

SENATE BILL No. 231

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-4-1-4.5; IC 27-7-6.1.

Synopsis: Motor vehicle repair insurance claims. Requires a motor vehicle insurer to provide certain notice and payment with respect to a motor vehicle repair claim.

Effective: July 1, 2011.

Merritt

January 6, 2011, read first time and referred to Committee on Insurance and Financial Institutions.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 231



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-4-1-4.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.5. The following are
- 3 unfair claim settlement practices:
- 4 (1) Misrepresenting pertinent facts or insurance policy provisions
- 5 relating to coverages at issue.
- 6 (2) Failing to acknowledge and act reasonably promptly upon
- 7 communications with respect to claims arising under insurance
- 8 policies.
- 9 (3) Failing to adopt and implement reasonable standards for the
- 10 prompt investigation of claims arising under insurance policies.
- 11 (4) Refusing to pay claims without conducting a reasonable
- 12 investigation based upon all available information.
- 13 (5) Failing to affirm or deny coverage of claims within a
- 14 reasonable time after proof of loss statements have been
- 15 completed.
- 16 (6) Not attempting in good faith to effectuate prompt, fair, and
- 17 equitable settlements of claims in which liability has become



- 1 reasonably clear.
- 2 (7) Compelling insureds to institute litigation to recover amounts
- 3 due under an insurance policy by offering substantially less than
- 4 the amounts ultimately recovered in actions brought by such
- 5 insureds.
- 6 (8) Attempting to settle a claim for less than the amount to which
- 7 a reasonable individual would have believed the individual was
- 8 entitled by reference to written or printed advertising material
- 9 accompanying or made part of an application.
- 10 (9) Attempting to settle claims on the basis of an application that
- 11 was altered without notice to or knowledge or consent of the
- 12 insured.
- 13 (10) Making claims payments to insureds or beneficiaries not
- 14 accompanied by a statement setting forth the coverage under
- 15 which the payments are being made.
- 16 (11) Making known to insureds or claimants a policy of appealing
- 17 from arbitration awards in favor of insureds or claimants for the
- 18 purpose of compelling them to accept settlements or compromises
- 19 less than the amount awarded in arbitration.
- 20 (12) Delaying the investigation or payment of claims by requiring
- 21 an insured, a claimant, or the physician of either to submit a
- 22 preliminary claim report and then requiring the subsequent
- 23 submission of formal proof of loss forms, both of which
- 24 submissions contain substantially the same information.
- 25 (13) Failing to promptly settle claims, where liability has become
- 26 reasonably clear, under one (1) portion of the insurance policy
- 27 coverage in order to influence settlements under other portions of
- 28 the insurance policy coverage.
- 29 (14) Failing to promptly provide a reasonable explanation of the
- 30 basis in the insurance policy in relation to the facts or applicable
- 31 law for denial of a claim or for the offer of a compromise
- 32 settlement.
- 33 (15) In negotiations concerning liability insurance claims,
- 34 ascribing a percentage of fault to a person seeking to recover from
- 35 an insured party, in spite of an obvious absence of fault on the
- 36 part of that person.
- 37 (16) The unfair ~~claims~~ **claim** settlement practices defined in
- 38 IC 27-4-1.5 **and IC 27-7-6.1**.

39 SECTION 2. IC 27-7-6.1 IS ADDED TO THE INDIANA CODE
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2011]:

42 **Chapter 6.1. Motor Vehicle Repair Claim Processing**

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Sec. 1. As used in this chapter, "authorized claim" means a claim that:

- (1) is made for payment under a policy of motor vehicle insurance for a repair to a motor vehicle; and**
- (2) has been authorized by the insurer that is responsible for paying the claim.**

Sec. 2. As used in this chapter, "insurer" means an insurer that issues a policy of motor vehicle insurance.

Sec. 3. As used in this chapter, "loss payee" means a person that is specified on a policy of motor vehicle insurance as an additional insured or a loss payee.

Sec. 4. As used in this chapter, "policy of motor vehicle insurance" means a policy that provides the kind of insurance described in Class 2(f) of IC 27-1-5-1.

Sec. 5. As used in this chapter, "repair facility" means a business that completes a repair that is the subject of an authorized claim.

Sec. 6. (a) If:

(1) a motor vehicle is subject to a lien, an insurer that is responsible for payment of an authorized claim shall:

- (A) not issue payment to the policyholder;**
- (B) issue the authorized claim payment, and any related supplemental payment, only to the repair facility for completed repairs; and**
- (C) provide written notice of completion of the repair to a loss payee less than thirty (30) days after the date the repair is completed; and**

(2) a motor vehicle is not subject to a lien, an insurer that is responsible for payment of an authorized claim shall:

- (A) not issue payment to the policyholder for repairs completed by a repair facility; and**
- (B) issue the authorized claim payment, and any related supplemental payment, for completed repairs directly to the repair facility, naming both the policyholder and the repair facility as payees.**

(b) An insurer that violates subsection (a) commits an unfair claim settlement practice under IC 27-4-1-4.5.

(c) An insurer that does not issue payment naming the repair facility as required by subsection (a) is liable to the repair facility for the greater of the following:

- (1) Two (2) times the actual damages incurred by the policyholder.**

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1 **(2) Five hundred dollars (\$500), plus attorney fees.**
2 **Sec. 7. A repair facility's endorsement of a payment instrument**
3 **tendered under section 6 of this chapter is certification by the**
4 **repair facility of completion of the repair that is the subject of the**
5 **authorized claim.**

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