

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1022 Session of
1977

INTRODUCED BY MESSRS. REED, BROWN, ZITTERMAN, ZELLER AND
LAUGHLIN, APRIL 27, 1977

SENATOR LEWIS, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
SEPTEMBER 26, 1978

AN ACT

1 Establishing the duties and responsibilities of owners of
2 certain property damaged or destroyed by fire and prescribing
3 penalties, creating certain liens and priority in insurance
4 proceeds in favor of ~~cities of the first, second, second A~~ <—
5 ~~and third class~~, POLITICAL SUBDIVISIONS regulating the <—
6 disbursement of insurance proceeds of the insured, and
7 providing for direct payment and distribution of insurance
8 proceeds to ~~cities of the first, second, second A and third~~ <—
9 ~~class~~ POLITICAL SUBDIVISIONS under certain terms and <—
10 conditions.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Restoration of real property from insurance
14 proceeds.

15 (a) The owner, mortgagee or insured party of any real
16 property as described in section 7 damaged or destroyed by fire
17 shall use as much of the payment received under a policy
18 providing fire insurance covering losses as is necessary to
19 restore or replace in whole or in part the property in
20 accordance with the provisions of applicable building, housing,
21 health, fire and safety codes.

1 (b) In lieu of restoration, the owner, mortgagee or insured
2 party of a damaged or destroyed structure may use such proceeds
3 to board up or seal the windows and doors of the structure as
4 permissible under applicable municipal building, housing,
5 health, fire and safety codes or such person may demolish the
6 structure.

7 (c) This act shall not excuse a new owner from complying
8 with building, housing, health, fire and safety codes covering
9 the structure in which the fire occurred.

10 Section 2. Liens and priority in insurance proceeds in favor
11 of ~~cities~~ POLITICAL SUBDIVISIONS. <—

12 Notwithstanding any other provision of law of this
13 Commonwealth, a lien is hereby created in favor of the city upon
14 insurance proceeds for the following: Delinquent real property
15 taxes, municipal assessments, water and sewer charges, municipal
16 claims, liens and encumbrances, and for all costs incurred by
17 the ~~city~~ POLITICAL SUBDIVISION in relation to the real property <—
18 insured including but not limited to the cost of abating any
19 nuisance public or private created by the covered peril, and of
20 inspecting, repairing, demolishing, removing or otherwise
21 disposing of any property damaged by a covered peril. The lien
22 of any ~~city~~ POLITICAL SUBDIVISION arising under the provisions <—
23 of this act shall have priority over the claim of any insured
24 owner, ~~mortgagee~~, assignee or other interested party except a <—
25 mortgagee and where otherwise provided by the laws of the United
26 States.

27 Section 3. Payment of insurance proceeds.

28 (a) It shall be unlawful for any insurance company
29 authorized under section 202(b)(1) of the act of May 17, 1921
30 (P.L.682, No.284), known as "The Insurance Company Law of 1921,"

1 to issue insurance policies providing fire insurance coverage in
2 this Commonwealth to pay any claim on a policy including any
3 policy written pursuant to the provisions of the act of July 31,
4 1968 (P.L.738, No.233), known as "The Pennsylvania Fair Plan
5 Act," covering a dwelling or structure which is vacant or any
6 claim exceeding \$5,000 on any other policy issued by such
7 company for fire damage to any real property as described in
8 section 7 until the insured submits to the insurance company, on
9 forms and in the manner prescribed by the Insurance
10 Commissioner, proof that all delinquent taxes, assessments,
11 charges, claims, liens, encumbrances and costs as enumerated in
12 section 2 has been paid.

13 (b) The failure on the part of the insured property owner to
14 pay in full any item enumerated in section 2 shall require the
15 insurance company to withhold payment of all or a portion of
16 otherwise due under the policy to the insured property owner,
17 mortgagee, assignee or other interested party until all such
18 taxes, assessments, charges, claims, liens, encumbrances and
19 costs as enumerated in section 2 have been paid. The portion
20 withheld shall not exceed the amount due to satisfy delinquent
21 taxes, assessments, charges, claims, liens, encumbrances and
22 costs as enumerated in section 2.

