

HOUSE BILL No. 5862

September 30, 2014, Introduced by Reps. Price, Walsh, Santana, Zemke and Lane and referred to the Committee on Local Government.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 102, 2227, and 2845 (MCL 500.102, 500.2227, and 500.2845), section 102 as amended by 2000 PA 252, section 2227 as added by 1998 PA 217, and section 2845 as amended by 1998 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. **AS USED IN THIS ACT:**

2 **(A)** ~~(1)~~-"Commissioner" as used in this act means the
3 ~~commissioner of the office of financial and insurance~~
4 ~~services.~~**DIRECTOR.**

5 **(B)** ~~(2)~~-"Department" as used in this act means the office of
6 ~~financial and insurance services.~~**DEPARTMENT OF INSURANCE AND**
7 **FINANCIAL SERVICES.**

8 **(C)** "DIRECTOR" MEANS, UNLESS THE CONTEXT CLEARLY IMPLIES A

1 **DIFFERENT MEANING, THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND**
2 **FINANCIAL SERVICES.**

3 Sec. 2227. (1) If a claim is filed for a loss to insured real
4 property due to fire, explosion, vandalism, malicious mischief,
5 wind, hail, riot, or civil commotion and a final settlement is
6 reached on the loss to the insured real property, an insurer shall
7 withhold from payment 25% of the actual cash value of the insured
8 real property at the time of the loss or 25% of the final
9 settlement, whichever is less. ~~For~~**UNTIL DECEMBER 31, 2014, FOR**
10 residential property, the 25% settlement or judgment withheld shall
11 not exceed \$6,000.00 adjusted annually beginning June 1, 1999 in
12 accordance with the consumer price index. **BEGINNING JANUARY 1,**
13 **2015, FOR RESIDENTIAL PROPERTY, THE 25% SETTLEMENT OR JUDGMENT**
14 **WITHHELD SHALL NOT EXCEED \$12,000.00 ADJUSTED JANUARY 1 OF EACH**
15 **YEAR IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.** The ~~commissioner~~
16 **DIRECTOR** shall notify annually all insurance companies transacting
17 property insurance in this state as to the new adjusted amount. At
18 the time that 25% of the settlement or judgment is withheld, the
19 insurer shall give notice of the withholding to the treasurer of
20 the city, village, or township in which the insured real property
21 is located, to the insured, and to any mortgagee having an existing
22 lien or liens against the insured real property, if the mortgagee
23 is named on the policy. ~~In the case of~~**FOR** a judgment, notice shall
24 also be provided to the court in which judgment was entered. The
25 notice ~~shall~~**MUST** include all of the following:
26 (a) The identity and address of the insurer.
27 (b) The name and address or forwarding address of each

1 policyholder, including any mortgagee.

2 (c) ~~Location~~**THE LOCATION** of the insured real property.

3 (d) The date of loss, policy number, and claim number.

4 (e) The amount of money withheld.

5 (f) A statement that the city, village, or township may have
6 the withheld amount paid into a trust or escrow account established
7 for the purposes of this section if within 15 days after the
8 mailing of the notice the city, village, or township states that
9 the money should be withheld to protect the public health and
10 safety; otherwise, the withheld amount shall be paid to the insured
11 15 days after the mailing of the notice.

12 (g) An explanation of the provisions of this section.

13 (2) ~~In order for~~**FOR** a city, village, or township to escrow
14 the amount withheld by the insurer, and to retain that amount, the
15 following procedure shall be used:

16 (a) An authorized representative of the city, village, or
17 township shall request the insurer to pay the withheld amount into
18 an escrow account maintained by the treasurer of the city, village,
19 or township. A final settlement that exceeds 49% of the insurance
20 on the insured real property is prima facie evidence that the
21 damaged insured structure violates existing health and safety
22 standards of the city, village, or township and constitutes cause
23 for the escrowing of the withheld amount as surety for the repair,
24 replacement, or removal of the damaged structure.

25 (b) ~~In the case of~~**FOR** a settlement, the request under
26 subdivision (a) shall be sent to the insurer with a copy to the
27 insured and any mortgagees. The copy to the insured ~~shall~~**MUST**

1 contain the notice required under subdivision (d). ~~Upon~~**ON** receipt
2 of the request, the insurer shall forward the withheld amount to
3 the treasurer of the city, village, or township, and shall provide
4 notice of the forwarding to the insured and any mortgagees.

