

ORDINANCE 305

**AN ORDINANCE OF DELAWARE TOWNSHIP,
PURSUANT TO ACT 98 OF 1992 PROVIDING THAT IN
CERTAIN FIRE LOSSES THE INSURANCE COMPANY,
ASSOCIATION OR EXCHANGE SHALL TRANSFER
INSURANCE PROCEEDS TO A DESIGNATED OFFICER
OF THE MUNICIPALITY AS A PORTION OF THE
INSURANCE PROCEEDS TO BE HELD AS SECURITY
AGAINST THE TOTAL COST OF REMOVING,
REPAIRING, OR SECURING THE DAMAGED BUILDING,
PROVIDING FOR FEES, PROVIDING FOR PENALTIES
FOR VIOLATION AND SETTING FORTH PROCEDURES
AND REQUIREMENTS PERTAINING TO SUCH
INSURANCE PROCEEDS AND TO THE
IMPLEMENTATION OF ACT 93 OF 1994 IN THE NAME
OF DELAWARE TOWNSHIP.**

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

WHEREAS, such enactment requires the Township to amend the provisions of Ordinance 305;

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

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

It is **THEREFORE ORDAINED** and **ENACTED** by Delaware Township as follows:

SECTION I

The Delaware Township Treasurer or such official's designee is hereby appointed as the

designated officer who is authorized to carry out all responsibilities and duties stated herein.

SECTION II

No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay claim for fire damage to a structure located within Delaware Township (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceed seven thousand five hundred dollars (\$7,500.00), unless the Insuring Agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508 (B) of Act 93 of 1994 (and unless there is compliance with Section 508 (C) and (D) of Act 93 of 1994 and the provisions of this Ordinance).

SECTION III

Where pursuant to Section 508 (B) (1) (I) of Act 93 of 1994, 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 claim of the name insured, provided however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent (60%) of the aggregate limits of liability on all fire policies covering the building structure, 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 two thousand dollars (\$2,000.00) for each fifteen thousand dollar (\$15,000.00) of a claim and for each fraction of that amount of a claim, this Section to be applied such that if the claim is fifteen thousand dollars (\$15,000.00) or less, the amount transferred to the Municipality shall be two thousand dollars (\$2,000.00); 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 of the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate. The contractor, who submits the claim, must acknowledge that the Township will rely on his/her representation.

(3) The transfer of proceeds shall be on pro-rate 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 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 names 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 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 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, this Subsection expressly permits the designated officer to enter into any arrangement for the release of escrow funds provided that the Township's interest is reasonably protected.

SECTION IV

Delaware Township may by Resolution adopt procedures and regulations to implement Act 93 of 1994 and this Ordinance and may by Resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 93 of 1994 and this Ordinance; including but not limited to issuance of certificates and bills (performance of inspections and opening separate fund accounts).

SECTION V

Any owner of property, any named insured or any insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to one thousand dollars (\$1,000.00) per violation. Additionally, Insuring Agent shall be responsible for any fees, costs, or deposits that should have been made to the Township in accordance with the provisions of this Ordinance. See Ordinance 208.

SECTION VI

The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION VII

A copy of this ordinance shall be filed with the Department of Community and Economic Development, together with the name, position and phone number of the Township officer responsible for compliance pursuant to Section 1 of this ordinance

SECTION VIII

All Ordinances or parts of Ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affect this Ordinance.

ORDAINED AND ENACTED at a duly assembled public meeting by Delaware Township, this 22nd day of September, 1993.

