

INCREASE INSURANCE ESCROW CAP FOR CERTAIN MUNICIPALITIES

Phone: (517) 373-8080
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House Bill 4331 as introduced
Sponsor: Rep. Karen Whitsett
Committee: Insurance and Financial Services
Complete to 5-24-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4331 would amend section 2227 of the Insurance Code to increase the maximum amount that can be escrowed by certain municipalities from fire insurance claims and certain other property insurance claims involving residential real property. The bill would increase the maximum amount to \$20,000 beginning January 1, 2024. This amount would then be annually adjusted every January 1 based on the Detroit Consumer Price Index. The current cap of \$12,000, adjusted for inflation, took effect January 1, 2015. The actual cap after adjustments is now \$15,009. In addition, the bill would allow certain abandoned funds to be used for repairs, in addition to their currently allowed use for demolition.

These escrow provisions in the Insurance Code allow participating municipalities (cities, townships, and villages) to have a portion of a fire insurance settlement for losses within their jurisdiction withheld and escrowed until there is evidence that the property is being or will be repaired, replaced, or demolished. Then the funds can be released to the insured. If the insured does not act, the municipality can use the funds to do the work itself. The act only applies to settlements that exceed 49% of the insurance carried on the property, and it does not apply to coverage for personal property or damage to contents.

Municipalities are eligible to participate in the fire insurance withholding program under one of two sections in the Insurance Code. Section 2227 (which House Bill 4331 would amend) includes all municipalities that are located in a county with a population of 425,000 or more,¹ as well as all municipalities with a population of 50,000 or more (regardless of the population of the county they are in). Section 2845 includes municipalities with a population of less than 50,000 that are located in counties with a population of less than 425,000.² In addition to this eligibility, the two sections differ in that section 2845 applies only to claims for loss due to fire or explosion, while section 2227 includes losses from other causes as described below.

Under section 2227, if a claim is filed for a loss to insured real property due to fire or explosion, or for a loss due to vandalism, malicious mischief, wind, hail, riot, or civil commotion, the insurance company in a participating municipality withholds from payment either 25% of the property's actual cash value or 25% of the final settlement, whichever is less. However, for residential property, the amount withheld cannot exceed the current maximum of \$15,009 (which House Bill 4331 would increase to \$20,000). The money withheld is paid into an escrow

¹ Under the 2020 Census, this includes Wayne, Oakland, Macomb, and Kent Counties. Genesee County fell below the 425,000 population threshold in the 2020 Census.

² A current list of participating municipalities, indicating the section they participate under, is available here: https://www.michigan.gov/difs/-/media/Project/Websites/difs/OCS/Fire_Insurance_Withholding_Program.pdf

account, to be used by officials of the municipality to protect the public health and safety and to bring the property and structure up to code. For example, the money can be used for the demolition costs of razing unsafe burned and blighted structures or for the removal of debris. Unused money is returned to the insured.

If the insured and the insurer have agreed on the demolition costs or debris removal costs as part of the final settlement, the insurer must withhold the largest of the following amounts:

- The agreed-upon cost of demolition or debris removal.
- 25% of the property's actual cash value, up to the current maximum for residential property of \$15,009 (which the bill would increase to \$20,000).
- 25% of the final settlement, up to the current maximum for residential property of \$15,009 (which the bill would increase to \$20,000).

In addition, when section 2227 was last amended in 2014, a provision was added to allow a municipality to retain and use policy proceeds to demolish any property if, on or before the date the amendments took effect, a year or more had gone by since the funds were withheld and the municipality had not been shown evidence that the insured was taking steps to repair, replace, or demolish the insured property, and the insured property had been demolished.

House Bill 4331 would adapt this language to provide that a municipality may retain and use policy proceeds to demolish or repair any property if, *on or before* the date House Bill 4331 takes effect, a year or more had gone by since the funds were withheld and the municipality had not been shown evidence that the insured was taking steps to repair, replace, or demolish the insured property. (That is, the bill would allow a municipality to use for repair, in addition to demolition, funds that were abandoned before the bill became law.)

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FISCAL IMPACT:

House Bill 4331 would make additional funding available to municipal governments in certain instances by increasing the maximum amounts that are allowed to be escrowed. The magnitude of these impacts would vary by community, based on the number of qualifying events that would trigger the escrow. The bill would have no impact on state government.

Legislative Analyst: Alex Stegbauer
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.