

**LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO
RESOLUTION #08-0616-02**

**A RESOLUTION TO AUTHORIZE AND IMPLEMENT THE PROVISIONS OF
OHIO REVISED CODE 3929.86 RELATED TO PAYMENT TO THE TOWNSHIP
OF A PORTION OF INSURED FIRE LOSS CLAIMS AS SURETY FOR THE
REMOVAL, REPAIR, OR SECURING OF BUILDINGS OR OTHER
STRUCTURES DAMAGED BY FIRE**

WHEREAS, it is in the best interest of Liberty Township, Delaware County, Ohio to deter the commission of arson and related crime, to discourage the abandonment of fire damaged property and to prevent urban blight and deterioration; and,

WHEREAS, O.R.C. §505.86 authorizes townships to provide for the removal, repair, or securance of buildings or other structures in the township that have been declared insecure, unsafe, or structurally defective by any fire department under contract with the township or by the county building department or other authority responsible under Chapter 3781. of the Revised Code for the enforcement of building regulations or the performance of building inspections in the township, or buildings or other structures that have been declared unfit for human habitation by the board of health of the general health district of which the township is a part.

WHEREAS, O.R.C. §3929.86 sets forth certain procedures and processes related to fire loss claims incident to privately owned structures; and

WHEREAS, O.R.C. §3929.86 authorizes a board of township trustees to accept security payments and compensation under certain identified circumstances to insure that the total cost of removing, repairing, or securing improvements damaged by fire is defrayed without public expense; and

WHEREAS, O.R.C. §3929.86(C) provides that the provisions for security payments and compensation under Section 3929.86 are available only to townships that have duly adopted a resolution authorizing the procedures described in divisions (C) and (D) of said enactment, which resolution must also designate an officer of the township who is authorized to carry out duties under the code section; and

WHEREAS, O.R.C. §3929.86(C) requires the township to file a certified copy of this resolution for public record with the superintendent of insurance and further states that the provisions of the code section apply only to fire losses that occur after the filing of the certified copy.

WHEREAS, as a means to recover and or secure payment of costs and expenses incurred by the township in removing, repairing, or securing buildings or other structures in the township damaged by fire, the Board of Trustees may accept payments and follow the procedures set forth in divisions (C) and (D) of Section 3929.86 of the Ohio Revised Code, whenever:

- 1) a policy(ies) of insurance is/are in force providing coverage against peril of fire on a building or structure, and
- 2) the loss agreed to between the named insured(s) and the insurance company(ies) is more than five thousand dollars (\$5,000.00) and equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure on the property; and,

WHEREAS, O.R.C. 3929.86(A) provides that no insurance company doing business in this state shall pay a claim of a named insured for fire damage to a structure located within a municipal corporation or township in this state where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars, unless the company is furnished with a certificate pursuant to division (B) of this section, and unless there is compliance with the procedures set forth in divisions (C) and (D) of this section.

WHEREAS, O.R.C. 3929.86(C) provides that when the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty percent of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies in accordance with division (D) of section 505.86 of the Revised Code, shall transfer from the insurance proceeds to the designated officer of the township in the aggregate

- 1) two thousand dollars (\$2000.00) for each fifteen thousand dollars (\$15,000.00), and each fraction of that amount, of a claim, or,
- 2) if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate.

WHEREAS, O.R.C. §3929.86(C) requires the transfer of proceeds to be on a pro rata basis by all companies insuring the building or other structure; and

WHEREAS, O.R.C. §3929.86(C) also allows the named insured or insureds to submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure after the transfer, which requires the designated township officer to return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the township has not commenced to remove, repair, or secure the building or other structure; and

WHEREAS, O.R.C. §3929.86(D) directs that upon receipt of proceeds by the township as authorized by this section the designated officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the municipal corporation or township pursuant to section 505.86 of the Revised Code.

WHEREAS, O.R.C. §3929.86(D) requires that when transferring the funds as required in division (C) of O.R.C. this section, an insurance company shall provide the township with the name and address of the named insured or insureds, whereupon the township shall contact the named insured or insureds, certify that the proceeds have been received by the township, and notify them that the following procedures will be followed:

- 1) The fund shall be returned to the named insured or insureds when repairs, removal, or securing of the building or other structure have been completed and the required proof has been received by the designated officer, if the township has not incurred any costs for the repairs, removal, or securing. However, the fund shall be returned to the named insured or insureds no later than sixty (60) days after the designated officer receives the required proof; or
- 2) If the township has incurred any costs for repairs, removal, or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the township shall transfer, no later than sixty (60) days after all such costs have been paid, the remaining funds to the named insured or insureds.
- 3) Nothing in this resolution shall be construed to limit the ability of the township to recover any deficiency under section 505.86 of the Revised Code.
- 4) Nothing in this resolution shall be construed to prohibit the township and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TOWNSHIP TRUSTEES FOR LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO AS FOLLOWS:

SECTION 1.

The Board of Trustees of Liberty Township, Delaware County, Ohio authorize the procedure described in divisions (C) and (D) of Section 3929.86 of the Ohio Revised Code to be implemented as it currently exists, and as it may hereafter from time to time be amended by the Ohio General Assembly, whereby no insurance company doing business in the State of Ohio shall pay a claim of a named insured for fire damage to a structure located in Liberty Township, Delaware County, Ohio unless the applicable provisions of O.R.C. §3929.86 are fully complied with; and

SECTION 2.

The Board of Trustees of Liberty Township, Delaware County, Ohio hereby designate the Fiscal Officer of this Township as the Officer to carry out the duties imposed by this Resolution and O.R.C. §3929.86; and

SECTION 3.

The current Fiscal Officer as of the date of adoption of this Resolution is Mark S. Gerber, who is hereby authorized and instructed to file a certified copy of this Resolution with the Superintendent of Insurance for the State of Ohio at the following address:

Superintendent
Ohio Department of Insurance
50 W. Town Street
Third Floor - Suite 300
Columbus, Ohio 43215
Attn: Property /Casualty Division

SECTION 4.

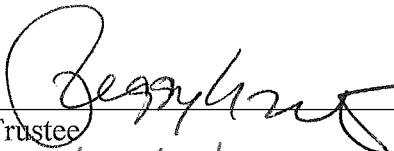
This Resolution shall be effective immediately upon adoption, and shall apply to fire losses occurring after the date a certified copy of this Resolution is filed with the Superintendent of Insurance for the State of Ohio.

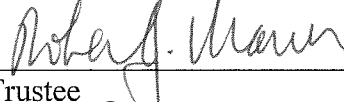
Voting on this Resolution was made this 16th day of June, 2008.


BOARD OF TRUSTEES FOR LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO.

By:

Approved:

 [printed name] Peggy Guzzo
Trustee

 [printed name] ROBERT J. MANN
Trustee

 [printed name] CURTIS J. SYBERT
Trustee

Disapproved: _____ [printed name] _____
Trustee

_____ [printed name] _____
Trustee

_____ [printed name] _____
Trustee