

ARTICLE 127

FIRE INSURANCE ESCROW

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CROSS REFERENCES

Fire Insurance (40 P.S. §631 et seq.)

127.01 DESIGNATED OFFICER.

The Fire Commissioner or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

127.02 RESTRICTION ON PAYMENT FOR CASUALTY LOSSES.

No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the City of Bethlehem (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500), unless the Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508(b)(1)(i) of Act 98 of 1992, as amended, or a municipal certificate and bill pursuant to Section 508(b)(1)(ii), and in such case the bill is paid directly to the municipality by the Insuring Agent from the insurance proceeds, and unless there is compliance with Section 508(c) and (d) of Act 98 of 1992, as amended, and the provisions of this Article.

127.03 ESTABLISHMENT OF ESCROW.

Where pursuant to Section 508(b)(1)(i) of Act 98 of 1992, as amended, the municipal treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, or pursuant to Section 508(b)(1)(ii) the municipal treasurer issues a certificate and bill for such charges and the bill is paid directly by the

Insuring Agent from the insurance proceeds, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss agreed to by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or other structure, the following procedures must be followed:

- (1) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$2,000 for each \$15,000, and for each fraction of that amount, of a claim, this section to be applied such that if the claim is \$15,000 or less, the amount transferred to the Municipality shall be \$2,000; or
- (2) If at the time of a loss report, the named insured has submitted 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 Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.
- (3) The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure.
- (4) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.
- (5) Upon receipt of the proceeds under this section, the Municipality shall do the following:
 - (a) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and

- (b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the Municipality and notify the named insured that the proceeds under this subsection shall be followed; and
 - (c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Municipality and the required proof of such completion received by the designated officer, and if the Municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Municipality has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Municipality shall transfer the remaining funds to the named insured; and
 - (d) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest shall belong to the Municipality. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.
- (6) Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

127.04 REGULATIONS.

The Department of Administration of the City of Bethlehem may adopt procedures and regulations to implement Act 98 of 1992, as amended, and this Article and may fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992, as amended,

and this Article; including but not limited to issuance of certificates and bills, performance of inspections, and opening separate fund accounts.

127.05 SEVERABILITY.

The provisions of this Article shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Article shall remain in effect.

127.06 PRIOR ORDINANCE SUPERSEDED.

This Ordinance hereby supersedes Ordinance No. 3501, passed on November 17, 1992.

127.07 FILING WITH PENNSYLVANIA DEPARTMENT OF COMMUNITY AFFAIRS.

The Fire Commissioner or his designee shall file an exact copy of this Ordinance with the Pennsylvania Department of Community Affairs together with the name, position, and phone number of the municipal official responsible for compliance with its provisions.

127.99 PENALTY.

Any owner of property, any named insured or any Insuring Agent who violates this Article shall be subject to a penalty of up to \$1,000 per violation.

(Ord. 3660. Passed 1/3/95.)