

No. 1992-98

AN ACT

HB 1028

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," providing for the continuation of basic property insurance for 180 days after the insured's death; and providing for payment of certain fire loss claims.

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

Section 1. The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, is amended by adding sections to read:

Section 506.1. After-Death Continuation of Basic Property Insurance.—(a) *Basic property insurance shall be continued one hundred and eighty (180) days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first, provided that the premiums for the coverage are paid.*

(b) *The phrase "basic property insurance," as used in this section, shall be construed to include all policies that provide insurance against direct loss to real or tangible personal property at a fixed location caused by perils defined and limited in the standard fire policy prescribed in section five hundred and six (506) of this act and in the extended coverage endorsement approved by the Insurance Commissioner pursuant to section three hundred and fifty-four (354) of this act and such vandalism, malicious mischief, burglary, theft or such other classes of insurance as may be determined by the Insurance Commissioner, but shall not include insurance on motor vehicle, farm or such manufacturing risks as may be excluded by the Insurance Commissioner.*

Section 508. Municipal Certificate Required Prior to Payment of Fire Loss Claims.—(a) *No insurance company, association or exchange doing business in this Commonwealth shall pay a claim of a named insured for fire damage to a structure located within a municipality where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000) unless the insurance company, association or exchange is furnished with a certificate pursuant to subsection (b) of this section and unless there is compliance with the procedures set forth in subsections (c) and (d) of this section.*

(b) (1) *The municipal treasurer shall, upon the written request of the named insured specifying the tax description of the property and the date agreed upon by the insurance company, association or exchange and the*

named insured as the date of the receipt of a proof of loss of the claim, furnish the named insured either of the following, which shall then be supplied by the named insured to the company, association or exchange:

(i) a certificate to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the treasurer's certificate, no municipality has certified any amount as total costs incurred by the municipality for the removal, repair or securing of a building or other structure on the property; or

(ii) a certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the treasurer's certificate, the amount of the total costs, if any, certified to the treasurer that have been incurred by a municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this subclause, the municipality shall certify to the treasurer the total amount, if any, of such costs.

(2) (i) Upon the receipt of a certificate pursuant to clause (1)(i) of this subsection, the insurance company, association or exchange shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such a loss, the insurance company, association or exchange, the insured property owner and the municipality shall follow the procedures set forth in subsections (c) and (d) of this section.

(ii) Upon the receipt of a certificate and bill pursuant to clause (1)(ii) of this subsection, the insurance company, association or exchange shall return the bill to the treasurer and transfer to the treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. The municipality shall receive the amount and apply or credit it to payment of the items shown in the bill.

(c) When the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate one thousand dollars (\$1,000) for each twenty thousand dollars (\$20,000) and each fraction of that amount of a claim, or, if at the time of a proof of loss agreed to between the named insured and the insurance company, association or exchange the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be on a

pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund 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. This subsection only applies to municipalities that have adopted an ordinance authorizing the procedure described in subsections (c) and (d) of this section and applies only to fire losses that occur after the adoption of the ordinance. The ordinance shall designate the officer authorized to carry out the duties of this section.

(d) Upon receipt of proceeds by the municipality as authorized by this section, the designated officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the municipality. When transferring the funds as required in subsection (c) of this section, an insurance company, association or exchange shall provide the municipality with the name and address of the named insured, whereupon the municipality 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. The fund shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the designated officer if the municipality has not incurred¹ any costs for repairs, removal or securing. 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. Nothing in this section shall be construed to limit the ability of a municipality to recover any deficiency. Further, 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 if some other reasonable disposition of the damaged property has been negotiated.

(e) Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with subsection (c) of this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company, association or exchange with subsection (c) of this section.

(f) Nothing in this section shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this section or to make a municipality or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this section.

¹ "insured" in enrolled bill.

(g) *An insurance company, association or exchange making payments of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by a municipality shall have a full benefit of such payment, including all rights of subrogation and of assignment.*

(h) *This section shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.*

Section 2. This act shall take effect in 60 days.

APPROVED—The 9th day of July, A. D. 1992.

ROBERT P. CASEY