

PITTSTON TOWNSHIP ORDINANCE 8-01 of 2012

AN ORDINANCE OF THE TOWNSHIP OF PITTSTON, LUZERNE COUNTY, 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 THE TOWNSHIP OF PITTSTON 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 FEES, SETTING FORTH RELATED PROCEDURES TO IMPLEMENT SAID ACT, AND PROVIDING FOR PENALTIES FOR VIOLATION.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 and Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims and has enacted legislation and has enacted amendments thereto; and

WHEREAS, it is the purpose of said legislation to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration; and

WHEREAS, the Township desires to adopt an Ordinance pursuant to Section of 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Township.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Pittston Township, Luzerne County, Pennsylvania, pursuant to the general powers permitted by the Second Class Township Code (53 P. S. Section 65101) and Act 93 of 1994 (40 P. S. 638 et seq.), as follows:

SECTION 1: USE OF FIRE INSURANCE PROCEEDS

1. 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 Pittston, Luzerne County, Pennsylvania where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500.00, unless the insurer is furnished by the Treasurer of the Township of Pittston 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.
2. 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 charges and/or 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 Treasurer of the Township shall furnish a Certificate within fourteen (14) days after the request to the insurer stating either:

- A. That there are no unpaid municipal claims or municipal expenses against the property; or
  - B. 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 this subsection, the insurer shall transfer to the Secretary of the Township an amount from the insurance proceeds sufficient to pay all said sums prior to making any payment to the named insured, subject to the provisions of subsection 3 hereof.
3. When all municipal claims and municipal expenses have been paid pursuant to subsection 2B of this Section or when the Township Treasurer has issued a Certificate as described in subsection 2A 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:
- A. The insurer shall transfer from the insurance proceeds to the Township Treasurer, in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof; or
  - B. 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 Pittston from the insurance proceeds the amount specified in the estimate.
  - C. If there is more than one insurer, the transfer of proceeds shall be on a pro-rate basis by all insurers insuring the building or other structure.
4. Upon receipt of any insurance proceeds pursuant to subsection 3 of this Section, the Secretary of the Township of Pittston, Luzerne 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 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;

- 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.) Within sixty (60) after the transfer, the named insured shall submit to the Township of Pittston 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 are deemed by the Township Secretary to be reasonable return to the insured the amount of the funds transferred to the Township of Pittston 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 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 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 its municipal claims or municipal expenses, 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 reasonable.

## SECTION 2. LIMITS OF LIABILITY

Nothing in this Ordinance 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 Ordinance 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 Ordinance.

## SECTION 3. INSURANCE COMPANY RIGHTS RESERVED

An insurer making payment of policy proceeds under this Ordinance for delinquent taxes or structural removal liens or removal expenses incurred by the Township of Pittston shall have full benefit of such payment including all rights of subrogation and of assignment.

## SECTION 4. CONSTRUCTION

This Ordinance 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.

## SECTION 5. NOTIFICATION TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

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

## SECTION 6. PENALTY

Any owner of property, any named insured or insurer who violates the provisions of this Ordinance 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 \$1,000.00 plus costs and in default of payment of said fine and costs to a term of imprisonment not to exceed thirty (30) days. Each day in which an offense shall continue shall be deemed a separate offense.

## SECTION 7. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision not been included herein.

## SECTION 8. EFFECTIVE DATE

This Ordinance shall take effect five (5) days after adoption.

SECTION 9. REPEALER


Any ordinances, or parts of ordinances, in conflict with any of the provisions herein are hereby repealed.

**ORDAINED AND ENACTED** by the Board of Supervisors of the Township of Pittston this 20<sup>th</sup> day of August, 2012.

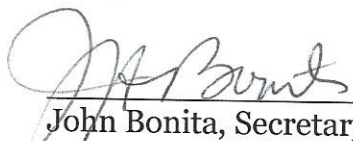
PITTSTON TOWNSHIP BOARD OF SUPERVISORS

  
\_\_\_\_\_  
Joseph Adams, Board of Pittston Township  
Supervisor

  
\_\_\_\_\_  
Ronald Marcellini, Board of Pittston Township  
Supervisor

  
\_\_\_\_\_  
Stephen Rinaldi, Board of Pittston Township  
Supervisor

ATTEST:

  
\_\_\_\_\_  
John Bonita, Secretary

I hereby certify that Notice of the Board of Supervisors' intent to adopt this Ordinance was advertised in the Citizens Voice on July 22, 2012, a newspaper of general circulation in the Township, and this Ordinance was duly enacted and adopted at the regular meeting of the PITTSTON TOWNSHIP Board of Supervisors on August 20, 2012.