

Chapter 112 INSURANCE

ARTICLE I Fire Insurance Claims

§ 112-1. Designated officer.

§ 112-2. Certificate and compliance required.

§ 112-3. Payment of claims.

§ 112-4. Adoption of regulations and fees.

§ 112-5. Violations and penalties.

[HISTORY: Adopted by the Council of the Borough of Berwick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal claims — See Ch. 6.

ARTICLE I Fire Insurance Claims [Adopted 1-23-1995 by Ord. No. 95-3¹]

§ 112-1. Designated officer.

The Secretary of the Borough of Berwick Council or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

§ 112-2. Certificate and compliance required.

No insurance company, association or exchange (hereinafter the "insuring agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of Berwick (hereinafter the "municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insuring agent is furnished by the Municipal Treasurer or Secretary with a municipal certificate pursuant to Section 638(b) of Title 40 and unless there is compliance with Section 638(c) and (d) of Title 40 and the provisions of this article.²

¹ Editor's Note: This ordinance also superseded former Ch. 112, Art. I, adopted 12-7-1992 by Ord. No. 92-11.

² Editor's Note: See 40 P.S. § 638.

§ 112-3. Payment of claims.

- A. Where pursuant to Section 508(b)(1)(i) of Title 40,³ the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property or any municipal charges for repair, removal or securing of the property, the insuring agent shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insuring agent equals or exceeds 60% of the aggregate limits of liability of all fire policies covering the building restructure, the following procedures must also be followed:
- (1) The insuring agent shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate of \$2,000 for each \$15,000 of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is \$15,000 or less, the amount transferred to the municipality shall be \$1,000; or,
 - (2) 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 or other structure, the insuring agent shall transfer to the municipality from the insurance proceeds the amount specified in the estimate.
 - (3) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.
 - (4) 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 designated officer shall return the amount of the funds transferred to the municipality in excess of the estimate to the named insured, if the municipality has not commenced to remove, repair or secure the building or other structure.
 - (5) Upon receipt of proceeds under this section, the municipality shall do the following:
 - (a) The designated officer shall place the proceeds in a 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 municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and
 - (b) It is the obligation of the insuring agent when transferring the proceeds to provide the municipality 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 designated officer shall contact the named insured, certify that the proceeds have been received by the municipality and notify the named insured that the procedures under this subsection shall be followed; and
 - (c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the municipality and the required proof of such completion received by the

³ Editor's Note: See 40 P.S. § 638.

designated officer, and if the municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the municipality 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, the municipality shall transfer the remaining funds to the named insured; and

- (d) To the extent that interest is earned on the proceeds held by the municipality pursuant to this section, and not returned to the named insured, such interest shall belong to the municipality. 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.
- B. Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Furthermore, nothing in this section shall be construed to prohibit the municipality, and the named insured from entering into an agreement that permits the transfer of funds to the named insured or some other reasonable disposition of the damaged property has been negotiated.

§ 112-4. Adoption of regulations and fees.

The Council of the Borough of Berwick may by resolution adopt procedures and regulations to implement 40 P.S. § 638 and this article and may, by resolution, fix reasonable fees to be charged for municipal activities or services provided pursuant to 40 P.S. § 638 and this article, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

§ 112-5. Violations and penalties.

Any owner of property, any named insured or any insuring agent who violates this article shall be subject to a penalty of up to \$1,000 per violation.

