

Sec. 4. **EFFECTIVE DATE.**

This act is effective July 1, 1997.

Presented to the governor April 17, 1997

Signed by the governor April 21, 1997, 10:18 a.m.

CHAPTER 47—S.F.No. 458

An act relating to insurance; clarifying the right to escrow for certain losses in certain cases; amending Minnesota Statutes 1996, section 65A.50, subdivisions 2, 3, 8, 16, and 17.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1996, section 65A.50, subdivision 2, is amended to read:

Subd. 2. **PARTIAL WITHHOLDING FROM SETTLEMENT PAYMENTS; NOTICE.** Except as otherwise provided in this section, with respect to insured real property located in a municipality which has elected to apply this section as provided in subdivision 12, when a claim is filed for a loss to insured real property due to fire or explosion and a final settlement is reached on the loss to the insured real property, an insurer shall withhold from payment ~~15~~ 25 percent of the actual cash value of the insured real property at the time of the loss or ~~15~~ 25 percent of the final settlement, whichever is less. At the time that ~~15~~ 25 percent of the settlement or judgment is withheld, the insurer shall give notice of the withholding to the treasurer of the municipality in which the insured real property is located, to the insured, and to any mortgagee having an existing lien or liens against the insured real property, if the mortgagee is named on the policy. In the case of a judgment, notice shall also be provided to the court in which judgment was entered. The notice shall include all of the following:

- (1) the identity and address of the insurer;
- (2) the name and address of each policyholder, including any mortgagee;
- (3) location of the insured real property;
- (4) the date of loss, policy number, and claim number;
- (5) the amount of money withheld;
- (6) a statement that the municipality may have the withheld amount paid into a trust or escrow account established for the purposes of this section if it shows cause, pursuant to subdivision 3, within ~~15~~ 30 days that the money should be withheld to protect the public health and safety, otherwise the withheld amount shall be paid to the insured at the expiration of ~~15~~ 30 days; and
- (7) an explanation of the provisions of this section and a verbatim reproduction of subdivision 16.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1996, section 65A.50, subdivision 3, is amended to read:

Subd. 3. **ESCROW PROCEDURE.** In order for a municipality to escrow the amount withheld by the insurer, and to retain that amount, the following procedure shall be used.

(a) An affidavit prepared by the chief fire official or another authorized representative of the municipality designated by the governing body of the municipality that the damaged insured structure violates existing named health and safety standards requiring the escrow of the withheld amount as surety for the repair, replacement, or removal of the damaged structure shall constitute cause for the escrowing of the withheld amount.

(b) In the case of a settlement, the affidavit shall be sent to the insurer, the insured, and any mortgagees. Upon receipt of the affidavit, the insurer shall forward the withheld amount to the treasurer of the municipality and shall provide notice of the forwarding to the insured and any mortgagees.

(c) ~~In the case of a judgment, the affidavit shall be sent to the insurer, the insured, any mortgagees, and the court in which the judgment was entered. Upon the motion of the municipality, the court shall order the withheld amount to be transmitted to the treasurer of the municipality. Upon receipt of the affidavit, the insurer shall forward the withheld amount to the treasurer of the municipality and shall provide notice of the forwarding to the insured, any mortgagees, and the court in which judgment was entered.~~

(d) ~~Within 30 days after the escrowing of the withheld amount under this section, the municipality may apply to the district court for declaratory relief in order to establish its rights to the policy proceeds held in escrow by the municipality. The municipality shall have such a right to the proceeds upon a showing that the health, safety, and welfare of the inhabitants of the municipality will be jeopardized unless the proceeds are retained by the municipality. If declaratory relief is granted, the court shall issue an order permitting the municipality to retain the proceeds as requested, in accordance with the provisions of this section, to be used as provided in this section. If the municipality fails to apply for declaratory relief within the 30-day period, or if declaratory relief is denied, the municipality shall immediately return to the insured the proceeds held in escrow.~~

Sec. 3. Minnesota Statutes 1996, section 65A.50, subdivision 8, is amended to read:

Subd. 8. **USE OF RETAINED PROCEEDS.** If with respect to a loss, reasonable proof is not received by or shown to a fire official or another authorized representative of the municipality designated by the governing body of the municipality within 45 days after the policy proceeds portion was received by the treasurer, the municipality shall use the retained proceeds to secure, repair, or demolish the damaged or destroyed structure and clear the property in question, so that the structure and property are in compliance with local code requirements and applicable ordinances of the municipality. If, before the lapse of the 45 days after the proceeds portion was received by the treasurer, the municipality has secured, repaired, or demolished the damaged or destroyed structure under chapter 299F or 463 or other applicable law or ordinance, once the 45 days lapse, the municipality may release the special assessment placed on the property, if any, and reimburse itself from the retained funds. No more than 15 percent of the policy proceeds used by the municipality under this subdivision may be attributed to the municipality's administrative expenses, which must be directly related to the actions authorized under this subdivision. Any unused portion of the retained proceeds shall be returned to the insured.

New language is indicated by underline, deletions by strikeout.

Sec. 4. Minnesota Statutes 1996, section 65A.50, subdivision 16, is amended to read:

Subd. 16. **EXCEPTIONS TO WITHHOLDING REQUIREMENTS.** The withholding requirements of this section do not apply if all of the following occur:

(1) within ~~15~~ 30 days after agreement on a final settlement between the insured and the insurer, the insured has filed with the insurer evidence of a contract to repair as described in subdivision 7;

(2) the insured consents to the payment of funds directly to the contractor performing the repair services. Funds released under this clause may be forwarded only to a contractor performing the repair services on the insured property; and

(3) on receipt of the contract to repair, the insurer gives notice to the municipality in which the property is situated that there will not be a withholding under this section because of the repair contract.

Sec. 5. Minnesota Statutes 1996, section 65A.50, subdivision 17, is amended to read:

Subd. 17. **DEMOLITION COSTS OR DEBRIS REMOVAL COSTS AS PART OF FINAL SETTLEMENT; WITHHOLDING.** If the insured and the insurer have agreed on the demolition costs or the debris removal costs as part of the final settlement of the real property insured claim, the insurer shall withhold one of the following sums, whichever sum is the largest, and shall pay that sum in accordance with this section:

(1) the agreed cost of demolition or debris removal;

(2) ~~15~~ 25 percent of the actual cash value of the insured real property at the time of loss; or

(3) ~~15~~ 25 percent of the final settlement of the insured real property claim.

Presented to the governor April 17, 1997

Signed by the governor April 21, 1997, 10:26 a.m.

CHAPTER 48—S.F.No. 475

An act relating to drivers' licenses; exempting applicants for farm work licenses from minimum six-month permit possession requirement; amending Minnesota Statutes 1996, section 171.041.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1996, section 171.041, is amended to read:

171.041 RESTRICTED LICENSES FOR FARM WORK.

Notwithstanding any provisions of section 171.04, relating to the age of an applicant to the contrary, the commissioner may issue a restricted farm work license to operate a

New language is indicated by underline, deletions by ~~strikeout~~.