5 (c) ~~In the case of~~**FOR** a judgment, the request under
6 subdivision (a) shall be sent to the insurer with a copy to the
7 insured, any mortgagees, and the court in which judgment was
8 entered. The copy to the insured ~~shall~~**MUST** contain the notice
9 required under subdivision (d). ~~Upon the~~**ON** motion of the city,
10 village, or township, the court shall order the withheld amount
11 transmitted to the treasurer of the city, village, or township.

12 (d) The city, village, or township shall notify the insured
13 that the insured has 10 days from the date of the mailing of the
14 notice to object to the city's, village's, or township's retention
15 of the withheld amount. The notice ~~shall~~**MUST** identify the
16 authorized representative of the city, village, or township ~~that~~**TO**
17 **WHOM** the insured should address his or her objections ~~to~~ and ~~shall~~
18 **MUST** state that the insured may do either of the following:

19 (i) Seek resolution with the representative of the city,
20 village, or township designated to receive and resolve objections
21 under this section. The city, village, or township shall make a
22 final determination and shall notify the insured of that
23 determination not later than 30 days after receipt of notice that
24 the insured wishes to seek resolution under this subparagraph. This
25 final determination shall include notice to the insured that if the
26 insured is still dissatisfied with the city's, village's, or
27 township's determination, the insured may seek relief in circuit

1 court.

2 (ii) Seek relief in the circuit court.

3 (3) Upon receipt of money and information from an insurer as
4 prescribed in subsections (1) and (2), the local treasurer shall
5 record the information and the date of receipt of the money and
6 shall immediately deposit the money in a trust or escrow account
7 established for the purposes of this section. The account may be
8 interest-bearing. If ~~the~~**A** mortgage on the insured property is in
9 default, the treasurer of the city, village, or township, upon
10 written request from a ~~THE~~ first mortgagee of **THE** property, ~~with~~
11 ~~respect to which policy proceeds were withheld and placed into a~~
12 ~~trust or escrow account under subsections (1) and (2) and this~~
13 ~~subsection,~~ shall release to the mortgagee all or any part of the
14 policy proceeds received by the city, village, or township ~~with~~
15 ~~respect to that property,~~ not later than 10 days after receipt of
16 the written request by the mortgagee, to the extent necessary to
17 satisfy any outstanding lien of the mortgagee.

18 (4) Except as provided in subsection (7), money deposited in
19 an account ~~pursuant to~~**UNDER** subsection (3) shall not be commingled
20 with city, village, or township funds. Any interest earned on money
21 placed in a trust or escrow account ~~shall~~**MAY** be retained by the
22 city, village, or township to defray ~~expenses~~**ADMINISTRATIVE COSTS**
23 incurred under this section.

24 (5) Except as provided in subdivision (c), the policy proceeds
25 deposited under subsection (3) shall immediately be forwarded to
26 the insured when the authorized representative of the city,
27 village, or township designated by the governing body of the city,

1 village, or township receives or is shown reasonable proof of any
2 of the following:

3 (a) That the damaged or destroyed portions of the insured
4 structure have been repaired or replaced, except to the extent that
5 the amount withheld under this ~~subsection~~**SECTION** is needed to
6 complete repair or replacement.

7 (b) That the damaged or destroyed structure and all remnants
8 of the structure have been removed from the land on which the
9 structure or the remnants of the structure were situated, in
10 compliance with the local code requirements of the city, village,
11 or township in which the structure was located.

12 (c) That the insured has entered into a contract to perform
13 repair, replacement, or removal services for the insured real
14 property and that the insured consents to payment of ~~funds~~**MONEY**
15 directly to the licensed contractor performing the services upon
16 completion. ~~Funds~~**MONEY** released under this subdivision may be
17 forwarded only to a licensed contractor performing services on the
18 insured property.

19 (6) Reasonable proof required under subsection (5) includes
20 any of the following:

21 (a) Originals or copies of pertinent verifiable contracts,
22 invoices, receipts, and other similar papers evidencing both the
23 work performed or to be performed and the materials used or to be
24 used by all contractors performing repair, replacement, or removal
25 services ~~with respect to~~**FOR** the insured real property, other than
26 a licensed contractor subject to subdivision (b).

