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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 712

Session of  
1979

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INTRODUCED BY REED, KOWALYSHYN, CALTAGIRONE, BORSKI, STEWART,  
BROWN, DeWEESE, SCHWEDER AND YOHN, MARCH 13, 1979

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 13, 1979

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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, regulating the disbursement of insurance  
6 proceeds of the insured, and providing for direct payment and  
7 distribution of insurance proceeds to cities of the first,  
8 second, second A and third class under certain terms and  
9 conditions.

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

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

14 (a) The owner, mortgagee or insured party of any real  
15 property as described in section 8 damaged or destroyed by fire  
16 shall use as much of the payment received under a policy  
17 providing fire insurance covering losses as is necessary to  
18 restore or replace in whole or in part the property in  
19 accordance with the provisions of applicable building, housing,  
20 health, fire and safety codes.

21 (b) In lieu of restoration, the owner, mortgagee or insured

1 party of a damaged or destroyed structure may use such proceeds  
2 to board up or seal the windows and doors of the structure as  
3 permissible under applicable municipal building, housing,  
4 health, fire and safety codes or such person may demolish the  
5 structure.

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

9 Section 2. Liens and priority in insurance proceeds in favor  
10 of cities.

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

25 Section 3. Payment of insurance proceeds.

26 (a) It shall be unlawful for any insurance company  
27 authorized under section 202(b)(1) of the act of May 17, 1921  
28 (P.L.682, No.284), known as "The Insurance Company Law of 1921,"  
29 to issue insurance policies providing fire insurance coverage in  
30 this Commonwealth to pay any claim on a policy including any

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

11 (b) The failure on the part of the insured property owner to  
12 pay in full any item enumerated in section 2 shall require the  
13 insurance company to withhold payment of all or a portion of the  
14 proceeds otherwise due under the policy to the insured property  
15 owner, assignee or other interested party until all such charges  
16 as enumerated in section 2 have been paid. The portion withheld  
17 shall not exceed the amount due to satisfy the charges  
18 enumerated in section 2.

19 (c) Subject to the rights and remedies of the owner,  
20 mortgagee or insured party, set forth in section 5, the  
21 insurance company shall pay directly to the city any amount  
22 shown as delinquent on the forms prescribed by subsection (a)  
23 and shall deduct the amount thereof from the proceeds otherwise  
24 payable to the insured. Such payments shall not be made to the  
25 city sooner than 45 days after execution of the certificate of  
26 liens as set forth in section 4, unless the owner, mortgagee or  
27 insured party has given written authorization for such payment.  
28 The insured shall apply the balance of any fire insurance  
29 proceeds paid to him to restoration of the property as required  
30 by section 1 (a),(b) and (c). A release of the city's lien for

1 the charges enumerated in section 2 may be secured by the  
2 insured by:

3 (1) full payment of all charges enumerated in section 2;

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

12 (3) court determination as provided in section 5.

13 Section 4. Notification to insurance company.

14 (a) The Insurance Commissioner shall within 30 days of the  
15 effective date of this act, promulgate a uniform certification  
16 of liens or insurance proceeds for use by cities to certify to  
17 insurance companies the existence or nonexistence of liens as  
18 defined in section 2 and the amount thereof.

19 (b) Cities shall obtain the certification of liens form  
20 promulgated by the Insurance Commissioner under subsection (a)  
21 and shall, within five business days of a written request of any  
22 insured, complete and return to the insured a complete  
23 certification of lien. Failure of the city to process any  
24 required form within five business days shall result in the  
25 forfeiture of the city's right to the lien provided by this act.

26 (c) The insured shall submit completed forms from the city  
27 to the insurance company within 15 days of the date the form is  
28 returned by the city to the insured unless he files or intends  
29 to file a petition under section 5. In the event that an  
30 agreement has been entered into pursuant to section 3(c)(2), the

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

8 (d) If the insured fails to submit the forms completed by  
9 the city or any agreement entered into with the city to the  
10 insurance company within the 15-day period prescribed in  
11 subsection (c), the city may submit a claim in its own behalf  
12 for all the charges enumerated in section 2, which shall be paid  
13 in full to the city by the insurance company no sooner than 45  
14 days after the date of execution of the certificate of liens out  
15 of the insurance proceeds otherwise payable to the insured  
16 unless the owner, mortgagee or insured party has petitioned the  
17 court under section 5 in which case the proceeds shall be paid  
18 to the court.

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

29 Section 5. Remedies of owner, mortgagee or insured party.

30 (a) Upon receipt of a certificate of liens executed by the

1 city indicating the existence of any charges as enumerated in  
2 section 2, the owner, mortgagee or insured party of the subject  
3 real property may petition the court of common pleas in the  
4 county where the real property is located for a hearing to  
5 determine the validity of any such charges. The petition must be  
6 filed within 15 days after receipt of the executed certificate  
7 of liens, but in no case more than 30 days after the execution  
8 of the certificate.

9 (b) Upon the petition of an owner, mortgagee or insured  
10 party as provided in subsection (a), the court shall immediately  
11 order that all proceeds due for fire damage under any insurance  
12 policies covering the property subject to the petition be paid  
13 over to the court to be held until a final determination is made  
14 by the courts on the validity of any charges.

15 (c) If the court finds that the charges are valid in whole  
16 or in part and no appeal has been taken pursuant to law, the  
17 court shall pay to the city that part of the proceeds necessary  
18 to satisfy the charges and pay the balance of the proceeds, if  
19 any, to the owner, mortgagee or insured party. If the court  
20 finds that the charges are completely invalid, and no appeal has  
21 been taken, the court shall pay to the owner, mortgagee or  
22 insured party all proceeds held by the court. If an appeal is  
23 taken, the court shall hold the proceeds until a final  
24 determination is made by the appellate courts of the  
25 Commonwealth at which time the proceeds shall be paid as  
26 directed by the said appellate court making the final order.

27 Section 6. Disclosure by insurance company.

28 Every insurance company subject to the provisions of this act  
29 shall notify its insureds of the provisions of this act upon  
30 issuance or renewal of policies providing fire insurance.

1 Section 7. Penalties.

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

6 Section 8. Application.

7 The provisions of this act shall be applicable to all  
8 unoccupied dwellings or structures, all residential property  
9 except single family owner occupied dwellings, and all  
10 commercial and industrial properties located within any city of  
11 the first, second, second A and third class of the Commonwealth  
12 of Pennsylvania.

13 Section 9. Rules and regulations.

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

17 Section 10. Effective date.

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