

Chapter 117

INSURANCE

ARTICLE I Fire Loss Claims

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[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Fire Loss Claims [Adopted 3-1-2012 by Ord. No. 2012-01]

§ 117-1. Use of fire insurance proceeds.

- A. No insurance company, association or exchange (hereinafter "insurer") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Township of North Middleton, Cumberland County, Pennsylvania, where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Secretary of the Township of North Middleton with a certificate pursuant to Section 508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994 (collectively the "Act"), and unless there is compliance with the procedures set forth in Section 508(c) and 508(d) of the Act.¹
- B. Delinquent taxes, assessments and charges.
- (1) Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses which the Township has incurred as costs for removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Secretary of the Township shall immediately render a bill for such work, if not already done. Upon written request of the named insured specifying the description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Secretary of the Township shall furnish a certificate within 14 days after the request to the insurer either:
- (a) Stating that there are no unpaid municipal claims or municipal expenses against the property; or

1. Editor's Note: See 40 P.S. § 638.

- (b) Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.
 - (2) Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to Subsection B(1)(a) of this section, the insurer shall transfer to the Secretary of the Township an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of Subsection C hereof.
- C. When all municipal claims and municipal expenses have been paid pursuant to Subsection B of this section or when the Township Secretary has issued a certificate described in Subsection B(1)(a) 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 must be followed:
- (1) The insurer shall transfer from the insurance proceeds to the Township Secretary, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.
 - (2) If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Township, a contractor's signed estimate of the cost 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 Secretary of the Township of North Middleton 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.
 - (3) Upon receipt of the above-described portion of the insurance proceeds, the Secretary of the Township of North Middleton, Cumberland County, Pennsylvania, shall do the following:
 - (a) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township to be required in removing, repairing or securing the building or structure as required by this article. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township 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 Township and that the procedures under this subsection shall be followed;
 - (c) After the transfer, the named insured may submit to the Township of North Middleton a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Township Secretary shall, if such estimates deemed by the Township Secretary to be reasonable return to the insured the amount of the funds transferred to the

Township of North Middleton in excess of that amount required to pay the municipal expenses; provided, however, that the Township has not commenced to remove, repair or secure the building or other structure in which case the Township will complete the work;

- (d) Pay to the Secretary of the Township for reimbursement to the Township general fund, the amount of the municipal expenses paid to the Township;
- (e) Pay the remaining balance in the fund without interest to the named insured upon receipt of a certificate issued by the Township Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Township;
- (f) Nothing in this section shall be construed to limit the ability of the Township to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this article, or to insurance proceeds, by an action at law or in equity to enforce the Township codes or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Township may deem responsible.

§ 117-2. Limits of liability.

Nothing in this article shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this article or to make the Township or any public official of the Township an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this article.

§ 117-3. Insurance company rights reserved.

An insurance company, association or exchange making payment of policy proceeds under this article for delinquent taxes or structural removal liens or removal expenses incurred by the Township of North Middleton shall have full benefit of such payment, including all rights of subrogation and of assignment.

§ 117-4. Construal of provisions.

This article shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

§ 117-5. Notification of Pennsylvania Department of Community and Economic Development.

The Secretary of the Township of North Middleton shall transmit a certified copy of this article promptly to the Pennsylvania Department of Community and Economic Development.

§ 117-6. Violations and penalties. ²

Any owner of property, any named insured or insurer who violates the provisions of this article or who shall fail to comply with any of the requirements hereof shall be sentenced, upon conviction thereof, to pay a fine not greater than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day in which an offense shall continue shall be deemed a separate offense.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).