



Rep. Kay Hatcher

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09700HB3477ham001

LRB097 10976 KMW 51673 a

1 AMENDMENT TO HOUSE BILL 3477

2 AMENDMENT NO. _____. Amend House Bill 3477 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Section 397.1 as follows:

6 (215 ILCS 5/397.1) (from Ch. 73, par. 1009.1)

7 Sec. 397.1. Certificate regarding payment of taxes and
8 expenses on property sustaining loss.

9 (a) It shall be unlawful for any company transacting
10 insurance business in this State to pay a claim of an insured
11 property owner for loss by fire or explosion to a structure
12 located in this State where the amount recoverable for loss to
13 the structure under a policy exceeds \$25,000, until the
14 insurance company receives the certificate required by this
15 Section. A notice, to the State's Attorney of the county where
16 the structure is located, of the insurers intent to pay a claim

1 shall include the name of the property owner, the address of
2 the property, its legal description, the permanent real estate
3 index number that identifies the property for purposes of
4 taxation, and the amount of the claim to be paid.

5 (b) For purposes of this Section, the following definitions
6 are applicable:

7 (1) "Insured property owner" is a person named as an
8 insured who is the owner, title-holder or mortgagee of a
9 structure, the holder of an interest secured by the
10 structure, the beneficiary of a land trust owning or
11 holding title to a structure, the lessee of a structure
12 with a contractual obligation for property taxes, or the
13 assignee of any such person.

14 (2) "Amount recoverable" is the dollar amount payable
15 under all insurance policies for loss to the structure.

16 (3) "Proceeds" is the dollar amount payable for loss to
17 the structure under an insurance policy.

18 (4) "Delinquent property taxes" are those property
19 taxes on the property which are delinquent pursuant to
20 Section 21-15, 21-20, or 21-25 of the Property Tax Code,
21 including those delinquent taxes on property forfeited
22 under Section 21-225 of the Property Tax Code, as of the
23 date of loss.

24 In determining delinquent property taxes under this
25 Section, the amount of property taxes for which a
26 certificate of error has been issued pursuant to Section

1 14-10 or 14-20 of the Property Tax Code shall not be
2 considered delinquent.

3 (5) "Incurred demolition expense" is: a. the cost of
4 demolishing or removing a structure from property by or at
5 the expense of a unit of local government if the demolition
6 or removal occurs on a date preceding the later of (i) the
7 acceptance by the insurance company of a Proof of Loss for
8 an agreed amount of proceeds, or (ii) the date of receipt
9 by the unit of local government of a request for execution
10 of the certificate required by this Section; or b. the
11 amount estimated by the unit of local government when it
12 receives a request to execute the certificate required by
13 this Section; or c. the amount ordered to be withheld by a
14 court within 28 days after a unit of local government
15 receives a request for execution of the certificate
16 required by this Section. The unit of local government must
17 be a party to such proceeding.

18 Incurred demolition expense shall be determined under
19 subparagraph a. whenever possible. In determining the
20 incurred demolition expense under subparagraph b., the
21 unit of local government shall make its estimate and
22 execute the certificate within 30 days after receiving a
23 request for execution. If the unit of local government
24 shall fail within 30 days to execute the certificate, as
25 required by subparagraph a., the company can proceed to
26 make payment of the claim as if the certificate had been

1 received showing no unpaid demolition costs. The request
2 for execution may be served personally, and may be proven
3 by a written receipt signed by the local official as of the
4 date the request was made or by service on the local
5 official by certified mail, return receipt requested. A
6 court order under subparagraph c. shall supersede an
7 estimate under subparagraph b.

8 (6) "Property" is the lot on which the structure is
9 located.

10 (7) "Structure" is a building.

11 (8) "Claim" is the demand by an insured for payment
12 under an insurance policy or policies.

13 (9) "Proof of Loss" is the document on which an insured
14 formally presents his claim to an insurance company.

15 (10) "Certificate" is the executed form prescribed by
16 the Director of Insurance.

17 (11) "Executed" means signed by the appropriate
18 official or unit of government.

19 (12) "Nuisance lien" means a lien filed by a
20 municipality under Division 20 of Article 11 of the
21 Illinois Municipal Code.