27 (b) An affidavit executed by the licensed contractor that has

1 performed the greatest amount of repair or replacement work on the
2 structure, or that has done most of the clearing and removal work
3 if structure repair or replacement is not to be performed. The
4 licensed contractor shall attach to the affidavit all pertinent
5 contracts, invoices, and receipts and shall swear that these
6 attached papers correctly indicate the nature and extent of the
7 work performed to date by the licensed contractor and the materials
8 used.

9 (c) An inspection of the insured real property to verify that
10 repair, replacement, or clearing has been completed in accordance
11 with subsection (5).

12 (7) If with respect to a loss, reasonable proof is not
13 received by or shown to an authorized representative of the city,
14 village, or township designated by the governing body of the city,
15 village, or township within 120 days after the policy proceeds
16 portion was received by the treasurer, the city, village, or
17 township shall use the retained proceeds to secure, repair, or
18 demolish the damaged or destroyed structure and clear the **INSURED**
19 property ~~in question~~, so that the structure and property ~~are in~~
20 ~~compliance~~ **COMPLY** with local code requirements and applicable
21 ordinances of the city, village, or township. ~~Any~~ **THE CITY,**
22 **VILLAGE, OR TOWNSHIP SHALL RETURN TO THE INSURED ANY** unused portion
23 of the retained proceeds. ~~shall be returned to the insured.~~ The
24 city, village, or township may extend the 120-day time period
25 ~~listed in~~ **UNDER** this subsection.

26 (8) There is no liability on the part of, and a cause of
27 action does not arise against, an insurer or an agent or employee

1 of an insurer for withholding or transferring money in the course
2 of complying or attempting to comply with this section. If there is
3 a dispute with a lienholder concerning the distribution of an
4 amount withheld from payment under this section, the insurer may
5 file an action in circuit court to identify all parties that may
6 have a financial interest in the withheld amount and to determine
7 how the withheld amount should be distributed.

8 (9) This section applies only to property located in a city,
9 village, or township described in subsection (12) if the city,
10 village, or township ~~pursuant to~~ **UNDER** a resolution by its
11 governing body notifies the ~~commissioner~~ **DIRECTOR** in writing that
12 the city, village, or township has established a trust or escrow
13 account to be used as prescribed in this section and intends to
14 uniformly apply this section with respect to all property located
15 within the city, village, or township following written
16 notification to the ~~commissioner~~ **DIRECTOR**. The ~~commissioner~~
17 **DIRECTOR** shall prepare and distribute a list of all cities,
18 villages, and townships that have elected to apply this section to
19 all insurance companies transacting property insurance in this
20 state.

21 (10) A city, village, or township may apply to be added to the
22 list **PREPARED UNDER SUBSECTION (9)** by making a written request for
23 addition to the ~~commissioner~~ **DIRECTOR**. When a written request for
24 addition from a city, village, or township has been received by the
25 ~~commissioner~~ **DIRECTOR**, an amended list shall be prepared and
26 distributed indicating the addition. The addition ~~shall be~~ **IS**
27 effective on the date specified by the ~~commissioner~~ **DIRECTOR** in the

1 amendment. The ~~commissioner~~**DIRECTOR** shall notify the city,
2 village, township, and insurance companies of the effective date of
3 the addition which shall be effective not less than 30 days after
4 receipt of notice by the insurance company. A city, village, or
5 township shall not apply this section to any loss that occurred
6 before the effective date of the addition.

7 (11) A city, village, or township may request to be deleted
8 from the list **PREPARED UNDER SUBSECTION (9)** or may cease to apply
9 this section for a period of not less than 6 months upon not less
10 than 30 days' written notice to the ~~commissioner~~**DIRECTOR**. After
11 receipt of a request to be deleted from the list, the ~~commissioner~~
12 **DIRECTOR** shall prepare and distribute an amendment to the list
13 indicating the deletion. The deletion ~~shall be~~**IS** effective on the
14 date specified by the ~~commissioner~~**DIRECTOR** in the amendment. The
15 ~~commissioner~~**DIRECTOR** shall notify the city, village, township, and
16 insurance companies of the effective date of the deletion which
17 shall be effective not less than 30 days after receipt of the
18 notice by the insurance company. A city, village, or township shall
19 continue to apply this section to any loss that occurred before the
20 effective date of the deletion, notwithstanding the deletion.

