

Chapter 88

FIRE INSURANCE ESCROW

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[HISTORY: Adopted by the Borough Council of the Borough of Mansfield 2-12-1997 by Ord. No. 384. Amendments noted where applicable.]

GENERAL REFERENCES

Nonresidential building construction — See Ch. 67.
Residential building construction — See Ch. 68.

Fire prevention — See Ch. 90.

§ 88-1. Purpose.

The purpose of this chapter is to protect the public health, safety and general welfare of the residents of the Borough, including, but not limited to:

- A. Deterring the commission of arson and related crimes.
- B. Preventing the abandonment of property.
- C. Preventing urban blight and deterioration.
- D. Implementing into law within the Borough the provisions of the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, No. 284, section 508, as amended from time to time.¹

§ 88-2. Definitions.

The following terms in this chapter are defined as follows:

ACT — Section 508 of the Insurance Company Law of 1921 (Act of May 17, 1921, P.L. 682, No. 284, § 508) as amended by the Act of July 9, 1992, P.L. 678, No. 98, and the Act of October 13, 1994, P.L. 609, No. 93 and as amended from time to time hereafter.

BOROUGH — The Borough of Mansfield, Tioga County, Pennsylvania.

INSURING AGENT — One or more insurance companies, associations or exchanges doing business in the Commonwealth of Pennsylvania insuring a structure within the Borough.

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

MUNICIPAL CERTIFICATE — A certificate defined and issued pursuant to the Act.

NAMED INSURED — Persons who, under the terms of any policy or certificate of insurance, are entitled to the payment of proceeds for fire loss to a structure.

OFFICER — The Code Enforcement Officer of the Borough or such other person as may be designated by the Council of the Borough to carry out the responsibilities and duties arising under this chapter.

PERSON — Any individual, partnership, corporation, association, institution, cooperative, enterprise, municipal authority, federal government or agency, state institution or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this chapter prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

STRUCTURE — A building or other structure located within the Borough and intended to be included under the Act.

TREASURER — The duly elected or appointed Treasurer of the Borough or other appropriate municipal officer authorized to collect real property taxes.

§ 88-3. Restriction on payment of fire insurance proceeds.

No insuring agent shall pay any proceeds payable under the terms of any insurance policy or certificate for fire damage to a structure for fire loss in excess of \$7,500 unless the named insured or the insuring agent is furnished by the Treasurer with a municipal certificate pursuant to Subparagraph (b) of the Act and unless there is compliance with the Act.

§ 88-4. Escrow requirements.

When, pursuant to the Act, the Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent may pay the claim to the named insured; provided, however, that if the loss as agreed upon by the named insured and the insuring agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

- A. The insuring agent shall transfer from the insurance proceeds to the designated officer of the Borough in the aggregate of \$2,000 for each \$15,000 of the claim and for each fraction of that amount of the claim.
- B. 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, repairing or securing the building, the insuring agent shall transfer to the Borough from the insurance proceeds the amount specified in the estimate.
- C. The transfer of proceeds shall be on pro rata basis by all insuring agents.

- D. 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 officer shall return the amount of the funds transferred to the Borough in excess of the estimate to the named insured, if the Borough has not commenced to remove, repair or secure the building or other structure.
- E. Upon receipt of proceeds under this section, the Borough shall do the following:
- (1) The 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 Borough. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing of the building or any proceedings related thereto.
 - (2) It is the obligation of the insuring agent when transferring the proceeds to provide the Borough 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 officer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed.
 - (3) When repairs, removal or securing of the structure have been completed in accordance with all applicable regulations and orders of the Borough and the required proof of such completion received by the officer, and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough has incurred costs for repairs, removal or security of the building or other structure, the costs shall be paid from the fund, and, if excess funds remain, the Borough shall transfer the remaining funds to the named insured.
 - (4) To the extent that interest is earned on proceeds held by the Borough pursuant to this section, and not returned to the named insured, such interest shall belong to the Borough. 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.
- F. Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement that permits the transfer of funds to the named insured or if some other reasonable disposition of the damaged property has been negotiated.

§ 88-5. Other remedies preserved.

Nothing in this section shall be construed to prevent the Borough from taking other legal action or pursuing other remedies to which it is entitled under the laws of the Commonwealth of Pennsylvania against the named insured, the structure or the insuring agent.

§ 88-6. Further procedures and regulations; fees.

The Borough may, from time to time by resolution of its Council, adopt further rules, regulations and procedures to implement this chapter and the Act and may establish reasonable fees for services provided by the Borough, including, but not limited to, the issuance of certificates and bills, the performance of inspections and the opening of separate fund accounts.

§ 88-7. Violations and penalties.

Any owner violating any of the provisions of this chapter shall, upon conviction thereof in a summary proceeding before a District Justice, be subject to a fine of not more than \$300, together with the costs of prosecution, and, in default of payment thereof, shall be subject to imprisonment for not more than 30 days. Each day the violation occurs may constitute a separate offense.