

17:36-8 to 17:36-12

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17: 36-8 to 17: 36-12

(Fire damaged properties-require set-aside of demolition costs prior to payment of insurance)

LAWS OF: 1984

CHAPTER: 244

Bill No: A17

Sponsor(s): Zangari

Date Introduced: Pre-filed

Committee: Assembly: Banking and Insurance

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: June 21, 1984

Senate: Oct. 22, 1984

Date of Approval: January 3, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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ASSEMBLY, No. 17

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman ZANGARI

AN ACT to amend "An act concerning payment of tax liens on fire damaged properties in certain instances," approved January 8, 1979 (P. L. 1978, c. 184).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1978, c. 184 (C. 17:36-8) is amended to read
2 as follows:

3 1. No insurer issuing fire insurance policies in this State shall
4 pay any claims for fire damages in excess of \$2,500.00 on any real
5 property located within a municipality having adopted an ordinance
6 pursuant to section 2 of this act, *****[unless the insurer first in-**
7 *quires of and, within 60 days of receipt of the inquiry, is notified*
8 *by the municipality as to whether improvements on the property*
9 *will require demolition and the anticipated costs thereof and]****
10 unless or until***.*** the insured person submits an official certifi-
11 cate of search for municipal liens pursuant to R. S. 54:5-12, certifi-
12 ing that all taxes, assessments or other municipal liens or charges,
13 levied and assessed and due and payable against said property
14 have been paid and** *****[, unless the insurer has deposited the**
15 *anticipated costs of demolition in an escrow account in accordance*
16 *with section 3 of P. L. 1978, c. 184 (C. 17:36-10), also submits a*
17 *statement** *, on a form prescribed and certified by the munici-*
18 *pality,* that **demolition is not required or the costs or** antici-*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted May 21, 1984.**

****—Assembly amendments adopted June 18, 1984.**

*****—Senate committee amendments adopted October 18, 1984.**

19 *pated costs of demolition**[, if any,]** have been paid,]***** **an*
 20 *official certificate, on a form prescribed and certified by the munici-*
 21 *pality, that demolition is not required or that the costs of demoli-*
 22 *tion have been paid;**** or the municipality submits a certified
 23 copy of a resolution adopted pursuant to section 4 of this act. ***If
 24 *the demolition has not yet occurred on the date of receipt by a mu-*
 25 *nicipality of a request for execution of the certificate required by*
 26 *this section, the insured shall provide on that certificate an estimate*
 27 *of the anticipated costs of demolition. The insurer on notice to the*
 28 *insured shall pay the anticipated costs of demolition to the munici-*
 29 *pality, which shall hold the funds in an interest bearing escrow*
 30 *account in a State or federally chartered bank, savings bank or*
 31 *savings and loan association in this State.****

32 Any request, pursuant to this section, for an official certificate of
 33 search for municipal liens shall specify that the search concerns
 34 fire damaged property.

1 2. Section 2 of P. L. 1978, c. 184 (C. 17:36-9) is amended to read
 2 as follows:

3 2. Any municipality may, by ordinance, prohibit the payment to
 4 a claimant by any insurance company of any claim in excess of
 5 \$2,500.00 for fire damages on any real property located within the
 6 municipality pursuant to any fire insurance policy issued or
 7 renewed after the adoption of such ordinance and after the filing
 8 of such ordinance with the State Commissioner of Insurance, until
 9 such time as *anticipated demolition costs and* all taxes and assess-
 10 ments and all other municipal liens or charges due and payable
 11 appearing on the official certificate of search shall have been paid
 12 either by the owner of such real property or by the insurance
 13 company pursuant to the provisions of section 3 of this act, or the
 14 municipality submits to the insurance company a copy of a resolu-
 15 tion adopted pursuant to section 4 of this act. No change in such
 16 an ordinance shall take effect until filed with the commissioner.

17 The State Commissioner of Insurance shall cause to have pub-
 18 lished in the New Jersey Register a list of all municipalities which
 19 have adopted ordinances pursuant to this section and said list
 20 shall designate by asterisk those municipalities which have adopted
 21 said ordinances since the previous date of publication of said list.

22 The official certificate of search may, from time-to-time, be
 23 altered, by the bonded official responsible for preparing such cer-
 24 tificates, in order to correct any errors or omissions or to add any
 25 municipal liens or related charges due and payable subsequent to
 26 the preparation of the official certificate.

