

**TOWN OF TICONDEROGA
COUNTY OF ESSEX, STATE OF NEW YORK
Local Law No. 3 of the Year 2014**

**A LOCAL LAW REGULATING FIRE INSURANCE
CLAIMS IN THE TOWN OF TICONDEROGA**

Be it Enacted by the Town Board of the Town of Ticonderoga, as follows:

Section 1. Declaration of legislative findings.

The Town, pursuant to General Municipal Law, § 22, has the authority to make claims against fire insurance policy proceeds for liens for taxes, special ad valorem levies, special assessments and municipal charges and debts incurred by the Town for properties impacted by fire. After due deliberation, the Town Board finds that it is necessary to adopt such a local law to be made whole for certain instances where debt is incurred by the Town for maintaining such properties. It is further declared that if left unregulated the municipality and its tax payers would be prejudiced by the lack thereof such a regulation, necessitating the regulation thereof. The Town Board finds that adoption of such a local law is necessary to protect the health, safety and welfare of the public in the Town of Ticonderoga.

Section 2. Title and Authority

This Local Law shall be known as “A Local Law Regulating Fire Insurance Claims.” It is adopted pursuant to Section 10 of Municipal Home Rule Law.

Section 3. Definitions

As used in this chapter, any inconsistent provisions of law notwithstanding, the following terms shall have the following meanings:

“**TOWN SUPERVISOR**” means the Town Supervisor for the Town of Ticonderoga.

“**LIEN**” means any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of the Town of Ticonderoga or special district, which is an encumbrance on real property and which has remained undischarged for a period of one year or more.

“**REAL PROPERTY**” means any property upon which there is erected any residential, commercial or industrial building or structure

“**SPECIAL LIEN**” means a lien upon fire insurance proceeds pursuant to this chapter and § 22 of the General Municipal Law and § 331 of the Insurance Law, and any amendments thereto.

Section 4. Notice of intention to Claim.

The Town Supervisor shall file a notice of intention to claim against the proceeds of fire insurance policies with the State Superintendent of Insurance for entry in the Index of Tax Districts in accordance § 22 of the General Municipal Law, the New York State Insurance Law and all rules and regulations promulgated by the New York State Department of Insurance with respect to this procedure.

Section 5. Claim shall constitute a special lien.

Prior to the payment of any proceeds of a policy of insurance for damages caused by fire to real property, which policy insures the interest of an owner and is issued on real property located within the Town of Ticonderoga, and following notification to the Town Supervisor by an insurer of the filing of a claim for payment of such proceeds, the Town Supervisor shall claim, by serving a certificate of lien, against such proceeds to the extent of any lien, including interest and penalties to the date of the claim, thereon, which claims, when made and perfected in the manner provided for in § 22 of the General Municipal Law and § 331(a) of the Insurance Law, and any amendments thereto, shall constitute a special lien against such proceeds and shall, as to such proceeds, be prior to all other liens and claims except the claim of a mortgagee of record named in such policy. Notice of the service of the certificate of the special lien shall be given to the insured by certified mail.

Section 6. Conflict with other provisions.

The provisions of this chapter shall not be deemed or construed to alter or impair the right of the Town of Ticonderoga to acquire or enforce any lien against property but shall be in addition to any other power provided by law to acquire or enforce such right.

Section 7. Release of proceeds.

Whenever the proceeds of a policy of fire insurance which will be or has been paid to the Town of Ticonderoga instead of an insured, all or part of such proceeds may be paid or released to the insured if the insured satisfies the Town Supervisor that the affected premises have been or will be repaired or restored, that such repairs or restoration are in the public interest and that the insured is issued and complies with an agreement entered into pursuant to this chapter. To secure such payment or release of proceeds, the insured must notify the office of the Town Supervisor for the Town of Ticonderoga within 45 days after the mailing to the insured of a notice of the service of the certificate of special lien, pursuant to **Section 5** of this chapter, of the intention to restore or repair the affected premises and must file with the Town Supervisor a completed application with all required supporting documentation, pursuant to **Section 8** of this chapter, within 60 days thereafter, unless the Town Supervisor grants an extension for a stated period of time.

Section 8. Conditions of release of proceeds.

