

TOWNSHIP OF TILDEN
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 99 OF 1994

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, PURSUANT TO ACT 90 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE TOWNSHIP OF TILDEN 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 IN THE TOWNSHIP OF TILDEN.

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

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

WHEREAS, the Township of Tilden 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 Township of Tilden.

IT IS ORDAINED AND ENACTED by the Township Supervisors of the Township of Tilden as follows:

SECTION I: The Secretary 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 a claim of a named insured for fire damage to a structure located within the Township of Tilden (hereinafter the "Township") where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand (\$5,000.00) Dollars unless the named insured or Insuring Agent is furnished by the Secretary 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 and the provisions of this Ordinance.

SECTION III: Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, the Secretary issues a certificate indicating that there are no taxes, assessments, penalties, interest, user charges, subdivision fees, zoning fees, sewage enforcement fees, driveway fees, or any other municipal, county or school claims, liens or charges whatsoever that are due at the time of issuance of the certificate, 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 sixty (60%) percent of the aggregate limits of liability on all basic property insurance policies as defined at Section 506.1(B) of Act 98 of 1992 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 Township of Tilden in the aggregate of \$1,000.00 for each \$20,000.00 of a claim and pro rata for each fraction of that amount of a claim, this section to be applied such that if the claim is \$20,000.00 or less, the amount transferred to the Township of Tilden shall be \$1,000.00; or, at the election of the Township,

(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, subject to approval of the Township engineer, of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Township of Tilden from the insurance proceeds the amount specified in the estimate.

(3) The transfer of proceeds shall be on a 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 Township of Tilden in excess of the estimate to the named insured, if the Township of Tilden has not commenced to remove, repair or secure the building or other structure.

(5) Upon receipt of proceeds under this sections, the Township of Tilden shall do the following:

(a) The Township Secretary/Manager is hereby appointed as a designated officer. 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 Township of Tilden. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township of Tilden in connection with such removal, repair or securing of the building or any proceedings related there; and

(b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Township of Tilden 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 Township of Tilden 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 Township of Tilden and the required proof of such completion received by the designated officer, and if the Township of Tilden has not incurred any costs

for repairs, removal or securing, the fund shall be returned to the named insured. If the Township of Tilden 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 Township of Tilden shall transfer the remaining funds to the named insured; and

(6) Nothing in this section shall be construed to limit the ability of the Township of Tilden to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Township of Tilden and the named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

SECTION IV: The Township Supervisors of the Township of Tilden may by resolution adopt procedures and regulations to implement Act 98 of 1992 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 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 Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation.

SECTION VI: The Township may charge a fee for purposes of issuing the certificate required in Section III of the Ordinance and for administering the escrow fund as established in Section III of the Ordinance in a reasonable amount as to be established by resolution of the Board of Supervisors from time to time.

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

SECTION VII: All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

SECTION VIII: This ordinance shall become effective immediately.

TILDEN TOWNSHIP SUPERVISORS

ATTEST:

Anna M. Shollenberger
Anna M. Shollenberger, CMC,
Secretary

By: Gary L. Wilhelm
Gary L. Wilhelm

By: Roy Borkey
Roy Borkey

By: James W. Halye
James W. Halye

APPROVED THE 12th DAY OF APRIL, 1994.