

# Legislative Analysis



## INCREASE FIRE INSURANCE ESCROW CAP FOR CERTAIN MUNICIPALITIES

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<http://www.house.mi.gov/hfa>

**House Bill 6416 as introduced**  
**Sponsor: Rep. Karen Whitsett**  
**Committee: Rules and Competitiveness**  
**Complete to 9-28-22**

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

### SUMMARY:

House Bill 6416 would amend section 2227 of the Insurance Code to increase the maximum amount that can be escrowed by certain municipalities from fire insurance claims. The bill would increase the amount to \$20,000 beginning January 1, 2023. 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 \$13,177.

These escrow provisions in the Insurance Code are referred to as the Fire Insurance Withholding Act, and they allow participating municipalities (cities, townships, and villages) to have a portion of a fire insurance settlement for losses within their jurisdiction withheld 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 party 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.

There are two sections of the Insurance Code under which a municipality may be eligible to participate in the fire insurance withholding program. Section 2227 includes all municipalities (regardless of their size) that are located in a county with a population of 425,000 or more,<sup>1</sup> as well as all municipalities with a population of 50,000 or more (regardless of the size 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.<sup>2</sup> House Bill 6416 would amend section 2227.

Under section 2227, if a claim is filed for a loss to insured real property due to fire, explosion, 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 \$13,177 (which House Bill 6416 would increase to \$20,000). The money withheld is paid into an escrow account, to be used by officials of the municipality to protect the public health and safety. For example, the money can be used for the demolition costs of razing unsafe burned and blighted structures or can be

<sup>1</sup> Under the 2020 Census, this includes Wayne, Oakland, Macomb, and Kent Counties.

<sup>2</sup> 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](https://www.michigan.gov/difs/-/media/Project/Websites/difs/OCS/Fire_Insurance_Withholding_Program.pdf)

used for the removal of debris. Money not used to protect the health and safety of citizens 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 \$13,177 (which the bill would increase to \$20,000).
- 25% of the final settlement, up to the current maximum for residential property of \$13,177 (which the bill would increase to \$20,000).

Finally, 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 6416 would adapt this language to provide that a municipality may retain and use policy proceeds to repair or demolish any property if, on or before the date House Bill 6416 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.

MCL 500.2227

#### **FISCAL IMPACT:**

The bill would have no fiscal impact on state or local government.

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■ 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.