21 (12) This section applies only to insured real property
22 located in cities, villages, and townships that are located in
23 counties with a population of 425,000 or more and to insured real
24 property located in cities, villages, and townships that are
25 located in counties with a population of less than 425,000 if the
26 city, village, or township has a population of 50,000 or more. This
27 section applies to insured real property located in a city,

1 village, or township that has elected to apply this section as
2 provided in subsection (9) or (10) or that has been included in
3 this section as provided in subsection (13).

4 (13) Cities, villages, and townships located in counties with
5 a population of 425,000 or more and cities, villages, and townships
6 that are located in counties with a population of less than 425,000
7 if the city, village, or township has a population of 50,000 or
8 more and that are on the list prepared by the ~~commissioner~~**DIRECTOR**
9 under section 2845(9) or (10) on October 1, 1998 are automatically
10 included as participants in the procedure established in this
11 section unless the city, village, or township makes a written
12 request to be deleted ~~pursuant to~~**UNDER** subsection (11).

13 (14) The ~~commissioner~~**DIRECTOR** shall prepare and distribute to
14 all insurance companies transacting property insurance in this
15 state by November 1, 1998 new lists indicating which cities,
16 villages, and townships are subject to this section and which
17 cities, villages, and townships are subject to section 2845.

18 (15) The withholding requirements of this section do not apply
19 if all of the following occur:

20 (a) Within 15 days after agreement on a final settlement
21 between the insured and the insurer, the insured has filed with the
22 insurer evidence of a contract to repair as described in subsection
23 (6).

24 (b) The insured consents to the payment of ~~funds~~**MONEY**
25 directly to the licensed contractor performing the repair services.
26 ~~Funds~~**MONEY** released under this subdivision may be forwarded only
27 to a licensed contractor performing the repair services on the

1 insured property.

2 (c) On receipt of the contract to repair, the insurer gives
3 notice to the city, village, or township in which the property is
4 ~~situated~~**LOCATED** that there will not be a withholding under this
5 section because of the repair contract.

6 (16) If the insured and the insurer have agreed on the
7 demolition costs or the debris removal costs as part of the final
8 settlement of the real property insured claim, the insurer shall
9 withhold 1 of the following ~~sums~~**AMOUNTS**, whichever ~~sum~~ is the
10 largest, and shall pay that ~~sum~~**AMOUNT** in accordance with this
11 section:

12 (a) The agreed cost of demolition or debris removal.

13 (b) ~~Twenty five percent~~**UNTIL DECEMBER 31, 2014, 25%** of the
14 actual cash value of the insured real property at the time of loss
15 ~~so long as~~**IF** this amount for residential property does not exceed
16 \$6,000.00 adjusted annually beginning June 1, 1999 in accordance
17 with the consumer price index.

18 **(C) BEGINNING JANUARY 1, 2015, 25% OF THE ACTUAL CASH VALUE OF**
19 **THE INSURED REAL PROPERTY AT THE TIME OF THE LOSS IF THIS AMOUNT**
20 **FOR RESIDENTIAL PROPERTY DOES NOT EXCEED \$12,000.00 ADJUSTED**
21 **JANUARY 1 OF EACH YEAR IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.**

22 **(D)** ~~(e) Twenty five percent~~**UNTIL DECEMBER 31, 2014, 25%** of
23 the final settlement of the insured real property claim ~~so long as~~
24 **IF** this amount for residential property does not exceed \$6,000.00
25 adjusted annually beginning June 1, 1999 in accordance with the
26 consumer price index.

27 **(E) BEGINNING JANUARY 1, 2015, 25% OF THE FINAL SETTLEMENT OF**

1 THE INSURED REAL PROPERTY CLAIM IF THIS AMOUNT FOR RESIDENTIAL
2 PROPERTY DOES NOT EXCEED \$12,000.00 ADJUSTED JANUARY 1 OF EACH YEAR
3 IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.

4 (17) This section applies only to final settlements that
5 exceed 49% of the insurance on the insured real property.

