

# HOUSE BILL No. 1023

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-2-15; IC 34-30-2-111.

**Synopsis:** Insurance proceeds set aside. Provides that the law requiring an insurer to set aside for local government part of the proceeds from insurance covering a building damaged by a fire or explosion applies to a consolidated city and its county and to any county or municipality that has adopted the unsafe building law by ordinance. (Currently, the insurance proceeds set aside law applies only to certain cities.) Revises current language concerning an insurer's duty to provide notice about the insurance covering a building to the governmental unit in which the building is located. Repeals a definition rendered unnecessary by the act.

**Effective:** July 1, 2011.

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**Lehman**

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January 5, 2011, read first time and referred to Committee on Insurance.

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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 *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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# HOUSE BILL No. 1023



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 27-2-15-4.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 4.2. As used in this chapter, "unit" means a**  
4 **municipality or county to which IC 36-7-9 applies under**  
5 **IC 36-7-9-1.**

6 SECTION 2. IC 27-2-15-4.5 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.5. (a) ~~As used in this~~  
8 ~~section, "city" refers to a city having a population of more than~~  
9 ~~thirty-five thousand (35,000) that is located in a county having a~~  
10 ~~population of more than four hundred thousand (400,000) but less than~~  
11 ~~seven hundred thousand (700,000):~~

12 (b) (a) An insurer that issued an insurance policy:  
13 (1) ~~covering that covers~~ a building or other structure that is:  
14 (†) (A) located in a ~~city~~; **unit**; and  
15 (‡) (B) damaged by a fire or explosion; **and**  
16 (2) **that is in effect at the time of the fire or explosion;**  
17 shall, **not more than ten (10) days after receiving notice that the**



1 **building or other structure has been damaged**, notify the  
2 enforcement authority of the **city unit** about the existence of the policy.  
3 However, an insurer is not required to notify the enforcement authority  
4 under this section if the policy issued by the insurer is not in effect at  
5 the time of the fire or explosion that damages the building or structure.

6 (c) The insurer shall provide the notice required under this section  
7 if the enforcement authority makes a request for the notice within  
8 twenty (20) days after the damage occurs.

9 (d) **(b)** The notice required by this section must:

- 10 (1) be in writing;
- 11 (2) identify the insurer and state the insurer's address;
- 12 (3) identify the building or structure and state the location of the
- 13 building or structure; and
- 14 (4) disclose the nature and extent of the coverage of the building
- 15 or structure provided by the policy.

16 (e) An insurer shall provide notice to the enforcement authority  
17 under this section within ten (10) days after the insurer is notified  
18 under subsection (c) of the damaging of the building or structure by fire  
19 or explosion.

20 (f) (c) The commissioner may take action under IC 27-1-3-10 and  
21 IC 27-1-3-19 against an insurer that violates this section.

22 SECTION 3. IC 27-2-15-5 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) If:

- 24 (1) a fire or explosion damages a building or other structure
- 25 located in a city; **an insurer provides to an enforcement**
- 26 **authority the notice required by section 4.5 of this chapter;**
- 27 and
- 28 (2) **not more than thirty (30) days after receiving the notice**
- 29 **described in subdivision (1),** the enforcement authority of the
- 30 city certifies to **an the** insurer **that issued a policy covering the**
- 31 **building or structure** the amount of demolition or rehabilitation
- 32 expenses that the **city unit** anticipates incurring or has incurred
- 33 under IC 36-7-9 in connection with the building or structure;
- 34 the insurer shall remit to the **city unit** or the enforcement authority the
- 35 amount determined under subsection ~~(c)~~: **(b)**.

36 ~~(b)~~ To require the remittance of money under this section, an  
37 enforcement authority must:

- 38 (1) provide the certification under subsection (a) within thirty (30)
- 39 days after the fire or explosion that damages the building or
- 40 structure; and
- 41 (2) comply with subsection (c).

42 However, it is not necessary for the enforcement authority to provide

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1 the certification within thirty (30) days after the fire or explosion if the  
2 insurer fails to provide notice to the enforcement authority under  
3 section 4.5 of this chapter within ten (10) days after the fire or  
4 explosion:

5 (c) (b) The amount that must be remitted to the city unit or the  
6 enforcement agency under subsection (a) is the lesser of:

7 (1) fifteen percent (15%) of the available insurance proceeds, if  
8 any; or

9 (2) an amount equal to the amount certified under subsection  
10 (a)(2).

11 (d) (c) The amount remitted under this section shall be placed in an  
12 interest bearing escrow account to be administered by the enforcement  
13 authority and the city unit. The insured shall be notified by the  
14 enforcement authority of the actions taken under this section.

15 SECTION 4. IC 27-2-15-6 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. Upon a judgment  
17 being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the city unit  
18 is entitled to the available insurance proceeds set aside to the extent of  
19 the costs set forth in IC 36-7-9-12. All claims by the city unit against  
20 the available insurance proceeds must be made within one (1) year  
21 after the date of the fire or explosion or within one (1) year after the  
22 final outcome of a case or appeal initiated under IC 36-7-9, whichever  
23 is later. Proceeds in the escrow account that are not claimed in this  
24 manner shall be paid to the insured.

25 SECTION 5. IC 27-2-15-9 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. The state fire  
27 marshal, a deputy fire marshal, an enforcement authority, or an officer  
28 of a city unit complying with this chapter or attempting in good faith  
29 to comply with this chapter is immune from civil and criminal liability  
30 in connection with actions taken under this chapter.

31 SECTION 6. IC 34-30-2-111 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 111. IC 27-2-15-9  
33 (Concerning the state fire marshal, a deputy fire marshal, an  
34 enforcement authority, or an officer of a city unit for compliance with  
35 the statute concerning the set aside of insurance proceeds in arson  
36 cases).

37 SECTION 7. IC 27-2-15-2 IS REPEALED [EFFECTIVE JULY 1,  
38 2011].

39 SECTION 8. [EFFECTIVE JULY 1, 2011] (a) IC 27-2-15, as  
40 amended by this act, applies to damage by a fire or an explosion  
41 that occurs after June 30, 2011.

42 (b) This SECTION expires July 1, 2016.

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