1 3. Section 3 of P. L. 1978, c. 184 (C. 17:36-10) is amended to read
2 as follows:

3 3. Unless a ***[certificate of search is received in accordance with**
4 *section 1 of this act or]** resolution is received in accordance with
5 section 4 of this act by an insurance company writing fire insurance
5A policies in any municipality having adopted an ordinance pursuant
6 to section 2 of this act ***[within 60 days of receipt of notification of**
7 *whether improvements will require demolition]**, such insurance
8 company is hereby authorized and required, prior to the payment
9 of any claims for fire damages in excess of \$2,500.00, *to pay the*
10 *amount of the anticipated demolition costs ******[into an interest**
11 *bearing escrow account in a* ***[banking institution]*** *State or fed-*
12 *erally chartered bank, savings bank* or savings and loan associa-*
13 *tion in this State]**** ****to the municipality in the manner pro-*
14 *vided by section 1 of this act**** and to pay to the municipality the
15 amount of the liens appearing on the official certificate and such
16 other recorded liens or related charges as may be certified to the
17 insurance company**[; provided, however, that if]**. *If an appeal is*
18 *taken on the amount of any lien or charge, other than an appeal on*
19 *the assessed valuation of real property pursuant to R. S. 54:3-21,*
20 *the insurance company shall issue a draft payable to the court of*
21 *record, to be held by the court in an interest bearing escrow account*
22 *in a* ***[banking institution]*** *State or federally chartered bank,*
23 *savings bank* or savings and loan association in the State, in an*
24 *amount totalling 75% of the full amount of the lien or charge being*
25 *contested but not to exceed the proceeds payable under its insurance*
26 *policy, and the insurance company shall issue a draft payable to the*
27 *municipality for the remaining 25% of the lien or charge being*
28 *contested, with the full amount paid by the insurance company to*
29 *the court and the municipality not to exceed the proceeds payable*
30 *under its insurance policy pending termination of all proceedings,*
31 *at which time such moneys and all interest accruing thereon at a*
32 *rate paid on interest bearing accounts in* ***[banking institutions]***
33 *State or federally chartered banks, savings banks* or savings*
34 *and loan associations in the State, shall be disbursed in accordance*
35 *with the final order or judgment of the court.*

1 4. Section 4 of P. L. 1978, c. 184 (C. 17:36-11) is amended to
2 read as follows:

3 4. The governing body of the municipality in which the fire dam-
4 aged property is located may enter into agreement with the owner of
5 any fire damaged property to pay in full all delinquent taxes, assess-
6 ments or other municipal liens by installments pursuant to R. S.
7 54:5-19 or for the redemption of the tax sale lien by installment

8 payments pursuant to Article 7 of chapter 5 of Title 54 of the
 9 Revised Statutes, *or for the payment in full of any anticipated*
 10 *costs of demolition *by installment,** if the governing body of the
 11 municipality is satisfied that the claim for fire damages is to be
 12 used to restore or improve the fire damaged property. An in-
 13 surance company receiving a certified copy of a resolution of agree-
 14 ment from the governing body of the municipality is authorized
 15 to make full payment on the claim to the insured person.

1 5. Section 5 of P. L. 1978, c. 184 (C. 17 :36-12) is amended to read
 2 as follows:

3 5. A municipal claim made in accordance with the provisions of
 4 this act shall be paramount to any other claims on the proceeds of
 5 the fire insurance policy, except the claim of the holder of a pur-
 6 chase money mortgage held as a first mortgage or an institutional
 7 lender which is a holder of a mortgage on the fire damaged property,
 8 where the fire insurance policy at the time of the loss listed the
 9 mortgagee as the holder of an insurable interest, in which event the
 10 claim of the mortgagee to the proceeds shall be paramount to the
 11 municipal lien under this act only to the extent of the amount due
 12 and payable to the mortgagee under the mortgage contract. As used
 13 in this paragraph, "institutional lender" means any **State or fed-*
 14 *erally chartered** bank, savings bank, ***[State or federally char-**
 15 **tered]*** savings and loan association, or insurance company.

