

Chapter 190

INSURANCE

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

ARTICLE I

Fire Insurance Claims

[Adopted 7-6-1993 by Ord. No. 2-1993]

§ 190-1. Designated officer.

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

§ 190-2. Payment of claim.

- A. 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 East Vandergrift, (hereinafter the "municipality"), where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the named insured or insuring agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992, and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992,¹ and the provisions of this article.²
- B. Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent shall pay the claim of the named insured; provided, however, that if the loss is agreed upon by the named insured and the insuring agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must 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 \$2,000.³
 - (2) If at the time of a loss report 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 in an amount less than

1. Editor's Note: See 40 P.S. § 638.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the amount calculated under the foregoing transfer formula, the insuring agent shall transfer to the municipality from the insurance proceeds the amount specified in the estimate.⁴

- (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 the 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 proceeding 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 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 cost 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 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.
- (6) Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Furthermore, nothing in this subsection 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 of some other reasonable

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

disposition of the damaged property has been negotiated.

§ 190-3. Adoption of procedures and regulations.

The Council of the Borough of East Vandergrift may by resolution adopt procedures and regulations to implement Act 98 of 1992, and this article, and may by resolution fix reasonable fees to be charged for municipal activities of certificates and bills, performance of inspections and opening separate fund accounts.

§ 190-4. Violations and penalties. ⁵

An owner of property, any named insured, or any insuring agent who violates this article shall, upon conviction in a summary proceeding under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the county correctional facility for a period not exceeding 30 days. Each day that such violation exists shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense. In addition to or in lieu of enforcement under this section, the Borough may enforce this article in equity in the Court of Common Pleas of Westmoreland County.

⁵. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).