23 (c) The insurance company shall pay directly to the ~~city~~ <—
24 POLITICAL SUBDIVISION any amount shown as delinquent on the <—
25 forms prescribed by subsection (a) and shall deduct the amount
26 thereof from the proceeds otherwise payable to the insured. The
27 insured shall apply the balance of any fire insurance proceeds
28 paid to him to restoration of the property as required by
29 section 1(a), (b) and (c). A release of the ~~city's~~ POLITICAL <—
30 SUBDIVISION'S lien for the items enumerated in section 2 may be

1 secured by the insured by:

2 (1) full payment of all delinquent taxes, assessments,
3 charges, claims, liens, encumbrances and costs as enumerated
4 in section 2; or

5 (2) entry into an agreement, which shall be binding and
6 enforceable at law, with the ~~city~~ POLITICAL SUBDIVISION in <—
7 which the insured agrees to apply a portion or all of the
8 proceeds of any insurance policy to the demolition or repair,
9 rehabilitation, restoration and maintenance of the property,
10 to bring the property into compliance with all applicable
11 municipal codes, and to pay all delinquent municipal claims
12 and liens, under such terms and conditions as the ~~city~~ <—
13 POLITICAL SUBDIVISION in its sole discretion determines to <—
14 impose.

15 Section 4. Notification to insurance company.

16 (a) The insurance company shall submit the required forms to
17 the ~~city~~ POLITICAL SUBDIVISION within three business days of <—
18 receipt of the claim by the insured. The ~~city~~ POLITICAL <—
19 SUBDIVISION shall process the forms required to be submitted by
20 the insured to the insurance company under this act within five
21 business days of presentation by the company to the ~~city~~ <—
22 POLITICAL SUBDIVISION. Failure of the ~~city~~ POLITICAL SUBDIVISION <—
23 to process any required form within five business days shall
24 result in a 1% deduction per day in the amount due to the ~~city~~ <—
25 POLITICAL SUBDIVISION under the provisions of this act. <—

26 (b) The insured shall submit completed forms from the ~~city~~ <—
27 POLITICAL SUBDIVISION to the insurance company within 15 days of <—
28 the date the form is returned by the ~~city~~ POLITICAL SUBDIVISION <—
29 to the insured. In the event that an agreement has been entered
30 into pursuant to section 3(c)(2), the insured shall submit said

1 agreement to the insurance company within 15 days of its
2 execution. Upon receipt of the completed required forms or
3 executed agreement, the insurance company may release to the
4 insured, in a manner consistent with the information shown on
5 the submitted completed forms or with the terms of any
6 agreement, whichever is applicable, insurance proceeds payable
7 under any policy of insurance.

8 (c) If the insured fails to submit the forms completed by
9 the ~~city~~ POLITICAL SUBDIVISION or any agreement entered into <—
10 with the ~~city~~, POLITICAL SUBDIVISION to the insurance company <—
11 within the 15 day time period prescribed in subsection(b), the
12 ~~city~~ POLITICAL SUBDIVISION may submit a claim in its own behalf <—
13 for all delinquent taxes, assessments, charges, claims, liens,
14 encumbrances and costs as enumerated in section 2, which shall
15 be paid in full to the ~~city~~ POLITICAL SUBDIVISION by the <—
16 insurance company out of the insurance proceeds otherwise
17 payable to the insured.

18 (d) An insurance company shall not be liable to any insured
19 owner, mortgagee, assignee, or other interested party for
20 amounts disbursed to a ~~city~~ POLITICAL SUBDIVISION in accordance <—
21 with the provisions of this act, nor to a ~~city~~ POLITICAL <—
22 SUBDIVISION for amounts not disbursed to a ~~city~~ POLITICAL <—
23 SUBDIVISION based upon completed forms or agreements as
24 prescribed in section 3(a) indicating the nonexistence of any
25 delinquent taxes, assessments, charges, claims, liens,
26 encumbrances and costs as enumerated in section 2. An insurance
27 company shall not be held liable for the release of any
28 information required to be released under this act.

29 Section 5. Disclosure by insurance company.

30 Every insurance company subject to the provisions of this act

1 shall notify its insureds of the provisions of this act upon
2 issuance or renewal of policies providing fire insurance.

3 Section 6. Penalties.

4 Any insured who fails to comply with section 1 is guilty of a
5 summary offense and shall, upon conviction, be sentenced to pay
6 a fine to the ~~city~~ POLITICAL SUBDIVISION not exceeding \$1,000 or <—
7 to undergo imprisonment for not more than one year, or both.

8 Section 7. Application.

9 The provisions of this act shall be applicable to all
10 unoccupied dwellings or structures, all residential property
11 except single family owner occupied dwellings, and all
12 commercial and industrial properties located within ~~cities of~~ <—
13 ~~the first, second, second A and third class~~ POLITICAL <—
14 SUBDIVISIONS of the Commonwealth of Pennsylvania.

15 Section 8. Rules and regulations.

16 The Insurance Commissioner shall promulgate such rules and
17 regulations as are deemed necessary for the effective
18 implementation and operation of this act.

19 Section 9. Effective date.

20 This act shall take effect in 180 days and shall apply to all
21 policies of insurance as they are issued, written or renewed
22 subsequent to such effective date.