

RUSH TOWNSHIP ORDINANCE NO. 181

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURER HAVING A POLICY WITH RESPECT TO SUCH LOSS SHALL TRANSFER INSURANCE PROCEEDS TO THE TREASURER OF RUSH TOWNSHIP, TO BE USED TO PAY DELINQUENT TAXES AND OTHER MUNICIPAL CLAIMS OR HELD AS SECURITY AND USED TO PAY THE TOTAL COST OF REMOVING, REPAIRING OR SECURING THE DAMAGED BUILDING, AND PROVIDING FOR PENALTIES FOR VIOLATIONS.

WHEREAS, 40 P.S. '638 (hereinafter the Act), implements certain procedures for the payment of fire loss claims whereby the payor insurance company, association or exchange is required to first pay money to the home municipality to satisfy certain municipal claims and obligations or to escrow to pay costs of demolition and removal; and

WHEREAS, the provisions of the Act and the procedures contained therein are only applicable in municipalities which have adopted an ordinance authorizing the procedures; and

WHEREAS, Rush Township desires to have the provisions of the Act, and the procedures contained therein, applicable in Rush Township;

NOW, THEREFORE, be it ENACTED and ORDAINED as follows:

Section 1. The provisions of 40 P.S. '638 are hereby adopted and made applicable in Rush Township.

Section. 2.

(a) No insurance company, association or exchange (hereinafter Insurer) doing business in this Commonwealth shall pay a claim of a named insured for fire damage to a structure located within Rush Township where the amount recoverable under all policies exceeds \$7,500.00 unless the Insurer is furnished with a certificate pursuant to Subsection (b) of this Section and unless there is compliance with the procedures set forth in Subsections (c) and (d) of this Section.

(b)(1) The Rush Township Treasurer shall, upon the written request of the named insured specifying the tax description of the property, name and address of the Insurer and the date agreed upon by the Insurer and the named insured as the date of the receipt of a loss report of the claim, furnish the Insurer either of the following within fourteen (14) working days of the request:

(i) a certificate or, at the discretion of Rush Township, a verbal notification which shall be confirmed in writing by the Insurer 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 Treasurer's certificate or verbal notification, no municipality has 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

(ii) a certificate and bill showing the amount of delinquent taxes, assessments, penalties and user 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 Treasurer's certificate, the amount of the total costs, if any, certified to the Treasurer that have been incurred by a

municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this Subclause, the municipality shall certify to the Treasurer the total amount, if any, of such costs. 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 Rush Township under applicable law.

(2)(i) Upon receipt of a certificate pursuant to Clause (1)(i) of this Subsection, the Insurer shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the Insurer equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such a loss, the Insurer, the insured property owner and the municipality shall follow the procedures set forth in Subsections (c) and (d) of this Section.

(ii) Upon the receipt of a certificate and bill pursuant to Clause (1)(ii) of this Subsection, the Insurer shall return the bill to the Treasurer and transfer to the Treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. Rush Township shall receive the amount and apply or credit it to payment of the items shown in the bill.

(c) When the loss agreed to between the named insured and the Insurer equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the Insurer shall transfer from the insurance proceeds to the designated officer of Rush Township in the aggregate two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000) and each fraction of that amount of a claim, or 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 Insurer shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to Rush Township shall be disbursed in accordance with the policy terms. The named insured may submit a contractor=s signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insured if Rush Township has not commenced to remove, repair or secure the building or other structure.

(d) Upon receipt of proceeds by Rush Township as authorized by this Section, the designated officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by Rush Township. When transferring the funds as required in Subsection (c) of this Section, an Insurer shall provide Rush Township with the name and address of the named insured, whereupon Rush Township shall contact the named insured, certify that the proceeds have been received by Rush Township and notify the named insured that the procedures under this Subsection shall be followed. The fund shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the designated officer if Rush Township has not incurred any costs for repairs, removal or securing. If Rush Township 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, Rush Township shall transfer the remaining funds to the named insured. Nothing in this Section shall be construed to limit the ability of Rush Township to recover any deficiency. Further, nothing in this Subsection shall be construed to prohibit Rush Township 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.

Section 3. The Rush Township Secretary is hereby designated as the Adesignated officer@ as that phrase is used in Section 2 of this Ordinance. This designation is subject to modification from time to time by Resolution.

Section 4. Any person, company, corporation or other legal entity who fails to comply with any provisions of this Ordinance is subject to the penalties stated in this Section.

(a) Enforcement of this Ordinance may be by action brought before a Magisterial District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, company, corporation or other legal entity in violation of any provision of this Ordinance, upon conviction thereof, shall pay a fine of not less than \$100.00 nor more than \$1,000.00 per violation, and/or be sentenced to a term of imprisonment either upon conviction or for failure to pay a fine for a time not exceeding 90 days, and/or be required to pay court costs. Each day on which a violation of this Ordinance exists shall be considered a separate violation.

(b) Rush Township, in its discretion, may enforce the provisions of this Ordinance through any action in equity before a court of competent jurisdiction, including but not limited to through injunctive relief.

Section 5. If any section, subsection, sentence, or clause of this Ordinance is held, for any reason, to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 6. Any prior ordinance or part of a prior ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent necessary to give effect to the provisions of this Ordinance.

Section 7. This Ordinance shall be effective immediately upon enactment or on the first day thereafter allowed by law, whichever occurs first.

ENACTED AND ORDAINED, this 14<sup>th</sup> day of March, 2013.

ATTEST:

  
Secretary

RUSH TOWNSHIP  
BOARD OF SUPERVISORS

  
  