16 Nothing in this act shall be construed:

17 a. To obligate an insurance company for any amount in excess
 18 of the proceeds payable under its fire insurance policy;

19 b. Except as provided in the case of ***[anticipated demolition**
 20 **costs and]*** appeals under section 3 of this act, to obligate the
 21 insurance company for any liens not appearing on the official cer-
 22 tificate or any certified changes submitted by the bonded official;
 23 ***[or]***

24 c. To affect the authority of a municipality to enforce a munici-
 25 pal lien under any other law of this State ***[.]* *;** *or**

26 **d. To obligate an insurance company for the payment of demo-*
 27 *lition costs or anticipated costs, as the case may be, if those costs*
 28 *did not appear on an official certificate or a certified change sub-*
 29 *mitted by the bonded official**[, or if the municipality failed to*
 30 *notify the insurance company, within 60 days of receipt of an in-*
 31 *quiry therefor, that demolition of improvements on the fire dam-*
 32 *aged real property is required and stating the anticipated costs*
 33 *thereof]***.**

1 6. This act shall take effect immediately.

- 16 Nothing in this act shall be construed:
- 17 a. To obligate an insurance company for any amount in excess
- 18 of the proceeds payable under its fire insurance policy;
- 19 b. Except as provided in the case of *anticipated demolition costs*
- 20 *and* appeals under section 3 of this act, to obligate the insurance
- 21 company for any liens not appearing on the official certificate or
- 22 any certified changes submitted by the bonded official; or
- 23 c. To affect the authority of a municipality to enforce a municipal
- 24 lien under any other law of this State.
- 1 6. This act shall take effect immediately.

STATEMENT

This bill requires insurers to set aside anticipated demolition costs for fire damaged properties in municipalities which have passed an ordinance pursuant to the provisions of P. L. 1978, c. 184 which requires insurance companies to withhold claims payments on fire damaged properties pending a search for tax liens and other assessments levied against the fire damaged property. That law was enacted by the Legislature to permit municipalities to have an opportunity to recover taxes and other assessments due from fire damaged property; if those liens against the property are not otherwise satisfied by the owner they would be payable from the proceeds of the policy. This bill requires insurers to inquire of municipalities as to the anticipated demolition costs, if any, which would result from a fire in the insured property, and would require insurers to hold that amount in escrow until the demolition costs are paid. The need for this bill is occasioned by the fact that the search for liens required by P. L. 1978, c. 184 might not show a lien for demolition costs, with the result that the municipality would be required to pay for demolition if the owner did not do so.

A17 (1984)

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 17

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 21, 1984

Assembly Bill No. 17 deals with an alleged weakness in the current law that prohibits fire insurers from paying fire damage claims involving real property in certain municipalities, when the claim is in excess of \$2,500.00, if there are any unpaid taxes, assessments, liens or other charges payable on the property. This bill addresses the problem of the anticipated costs to the municipality of the demolition of the fire damaged property, if necessary, which do not show up on an official certificate of search.

This bill requires that an insurer issuing a fire insurance policy on real property in municipalities having adopted enabling ordinances pursuant to P. L. 1978, c. 184, which is herewith amended, shall make a separate inquiry of the municipality as to whether the fire damaged improvements require demolition and, if so, the municipality shall advise the insurer of anticipated costs of the demolition. The municipality shall have 60 days to respond to the insurer's inquiry.

The bill also requires that, in addition to providing the insurer with an official certificate of search attesting that there are no taxes, assessments or other municipal charges due and payable on the property, an insured shall certify to the insurer that the anticipated costs of demolition have been paid, or alternatively a municipal resolution shall be submitted certifying that the insured and municipality have agreed to the payment of the costs in installments pursuant to section 4.

The Committee amendments are intended to be exclusively technical in nature and are designed to better effectuate the purposes of the bill.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 17

[SECOND OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1984

This bill provides that, if a municipality has so provided by ordinance, an insurer shall not pay a claim for fire damage in excess of \$2,500.00 on real property located in that municipality, unless, in addition to providing the insurer with an official certificate of search attesting that there are no taxes, assessments or other municipal charges due and payable on the property as required by current law, (1) the insured submits an official certificate by the municipality that demolition is not required or the costs of demolition have been paid, (2) the insurer pays the anticipated costs of demolition to the municipality for deposit in an interest bearing escrow account or (3) a municipal resolution is submitted to the insurer pursuant to this act.

The bill further provides that an insurer is not obligated for the payment of demolition costs or anticipated costs if these costs did not appear on an official certificate or a certified change.