

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 213

Introduced by Schumacher, 22; Seiler, 33.

Read first time January 13, 2015

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to provide for the withholding
2 of insurance proceeds for the demolition of real property as
3 prescribed.

4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) After making payment in full to all mortgagees on a
2 fire and casualty insurance policy on any real property and any structure
3 covered by such policy, the insurer shall reserve ten thousand dollars or
4 ten percent of the basic coverage limit applicable to the damaged
5 property or structure, whichever is greater, to be held as a demolition
6 cost reserve if all of the following apply:

7 (a) The real property is located within the limits of a city or
8 village or within a county outside of a city or village, including within
9 any extraterritorial zoning jurisdiction exercised by such city or
10 village;

11 (b) The damage to the real property or any insured structure renders
12 such property or structure uninhabitable or unfit for the purpose for
13 which such property or structure was intended, without repair; and

14 (c) Proof of loss has been submitted by the policyholder to the
15 insurer for a sum in excess of seventy-five percent of the face value of
16 the policy covering the property and any insured structure.

17 (2) If an insurer receives proof of loss as provided in subdivision
18 (1)(c) of this section, it shall notify the clerk of the city, village,
19 or county within which the property is located of the existence of the
20 demolition cost reserve. Such notice shall be made by certified mail
21 within fifteen working days after receipt of the proof of loss.

22 (3) The city, village, or county shall release all interest in the
23 demolition cost reserve within one hundred eighty days after receiving
24 the notice provided for in subsection (2) of this section unless the
25 city, village, or county has instituted legal proceedings or issued an
26 order for the demolition of the real property or any insured structure
27 and has notified the insurer in writing of such proceedings or order.
28 Failure by the city, village, or county to notify the insurer under this
29 subsection terminates the city's, village's, or county's claim to any
30 proceeds from the demolition cost reserve.

31 (4) A demolition cost reserve shall not be required if any of the

1 following is true:

2 (a) The insurer has received notice from both the insured and the
3 applicable city, village, or county that the real property or insured
4 structure has been replaced and rebuilt, repairs have been completed, or
5 demolition of the real property and any insured structure has been
6 completed in compliance with all applicable state and local laws; or

7 (b) The city, village, or county has failed to provide notification
8 to the insurer as required by subsection (3) of this section.

9 (5) If the city, village, or county has instituted legal
10 proceedings, issued an order for demolition, undertaken emergency action,
11 or is required to demolish the real property and insured structure at its
12 expense, the city, village, or county shall present to the insurer a
13 report of demolition costs incurred since the date of damage or other
14 occurrence related directly to the enforcement of a city, village, or
15 county ordinance. Upon receipt of such report, the insurer shall
16 compensate the city, village, or county up to the amount contained in the
17 demolition cost reserve. Any amount remaining in the demolition cost
18 reserve after such compensation shall be paid to the insured if the
19 insured is entitled to any remaining proceeds under the policy.

20 (6) The insurer is not liable for any demolition costs:

21 (a) Not covered under the insurance policy;

22 (b) In excess of the limits of liability set forth in the policy; or

23 (c) To the extent the demolition cost reserve amount is needed to
24 pay in full any interest of any mortgagee on such policy.

25 (7) Any insurer and its agent that complies with this section shall
26 be immune from any civil liability arising out of such compliance.