6 (18) If an insurer withholds payment under a policy in good
7 faith because of suspected arson, fraud, or other question
8 concerning coverage, this section does not apply until the issue or
9 question is resolved and final settlement is made.

10 (19) As used in this section:

11 (a) "Consumer price index" means that term as defined in
12 section 2080.

13 (b) "Final settlement" means a determination of the amount due
14 and owing to the insured for a loss to insured real property, but
15 does not include contents damage, losses to personal property, or
16 additional coverage not contained in the building coverage portion
17 of the fire insurance policy, which determination is made by any of
18 the following means:

19 (i) Acceptance of a proof of loss by the insurer.

20 (ii) Execution of a release by the insured.

21 (iii) Acceptance of an arbitration award by both the insured and
22 the insurer.

23 (iv) Judgment of a court of competent jurisdiction.

24 (c) "Home insurance" means that term as defined in section
25 2103.

26 (d) "Residential property" means property on which home
27 insurance can be issued.

1 Sec. 2845. (1) If a claim is filed for a loss to insured real
2 property due to fire or explosion and a final settlement is reached
3 on the loss to the insured real property, an insurer shall withhold
4 from payment 25% of the actual cash value of the insured real
5 property at the time of the loss or 25% of the final settlement,
6 whichever is less. ~~For~~**UNTIL DECEMBER 31, 2014, FOR** residential
7 property, the 25% settlement or judgment withheld shall not exceed
8 \$6,000.00 adjusted annually beginning June 1, 1999 in accordance
9 with the consumer price index. **BEGINNING JANUARY 1, 2015, FOR**
10 **RESIDENTIAL PROPERTY, THE 25% SETTLEMENT OR JUDGMENT WITHHELD SHALL**
11 **NOT EXCEED \$12,000.00 ADJUSTED JANUARY 1 OF EACH YEAR IN ACCORDANCE**
12 **WITH THE CONSUMER PRICE INDEX.** The ~~commissioner~~**DIRECTOR** shall
13 notify annually all insurance companies transacting property
14 insurance in this state as to the new adjusted amount. At the time
15 that 25% of the settlement or judgment is withheld, the insurer
16 shall give notice of the withholding to the treasurer of the city,
17 village, or township in which the insured real property is located,
18 to the insured, and to any mortgagee having an existing lien or
19 liens against the insured real property, if the mortgagee is named
20 on the policy. ~~In the case of~~**FOR** a judgment, notice shall also be
21 provided to the court in which judgment was entered. The notice
22 ~~shall~~**MUST** include all of the following:
23 (a) The identity and address of the insurer.
24 (b) The name and address or forwarding address of each
25 policyholder, including any mortgagee.
26 (c) ~~Location~~**THE LOCATION** of the insured real property.
27 (d) The date of loss, policy number, and claim number.

1 (e) The amount of money withheld.

2 (f) A statement that the city, village, or township may have
3 the withheld amount paid into a trust or escrow account established
4 for the purposes of this section if within 15 days after the
5 mailing of the notice the city, village, or township states that
6 the money should be withheld to protect the public health and
7 safety; otherwise, the withheld amount shall be paid to the insured
8 15 days after the mailing of the notice.

9 (g) An explanation of the provisions of this section.

10 (2) ~~In order for~~ **FOR** a city, village, or township to escrow
11 the amount withheld by the insurer, and to retain that amount, the
12 following procedure shall be used:

13 (a) An authorized representative of the city, village, or
14 township shall request the insurer to pay the withheld amount into
15 an escrow account maintained by the treasurer of the city, village,
16 or township. A final settlement that exceeds 49% of the insurance
17 on the insured real property is prima facie evidence that the
18 damaged insured structure violates existing health and safety
19 standards of the city, village, or township and constitutes cause
20 for the escrowing of the withheld amount as surety for the repair,
21 replacement, or removal of the damaged structure.

22 (b) ~~In the case of~~ **FOR** a settlement, the request under
23 subdivision (a) shall be sent to the insurer with a copy to the
24 insured and any mortgagees. The copy to the insured shall ~~shall~~ **MUST**
25 contain the notice required under subdivision (d). ~~Upon~~ **ON** receipt
26 of the request, the insurer shall forward the withheld amount to
27 the treasurer of the city, village, or township, and shall provide

1 notice of the forwarding to the insured and any mortgagees.