The release or return to the insured of any amounts to which he or it would otherwise be entitled to claim shall be subject to the following conditions:

A. Such release or return shall be subject to the repair or restoration of the affected premises, in accordance with applicable building laws, to the condition it was in prior to the time the lien of the Town of Ticonderoga arose or to any improved conditions.

B. [http://ecode360.com/7090496 - 7090496](http://ecode360.com/7090496-7090496) The insured shall file with the Town Supervisor an application, in affidavit form, with such supporting documentation as the Town Supervisor shall require, containing the following:

- (1) A complete description of the nature and extent of the damage to the insured premises and of the condition of the premises prior to the time the lien of the Town arose.
- (2) A complete description of the nature of the repairs or restoration to be undertaken and the cost thereof.
- (3) A statement as to the source of funds needed to complete such repairs or restoration if the insurance proceeds are not sufficient therefor.
- (4) The name and address of each contractor who will effect such repairs or restoration.
- (5) An estimated time schedule showing how long the repairs or restoration, and each phase thereof, will take.
- (6) Such other information as may be required by the Town Supervisor to enable him to determine whether the repairs or restoration are in the public interest and will be or have been timely and properly made.

C. Upon preliminary approval of an application by the Town Supervisor and the Building Inspector/Code Enforcement Officer, the Town Supervisor may enter into a written agreement with the insured, which shall set forth the terms and conditions for the release and return of all or part of the proceeds, and the Town Supervisor is hereby authorized to enter into such agreement on behalf of the Town of Ticonderoga.

D. The repairs or restoration required by the Town Supervisor shall be completed in compliance with the terms and conditions of the agreement prior to the release or return of any part of the insurance proceeds; provided, however, that the Town Supervisor may, upon the written request of the insured and in its sole discretion, approve a prior release of such proceeds or a portion thereof in a lump sum or in installments, where the insured certifies and demonstrates that such release is required to permit such repairs or restoration to go forward. Any such insurance proceeds released or returned prior to the completion of the repairs or restoration required by the Town Supervisor may be paid directly to the contractor or contractors responsible for making such repairs or restoration. Such payment shall, to the extent thereof, release the Town Supervisor from further liability to the insured.

E. Whenever the Town Supervisor releases the entire amount of the proceeds prior to compliance with the terms and conditions of the agreement, the insured shall post an undertaking in an amount sufficient to assume the restoration or improvement of the property.

Section 9. Termination of right of insured to assert claim.

If the insured fails to notify the Town of Ticonderoga of its intention to repair or restore the affected premises, as required in **Section 7** of this chapter, or fails to file a completed application pursuant to this chapter or fails to enter an agreement with the Town Supervisor or comply therewith within the time set forth, the right of the insured to assert a claim against the insurance proceeds, except to the extent it exceeds the amount of the lien, shall terminate.

Section 9. Funds for Insurance Proceeds.

There shall be established in the office of the Town Supervisor a fund for the deposit of fire insurance proceeds to be held and applied in accordance with this chapter. Such funds shall not be held together with the general tax levies in the general fund.

Section 10. Disposition of proceeds.

Until such termination, any insurance proceeds received by the Town of Ticonderoga shall be deposited in a special fund and shall be retained therein. Upon termination of the insured's right to claim against the proceeds, the proceeds and any interest accrued thereon shall be applied to the liens affecting the premises in a manner to be determined by the Town Supervisor and may be transferred to the general fund.

Section 11. Continuance of liens in effect until paid.

The lien or liens against the affected premises upon which the special lien against proceeds is based shall continue in full force and effect, except to the extent that such lien or liens are or have been paid.

Section 12. Purpose of agreements; repairs not Town project.

Any agreement entered into by the Town Supervisor pursuant to this chapter shall be for the purpose of preserving and evidencing the right of release of the special lien created by this chapter and shall be subject solely to the provisions of this chapter. Any repair or restoration performed in anticipation of a release of insurance proceeds shall not be deemed to be a public work or Town project nor to have been done pursuant to a Town contract.

Section 13. Power of Town Supervisor to promulgate rules and adopt approved forms.

The Town Supervisor shall be empowered to promulgate rules and regulations and to adopt approved forms to be used by applicants.

Section 14. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 15. Effective Date.

This Local Law shall take effect upon filing with the New York State Secretary of State.