22 (c) For any claim to which this Section is applicable, an
23 insured property owner must submit one of the following to the
24 insurance company:

25 (1) a certificate that with respect to the property
26 there are:

- 1 a. no delinquent property taxes; ~~and~~
2 b. no unpaid incurred demolition expenses; and
3 c. no unpaid nuisance liens;

4 (2) a certificate setting forth with respect to the
5 property:

- 6 a. the amount of unpaid delinquent property
7 taxes; ~~and~~
8 b. the amount of unpaid incurred demolition
9 expense and the amount of unpaid nuisance liens; ~~and~~
10 c. a direction by an insured property owner to the
11 insurance company to pay the unpaid delinquent
12 property taxes, unpaid nuisance liens, and unpaid
13 incurred demolition expenses.

14 (d) (1) Except as provided in paragraph (2) of this
15 subsection (d), if a certificate is submitted pursuant to
16 paragraph (2) of subsection (c) of this Section, the
17 insurance company shall pay the unpaid delinquent property
18 taxes, unpaid nuisance liens, and unpaid incurred
19 demolition expense from the proceeds payable by issuing a
20 draft or check payable to the appropriate tax collector or
21 unit of local government.

22 Any proceeds remaining shall be paid to the insured
23 property owner.

24 (2) In the event incurred demolition expense is
25 determined by estimation under paragraph (5) of subsection
26 (b) of this Section in cities of over 2,000,000, the

1 insurance company shall hold the amount estimated until an
2 amended certificate executed by the appropriate local
3 government official is submitted stating (i) that no
4 demolition expense will be incurred or (ii) the actual
5 unpaid incurred demolition expense. The insurance company
6 shall then issue a draft or check payable to the unit of
7 local government for the actual unpaid incurred demolition
8 expense. Any proceeds remaining shall be paid to the
9 insured property owner.

10 In determining the amount of proceeds remaining under
11 this paragraph, the insured property owner shall receive
12 interest on the amount withheld from the date the
13 certificate is executed as provided in Section 2 of the
14 Interest Act.

15 (e) If, under this Section, the proceeds payable are less
16 than the amount of the unpaid delinquent property taxes, unpaid
17 nuisance liens, and unpaid incurred demolition expense, unpaid
18 property taxes shall be paid first.

19 (f) If incurred demolition expense or nuisance lien amounts
20 withheld pursuant to subparagraphs b. or c. of paragraph 5 of
21 subsection (b) of this Section exceeds the ultimate cost of
22 demolition, the excess shall first be applied to unpaid
23 delinquent property taxes. Any amount of proceeds remaining
24 shall be paid to the insured property owner.

25 (g) Nothing in this Section shall be construed as:

26 (1) making an insurance company liable for any amount

1 in excess of the proceeds payable under its insurance
2 policy unless the insurance company shall have made payment
3 to the named insured without satisfying the requirements of
4 this Section;

5 (2) making a unit of local government or tax collector
6 an insured under an insurance policy; or

7 (3) creating an obligation for an insurance company to
8 pay unpaid delinquent property taxes, unpaid nuisance
9 liens, or unpaid incurred demolition expense other than as
10 provided in subsection (d) of this Section.

11 (h) An insurance company making a payment of proceeds under
12 this Section for unpaid delinquent taxes or unpaid incurred
13 demolition expense shall be entitled to the full benefit of
14 such payment, including subrogation rights and other rights of
15 assignment.

16 (i) Unpaid property taxes and unpaid incurred demolition
17 expense for a claim for loss to a structure occurring after the
18 issuance of a tax deed pursuant to Section 22-40 of the
19 Property Tax Code shall not include any unpaid property tax or
20 unpaid demolition expense arising before the issuance of the
21 tax deed.

22 (j) The county collector shall be designated as the local
23 official who shall execute the certificate required by this
24 Section regarding delinquent property taxes. The village clerk
25 or city clerk in incorporated areas and the official in charge
26 of the county building department in unincorporated areas shall

1 be designated as the local official who shall execute the
2 certificate required by this Section regarding demolition
3 expenses.

4 (k) A fee not to exceed \$5 may be charged by a unit of local
5 government for execution of the certificate required by this
6 Section.

7 (l) This Section shall retroactively apply to any policy
8 issued or renewed on or after January 1, 1978 for which a claim
9 subject to this Section remains unpaid as of the effective date
10 of this amendatory Act of 1978.

11 (Source: P.A. 87-507; 88-667, eff. 9-16-94; 88-670, eff.
12 12-2-94.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."