2 (c) ~~In the case of~~ **FOR** a judgment, the request under
3 subdivision (a) shall be sent to the insurer with a copy to the
4 insured, any mortgagees, and the court in which judgment was
5 entered. The copy to the insured ~~shall~~ **MUST** contain the notice
6 required under subdivision (d). ~~Upon the~~ **ON** motion of the city,
7 village, or township, the court shall order the withheld amount
8 transmitted to the treasurer of the city, village, or township.

9 (d) The city, village, or township shall notify the insured
10 that the insured has 10 days from the date of the mailing of the
11 notice to object to the city's, village's, or township's retention
12 of the withheld amount. The notice ~~shall~~ **MUST** identify the
13 authorized representative of the city, village, or township ~~that~~ **TO**
14 **WHOM** the insured should address his or her objections ~~to~~ and ~~shall~~
15 **MUST** state that the insured may do either of the following:

16 (i) Seek resolution with the representative of the city,
17 village, or township designated to receive and resolve objections
18 under this section. The city, village, or township shall make a
19 final determination and shall notify the insured of that
20 determination not later than 30 days after receipt of notice that
21 the insured wishes to seek resolution under this subparagraph. This
22 final determination shall include notice to the insured that if the
23 insured is still dissatisfied with the city's, village's, or
24 township's determination, the insured may seek relief in circuit
25 court.

26 (ii) Seek relief in the circuit court.

27 (3) Upon receipt of money and information from an insurer as

1 prescribed in subsections (1) and (2), the local treasurer shall
2 record the information and the date of receipt of the money and
3 shall immediately deposit the money in a trust or escrow account
4 established for the purposes of this section. The account may be
5 interest-bearing. If ~~the~~**A** mortgage on the insured property is in
6 default, the treasurer of the city, village, or township, ~~upon~~**ON**
7 written request from a ~~THE~~ first mortgagee of **THE** property, ~~with~~
8 ~~respect to which policy proceeds were withheld and placed into a~~
9 ~~trust or escrow account under subsections (1) and (2) and this~~
10 ~~subsection,~~ shall release to the mortgagee all or any part of the
11 policy proceeds received by the city, village, or township ~~with~~
12 ~~respect to that property,~~ not later than 10 days after receipt of
13 the written request by the mortgagee, to the extent necessary to
14 satisfy any outstanding lien of the mortgagee.

15 (4) Except as provided in subsection (7), money deposited in
16 an account ~~pursuant to~~**UNDER** subsection (3) shall not be commingled
17 with city, village, or township funds. Any interest earned on money
18 placed in a trust or escrow account ~~shall~~**MAY** be retained by the
19 city, village, or township to defray ~~expenses~~**ADMINISTRATIVE COSTS**
20 incurred under this section.

21 (5) Except as provided in subdivision (c), the ~~policy proceeds~~
22 **MONEY** deposited under subsection (3) shall immediately be forwarded
23 to the insured when the authorized representative of the city,
24 village, or township designated by the governing body of the city,
25 village, or township receives or is shown reasonable proof of any
26 of the following:

27 (a) That the damaged or destroyed portions of the insured

1 structure have been repaired or replaced, except to the extent that
2 the amount withheld under this ~~subsection~~**SECTION** is needed to
3 complete repair or replacement.

4 (b) That the damaged or destroyed structure and all remnants
5 of the structure have been removed from the land on which the
6 structure or the remnants of the structure were situated, in
7 compliance with the local code requirements of the city, village,
8 or township in which the structure was located.

9 (c) That the insured has entered into a contract to perform
10 repair, replacement, or removal services for the insured real
11 property and that the insured consents to payment of ~~funds~~**MONEY**
12 directly to the contractor performing the services upon completion.
13 ~~Funds~~**MONEY** released under this subdivision may be forwarded only
14 to a contractor performing services on the insured property.

15 (6) Reasonable proof required under subsection (5) includes
16 any of the following:

17 (a) Originals or copies of pertinent verifiable contracts,
18 invoices, receipts, and other similar papers evidencing both the
19 work performed or to be performed and the materials used or to be
20 used by all contractors performing repair, replacement, or removal
21 services ~~with respect to~~**FOR** the insured real property, other than
22 a contractor subject to subdivision (b).

