

ORDINANCE NO. 725

AN ORDINANCE OF THE TOWNSHIP OF PENN, YORK COUNTY, PENNSYLVANIA, PURSUANT TO ACT 98 OF 1992, AS AMENDED BY ACT 93 OF 1994, PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURER HAVING A POLICY WITH RESPECT TO SUCH LOSS SHALL TRANSFER INSURANCE PROCEEDS TO THE TOWNSHIP TREASURER TO BE USED TO PAY DELINQUENT TAXES AND OTHER MUNICIPAL CLAIMS OR BE HELD AS SECURITY AND USED TO PAY THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING AND PROVIDING FOR FEES PROVIDING FOR PENALTIES FOR VIOLATION; AND SETTING FORTH RELATED PROCEDURES TO IMPLEMENT SAID ACT.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 and Act 96 of 1994, both amending the Insurance Company Law of 1921 (said Law as so amended being herein called the "Act") to provide procedures for the payment of certain fire loss claims; and

WHEREAS, it is the purpose of said legislation to deter the commission of arson, to discourage the abandonment of property, and to facilitate payment of taxes and other charges due to municipalities; and

WHEREAS, the Township of Penn ("Township") desires to enact an ordinance pursuant to Section 508 of the Act to provide for the payment of proceeds from certain fire loss claims to the Township.

NOW THEREFORE, the Penn Township Board of Commissioners does hereby ordain and enact as follows:

SECTION 1. Use of Fire Insurance Proceeds

A. No Insurance company, association or exchange (hereinafter the "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 where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500) unless the insurer is furnished by the Township's Treasurer with a certificate pursuant to Section 508 (b) or 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 procedure set forth in Section 508 (c) and(d) of the Act.

B. 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 the removal, repair or securing of a building or other structure on the property (collectively, "Municipal Expenses"), the Township Manager ("Manager") shall upon notice

of a fire loss, render a bill for such work, if he has not already done so. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of the loss report of the claim, the Treasurer shall, within 14 working days after the request, furnish to the insurer, a certificate (or at the Treasurer's discretion an oral notification confirmed in writing either (1) stating that there are no unpaid Municipal Claims or Municipal Expenses against the property; or (2) specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts. 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 clause (2) of the preceding sentence, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of Section C.

C. When all Municipal Claims and Municipal Expenses have been paid pursuant to Section B of this Part, or where the Treasurer has issued a certificate described in clause (1) of Section B 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 sixty (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 Treasurer, in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof.
- (2) If at the time a loss report is submitted by the insured, and such insured has submitted to the insurer, with a copy to the Township, 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 Treasurer 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 Treasurer 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 ordinance. 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; and
  - (b) Mail to the named insured at the address received from the insurer, a notice that the Township has received the proceeds and that the procedures

under this subsection shall be followed.

(c) After the transfer, the named insured may submit to the Township a contractor's signed estimate of the costs for removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Manager to be reasonable, return to the insured the amount of the funds transferred to the Township in excess of that required to pay the Municipal Expenses, provided 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 Manager, for reimbursement to the Township's General Fund, the amount of the Municipal Expenses paid by the Township.

(e) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Codes Enforcement Officer of the Township 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 Ordinance, or to insurance proceeds, by an action at law or equity, to enforce the codes of the Township or to enter into an Agreement with the named insured with regard to such other disposition of the proceeds as the Township may deem reasonable.

D. Any owner of property, and/or any named insured or insurer who violates the provisions of this Section or who shall fail to comply with any of the requirements hereof shall be liable, upon summary conviction, to fines and penalties not exceeding one thousand dollars (\$1,000.00) which fines and penalties may be collected by suit or summary proceeding brought in the name of the Township before any District Justice or recovered as debts of the like amount as allowed by law.

SECTION 2. The Secretary of the Township shall transmit a certified copy of this Ordinance promptly to the Department of Community Affairs of the Commonwealth of Pennsylvania.

SECTION 3. Nothing in this Ordinance shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under other Ordinances of the Township prior to the enactment of this Ordinance.

SECTION 4. The provisions of this Ordinance are severable, and if any section, part, or provision thereof shall be held invalid for any reason, such decision of the court shall not affect the remaining sections, parts, or provisions of this Ordinance. It is hereby declared to

be the intent of the Penn Township Board of Commissioners that this Ordinance would have been enacted as if such invalid section, part or provision had not been included herein.

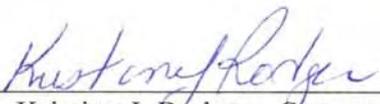
SECTION 5. This Ordinance shall take effect and be in force from and after its approval as required by law, and shall apply to all losses that occur after the effective date hereof.

SECTION 6. The Article adopted shall be deemed to be incorporated into the Penn Township Code so that reference shall be understood and intended to include such language.

ENACTED AND ORDAINED this 19<sup>th</sup> day of September 2011.

Board of Commissioners of Penn Township

By:   
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Craig M. Prieber, President

Attest:   
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Kristina J. Rodgers, Secretary