

BUSINESS REGULATION AND TAXATION CODE

TITLE SEVEN - FIRE INSURANCE ESCROW

- 361 Fire Insurance Escrow
- 362 Payment of Delinquent Taxes from Fire Insurance Proceeds

**TITLE SEVEN
ARTICLE 361
FIRE INSURANCE ESCROW**

- 361.01 Official Responsibility
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- 361.03 Procedures
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This section was passed pursuant to the Pennsylvania Commonwealth Act 98 of 1992 on April 9, 1993, Ordinance 13187.

361.01 OFFICIAL RESPONSIBILITY

The City Treasurer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein. (13187 §1 5/9/93)

361.02 DEFINITION

A "fire loss" or claim for fire damage is defined as any loss occurring after the effective date of this Ordinance and covered under a policy of fire insurance, including any endorsements or riders to the policy. (13319 §1 3/2/95)

361.03 PROCEDURES

No insurance company, association or exchange (hereinafter the "Insuring Agency") 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 Allentown (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred (\$7,500) Dollars, unless the named insured or Insurance Agency is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992 and the provisions of this Article and Article 362 (relating to payment of delinquent taxes from fire insurance proceeds. Any request to the municipal treasurer for a municipal certificate shall be in writing. (13319 §1 3/2/95)

Where pursuant to Section 508(B)(1)(l) of Act 98 of 1992, and Article 362 (relating to payment of delinquent taxes from fire insurance proceeds), the municipal treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agency shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insured and the Insuring Agency equals or exceeds sixty (60%) percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

1. The Insurance Agency shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$2,000 for each \$15,000 of a claim 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; and

2. If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repair or securing the building or other structure, the Insuring Agency shall transfer to the Municipality from the insurance proceeds the amount specified in the estimated.

3. The transfer of proceeds shall be on pro rate basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the Municipality shall be disbursed in accordance with the policy terms. (13319 §1 3/2/95)

4. After the transfer, the named insured may submit a contractor's signed estimate of the costs or 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 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 Insurance 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 procedures 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 of some other reasonable disposition of the damaged property has been negotiated. (13187 §1 5/9/93)

361.05 AMENDING PROCEDURES

The Mayor and City Council may, by resolution, adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by Resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts. (13187 §1 5/9/93)

361.98 SEVERABILITY

The provisions of this ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect. (13187 §1 5/9/93)

361.99 PENALTY

Any owner of property, any named insured or any Insuring Agency who violates this Ordinance shall be subject to a penalty of up to \$1,000 per violation. (13187 §1 5/9/93)

ARTICLE 362

PAYMENT OF DELINQUENT TAXES FROM FIRE INSURANCE PROCEEDS

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362.01 OFFICIAL RESPONSIBILITY

The City Treasurer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein. (13319 §2 3/2/95)

362.02 DEFINITION

A "fire loss" or claim for fire damage is defined as any loss occurring after the effective date of this Ordinance and covered under a policy of fire insurance, including any endorsements or riders to the policy. (13319 §2 3/2/95)

362.03 PROCEDURES

No insurance company, association or exchange (hereinafter the "Insuring Agency") 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 Allentown "hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred (\$7,500) Dollars, unless the Insuring Agency and the named insured comply with the provisions of Section 508(b) of Act 98 of 1992, the provisions of this Ordinance and Article 361 (relating to fire insurance escrow). (13319 §2 3/2/95)

The designated officer shall, upon the written request of the named insured specifying the tax description of the property, name and address of the Insurance Agency and the date agreed upon by the Insuring Agency and the named insured as the date of the receipt of a loss report of the claim, furnish the Insuring Agency either of the following within fourteen (14) working days of the request:

1. A certificate, or at the discretion of the Municipality, a verbal notification which shall be confirmed in writing by the Insuring Agency to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the designated officer's certificate or verbal notification, the Municipality has not certified any amount as total costs incurred by the Municipality for the removal, repair or securing of a building or other structure on the property; or

2. A certificate and bill showing the amount of delinquent taxes, assessments, penalties and use charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the designated officer's certificate, the amount of the total costs, if any, certified to the designated officer that have been incurred by the Municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this provision, the Municipality shall provide, to the designated officer, the total amount, if any, of such costs, if available, or the amount of costs known to the Municipality at the time of the designated officer's certificate.

3. A tax, assessment, penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the Municipality under applicable law.

4. Upon receipt of a certificate pursuant to subsection (1) herein, the Insuring Agency shall pay the claim of the named insured in accordance with the policy terms and Article 361 (relating to fire insurance escrow).

5. Upon the receipt of a certificate and bill pursuant to subsection (2) herein, the Insuring Agency shall return the bill to the designated officer and transfer to the designated officer, an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill, or the full amount of the insurance proceeds, whichever is the lesser amount. The Municipality shall receive the amount and apply or credit it to payment of the items shown in the bill.

6. Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency.

7. The transfer of proceeds to the designated officer shall be on a pro rata basis by all Insuring Agencies with applicable policies of insurance providing protection for fire loss. (13319 §2 3/2/95)

362.05 AMENDING PROCEDURES

The Mayor and City Council may, by resolution, adopt additional procedures and regulations to implement Act 98 of 1992, as amended, and may, by resolution, fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992, as amended, and this Ordinance; including but not limited to issuance of certificates and bills. (13319 §2 3/2/95)

362.98 SEVERABILITY

The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions shall remain in effect. (13319 §2 3/2/95)

362.99 PENALTY

Any owner of property, any named insured or any Insuring Agency who violates this Ordinance shall be subject to a penalty of up to \$1,000 per violation. (13319 §1 3/2/95)