23 (b) An affidavit executed by the contractor that has performed
24 the greatest amount of repair or replacement work on the structure,
25 or that has done most of the clearing and removal work if structure
26 repair or replacement is not to be performed. The contractor shall
27 attach to the affidavit all pertinent contracts, invoices, and

1 receipts and shall swear that these attached papers correctly
2 indicate the nature and extent of the work performed to date by the
3 contractor and the materials used.

4 (c) An inspection of the insured real property to verify that
5 repair, replacement, or clearing has been completed in accordance
6 with subsection (5).

7 (7) If with respect to a loss, reasonable proof is not
8 received by or shown to an authorized representative of the city,
9 village, or township designated by the governing body of the city,
10 village, or township within 120 days after the policy proceeds
11 portion was received by the treasurer, the city, village, or
12 township shall use the retained proceeds to secure, repair, or
13 demolish the damaged or destroyed structure and clear the **INSURED**
14 ~~property in question, so that the structure and property are in~~
15 ~~compliance~~ **COMPLY** with local code requirements and applicable
16 ordinances of the city, village, or township. ~~Any~~ **THE CITY,**
17 **VILLAGE, OR TOWNSHIP SHALL RETURN TO THE INSURED ANY** unused portion
18 of the retained proceeds. ~~shall be returned to the insured.~~ The
19 city, village, or township may extend the 120-day time period
20 ~~listed in~~ **UNDER** this subsection.

21 (8) There is no liability on the part of, and a cause of
22 action shall not arise against, an insurer or an agent or employee
23 of an insurer for withholding or transferring money in the course
24 of complying or attempting to comply with this section. If there is
25 a dispute with a lienholder concerning the distribution of an
26 amount withheld from payment under this section, the insurer may
27 file an action in circuit court to identify all parties that may

1 have a financial interest in the withheld amount and to determine
2 how the withheld amount should be distributed.

3 (9) This section applies only to property located in a city,
4 village, or township described in subsection (12) if the city,
5 village, or township pursuant to a resolution by its governing body
6 notifies the ~~commissioner~~**DIRECTOR** in writing that the city,
7 village, or township has established a trust or escrow account to
8 be used as prescribed in this section and intends to uniformly
9 apply this section with respect to all property located within the
10 city, village, or township following written notification to the
11 ~~commissioner~~**DIRECTOR**. The ~~commissioner~~**DIRECTOR** shall prepare and
12 distribute a list of all cities, villages, and townships that have
13 elected to apply this section to all insurance companies
14 transacting property insurance in this state.

15 (10) A city, village, or township may apply to be added to the
16 list **PREPARED UNDER SUBSECTION (9)** by making a written request for
17 addition to the ~~commissioner~~**DIRECTOR**. When a written request for
18 addition from a city, village, or township has been received by the
19 ~~commissioner~~**DIRECTOR**, an amended list shall be prepared and
20 distributed indicating the addition. The addition ~~shall be~~**IS**
21 effective on the date specified by the ~~commissioner~~**DIRECTOR** in the
22 amendment. The ~~commissioner~~**DIRECTOR** shall notify the city,
23 village, township, and insurance companies of the effective date of
24 the addition which shall be effective not less than 30 days after
25 receipt of notice by the insurance company. A city, village, or
26 township shall not apply this section to any loss that occurred
27 before the effective date of the addition.

1 (11) A city, village, or township may request to be deleted
2 from the list **PREPARED UNDER SUBSECTION (9)** or may cease to apply
3 this section for a period of not less than 6 months upon not less
4 than 30 days' written notice to the ~~commissioner~~. **DIRECTOR**. After
5 receipt of a request to be deleted from the list, the ~~commissioner~~
6 **DIRECTOR** shall prepare and distribute an amendment to the list
7 indicating the deletion. The deletion ~~shall be~~ **IS** effective on the
8 date specified by the ~~commissioner~~ **DIRECTOR** in the amendment. The
9 ~~commissioner~~ **DIRECTOR** shall notify the city, village, township, and
10 insurance companies of the effective date of the deletion which
11 shall be effective not less than 30 days after receipt of the
12 notice by the insurance company. A city, village, or township shall
13 continue to apply this section to any loss that occurred before the
14 effective date of the deletion, notwithstanding the deletion.