ORDINANCE 305-1

Amendment to ordinance 305 as to incorporate Act 93 of 1994

AN ORDINANCE OF DELAWARE TOWNSHIP, PURSUANT TO ACT 98 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE MUNICIPALITY AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING, PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF (ACT 98 OF 1992) **ACT 93 of 1994** IN THE NAME OF DELAWARE TOWNSHIP.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective on September 7, 1992 **Act 93 of 1994** amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, such enactment requires the Township to amend the provisions of Ordinance 305;

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

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

It is **THEREFORE ORDAINED** and **ENACTED** by Delaware Township as follows:

SECTION I

The Delaware Township Treasurer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

SECTION II

No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay claim for fire damage to a structure located within Delaware Township (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceed five thousand dollars (\$5,000.00) **seven thousand five hundred dollars (\$7500.00)**, unless the Insuring Agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to

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Section 508 (B) of Act 98 of 1992 Act 93 of 1994 (and unless there is compliance with Section 508 (C) and (D) of Act 98 of 1992 Act 93 of 1994 and the provisions of this Ordinance).

SECTION III

Where pursuant to Section 508 (B) (1) (I) of Act 98 of 1992 Act 93 of 1994, 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 claim of the name insured, provided however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent (60%) of the aggregate limits of liability on all fire policies covering the building structure, 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 one thousand dollars (\$1,000.00) **two thousand dollars (\$2000.00)** for each twenty thousand dollar (\$20,000.00) **fifteen thousand dollars (\$15000)** of a claim and for each fraction of that amount of a claim, this Section to be applied such that if the claim is twenty thousand dollars (\$20,000.00) **fifteen thousand dollars (\$15000)** or less, the amount transferred to the Municipality shall be one thousand dollars (\$1,000.00) **two thousand dollars (\$2000.00)**; 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 of the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate. The contractor, who submits the claim, must acknowledge that the Township will rely on his/her representation.

(3) The transfer of proceeds shall be on pro-rate 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 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 names 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

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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 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 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, this Subsection expressly permits the designated officer to enter into any arrangement for the release of escrow funds provided that the Township's interest is reasonably protected.

SECTION IV

Delaware Township may by Resolution adopt procedures and regulations to implement Act 98 of 1992 **Act 93 of 1994** and this Ordinance and may by Resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 **Act 93 of 1994** and this Ordinance; including but not limited to issuance of certificates and bills (performance of inspections and opening separate fund accounts).

SECTION V

Any owner of property, any named insured or any insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to one thousand dollars (\$1,000.00) per violation. Additionally, Insuring Agent shall be responsible for any fees, costs, or deposits that should have been made to the Township in accordance with the provisions of this Ordinance. See Ordinance 208.

SECTION VI

The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION VII

A copy of this ordinance shall be filed with the Department of Community and Economic Development, together with the name, position and phone number of the Township officer responsible for compliance pursuant to Section I of this ordinance.

SECTION VIII

All Ordinances or parts of Ordinances conflicting with any of the provisions of this

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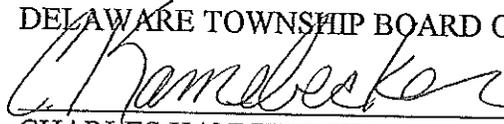
Ordinance are hereby repealed insofar as same affect this Ordinance.

SECTION IV

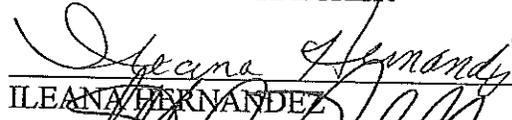
This Ordinance shall become effective immediately.

ORDAINED AND ENACTED at a duly assembled public meeting by Delaware Township, this 22nd day of October, 1997.

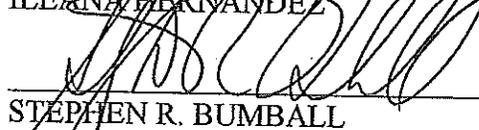
DELAWARE TOWNSHIP BOARD OF SUPERVISORS



CHARLES KANNEBECKER

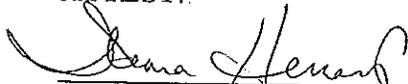


ILEANA HERNANDEZ



STEPHEN R. BUMBALL

ATTEST:



ILEANA HERNANDEZ, SECRETARY

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