit to the Borough a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, in which event the Manager shall, if such estimate is deemed by the Manager to be reasonable, return to the insured the amount of the funds transferred to the Borough in excess of that required to pay the municipal expenses, provided the Borough has not commenced to remove, repair or secure the building or other structure, in which case the Borough will complete the work.

(4)

Upon completion of the repair, removal or securing of the structure, the Manager shall transfer for reimbursement to the Borough general fund the amount of the municipal expenses paid by the Borough. If funds remain after such reimbursement, the Manager shall pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Code Official that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable Borough ordinances. The Borough shall retain interest earned upon the fund as reimbursement for its administrative expenses in overseeing the fund.

G.

Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this chapter or to insurance proceeds by an action at law or equity to enforce the codes of the Borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem reasonable.

§ 134-5 Violations and penalties.

Any owner of property, named insured, insurer or other person who violates the provisions of this chapter or who shall fail to comply with any of the requirements hereof shall be liable, upon summary conviction, to fines and penalties not exceeding \$600, which fines and penalties may be collected by suit or summary proceeding brought in the name of the Borough before a Magisterial District Judge or recovered as debts of the like amount are now by law recoverable.