15 (12) This section applies only to insured real property
16 located in cities, villages, and townships that are located in
17 counties with a population of less than 425,000 except that this
18 section does not apply to insured real property located in cities,
19 villages, and townships that are located in counties with a
20 population of less than 425,000 if the city, village, or township
21 has a population of 50,000 or more. This section applies to insured
22 real property located in a city, village, or township that has
23 elected to apply this section as provided in subsection (9) or
24 (10).

25 (13) The withholding requirements of this section do not apply
26 if all of the following occur:

27 (a) Within 15 days after agreement on a final settlement

1 between the insured and the insurer, the insured has filed with the
2 insurer evidence of a contract to repair as described in subsection
3 (6).

4 (b) The insured consents to the payment of ~~funds~~**MONEY**
5 directly to the contractor performing the repair services. ~~Funds~~
6 **MONEY** released under this subdivision may be forwarded only to a
7 contractor performing the repair services on the insured property.

8 (c) On receipt of the contract to repair, the insurer gives
9 notice to the city, village, or township in which the property is
10 ~~situated~~**LOCATED** that there will not be a withholding under this
11 section because of the repair contract.

12 (14) If the insured and the insurer have agreed on the
13 demolition costs or the debris removal costs as part of the final
14 settlement of the real property insured claim, the insurer shall
15 withhold 1 of the following ~~sums~~**AMOUNTS**, whichever ~~sum~~
16 largest, and shall pay that ~~sum~~**AMOUNT** in accordance with this
17 section:

18 (a) The agreed cost of demolition or debris removal.

19 (b) ~~Twenty five percent~~**UNTIL DECEMBER 31, 2014, 25%** of the
20 actual cash value of the insured real property at the time of loss
21 ~~so long as~~**IF** this amount for residential property does not exceed
22 \$6,000.00 adjusted annually beginning June 1, 1999 in accordance
23 with the consumer price index.

24 **(C) BEGINNING JANUARY 1, 2015, 25% OF THE ACTUAL CASH VALUE OF**
25 **THE INSURED REAL PROPERTY AT THE TIME OF THE LOSS IF THIS AMOUNT**
26 **FOR RESIDENTIAL PROPERTY DOES NOT EXCEED \$12,000.00 ADJUSTED**
27 **JANUARY 1 OF EACH YEAR IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.**

1 (D) ~~(e) Twenty five percent~~ UNTIL DECEMBER 31, 2014, 25% of
2 the final settlement of the insured real property claim ~~so long as~~
3 IF this amount for residential property does not exceed \$6,000.00
4 adjusted annually beginning June 1, 1999 in accordance with the
5 consumer price index.

6 (E) BEGINNING JANUARY 1, 2015, 25% OF THE FINAL SETTLEMENT OF
7 THE INSURED REAL PROPERTY CLAIM IF THIS AMOUNT FOR RESIDENTIAL
8 PROPERTY DOES NOT EXCEED \$12,000.00 ADJUSTED JANUARY 1 OF EACH YEAR
9 IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.

10 (15) This section applies only to final settlements that
11 exceed 49% of the insurance on the insured real property.

12 (16) If an insurer withholds payment under a policy in good
13 faith because of suspected arson, fraud, or other question
14 concerning coverage, this section does not apply until the issue or
15 question is resolved and final settlement is made.

16 (17) As used in this section:

17 (a) "Consumer price index" means that term as defined in
18 section 2080.

19 (b) "Final settlement" means a determination of the amount due
20 and owing to the insured for a loss to insured real property, but
21 does not include contents damage, losses to personal property, or
22 additional coverage not contained in the building coverage portion
23 of the fire insurance policy, which determination is made by any of
24 the following means:

25 (i) Acceptance of a proof of loss by the insurer.

26 (ii) Execution of a release by the insured.

27 (iii) Acceptance of an arbitration award by both the insured and

1 the insurer.

2 (iv) Judgment of a court of competent jurisdiction.

3 (c) "Home insurance" means that term as defined in section
4 2103.

5 (d) "Residential property" means property on which home
6 insurance can be issued.