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# SENATE BILL No. 194

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Insurance proceeds withholding. Amends the current law concerning insurance proceeds set aside for structures damaged by fire or explosion and does the following: (1) Requires an insurer to notify the state fire marshal of the existence of a policy covering a structure damaged by fire or explosion and to withhold payment of a claim for the damage for a certain period. (2) Requires the state fire marshal to maintain a list of municipalities requesting notice of the existence of such a policy and to notify a listed municipality upon notice from the insurer. Makes conforming amendments to the current law by repealing a definition and other provisions made obsolete by the bill.

**Effective:** July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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**SENATE BILL No. 194**



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 IC 27-2-15-2 IS REPEALED [EFFECTIVE JULY 1,
- 2 2012]. ~~Sec. 2: As used in this chapter, "city" refers to a first class or~~
- 3 ~~second class city, as classified under IC 36-4-1-1.~~
- 4 SECTION 2. IC 27-2-15-4.2 IS ADDED TO THE INDIANA CODE
- 5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 6 1, 2012]: **Sec. 4.2. As used in this chapter, "municipality" has the**
- 7 **meaning set forth in IC 36-1-2-11.**
- 8 SECTION 3. IC 27-2-15-4.5 IS AMENDED TO READ AS
- 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: ~~Sec. 4.5. (a) As used in this~~
- 10 ~~section, "city" refers to a city having a population of more than~~
- 11 ~~thirty-five thousand (35,000) that is located in a county having a~~
- 12 ~~population of more than four hundred thousand (400,000) but less than~~
- 13 ~~seven hundred thousand (700,000):~~
- 14 ~~(b) (a) An insurer that:~~
- 15 ~~(1) issued an insurance policy:~~
- 16 ~~(A) covering a building or other structure that is:~~
- 17 ~~(†) (i) located in a city; **municipality**; and~~



- 1           (2) (ii) damaged by a fire or explosion; and
- 2           **(B) that was in effect at the time the fire or explosion**
- 3           **occurred;**
- 4           **(2) receives notice of a claim by the insured for damage to the**
- 5           **building or other structure; and**
- 6           **(3) determines that the available insurance proceeds exceed**
- 7           **seventy percent (70%) of the actual cash value payable to the**
- 8           **insured under the policy;**

9 shall notify the enforcement authority of the city state fire marshal  
 10 about the existence of the policy. However, an insurer is not required  
 11 to notify the enforcement authority under this section if the policy  
 12 issued by the insurer is not in effect at the time of the fire or explosion  
 13 that damages the building or structure.

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

- 17       (d) **(b)** The notice required by this section must:
- 18           (1) be in writing;
- 19           (2) identify the insurer and state the insurer's address;
- 20           (3) identify the building or structure and state the location of the
- 21           building or structure; and
- 22           (4) disclose the nature and extent of the coverage of the building
- 23           or structure provided by the policy.

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

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

30       SECTION 4. IC 27-2-15-5 IS REPEALED [EFFECTIVE JULY 1,  
 31 2012]. Sec. 5: (a) If:

- 32           (1) a fire or explosion damages a building or other structure
- 33           located in a city; and
- 34           (2) the enforcement authority of the city certifies to an insurer that
- 35           issued a policy covering the building or structure the amount of
- 36           demolition or rehabilitation expenses that the city anticipates
- 37           incurring or has incurred under IC 36-7-9 in connection with the
- 38           building or structure;

39 the insurer shall remit to the city or the enforcement authority the  
 40 amount determined under subsection (c).

41       (b) To require the remittance of money under this section, an  
 42 enforcement authority must:

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1 (1) provide the certification under subsection (a) within thirty (30)  
 2 days after the fire or explosion that damages the building or  
 3 structure; and

4 (2) comply with subsection (c).

5 However, it is not necessary for the enforcement authority to provide  
 6 the certification within thirty (30) days after the fire or explosion if the  
 7 insurer fails to provide notice to the enforcement authority under  
 8 section 4.5 of this chapter within ten (10) days after the fire or  
 9 explosion.

10 (c) The amount that must be remitted to the city or the enforcement  
 11 agency under subsection (a) is the lesser of:

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

14 (2) an amount equal to the amount certified.

15 (d) The amount remitted under this section shall be placed in an  
 16 interest bearing escrow account to be administered by the enforcement  
 17 authority and the city. The insured shall be notified by the enforcement  
 18 authority of the actions taken under this section.

19 SECTION 5. IC 27-2-15-5.1 IS ADDED TO THE INDIANA CODE  
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 21 1, 2012]: **Sec. 5.1. (a) With the approval of the legislative body of a  
 22 municipality, the municipality's enforcement authority may submit  
 23 a written request to the state fire marshal to receive reports from  
 24 the state fire marshal concerning buildings or other structures:**

25 (1) that are located in the municipality;

26 (2) that have been damaged by fire or explosion; and

27 (3) about which the state fire marshal has received notice  
 28 under section 4.5 of this chapter concerning the existence of  
 29 insurance coverage.

30 (b) A written request described in subsection (a) must include  
 31 the contact information for:

32 (1) the enforcement authority, if the enforcement authority is  
 33 an individual; or

34 (2) an individual within the enforcement authority who is  
 35 responsible for receiving the information concerning  
 36 insurance coverage.

37 (c) The state fire marshal shall:

38 (1) maintain a list of municipalities, including the contact  
 39 information required by subsection (b), that submit a written  
 40 request under subsection (a); and

41 (2) upon receiving a written request under subsection (a):

42 (A) update the list to include the municipality; and

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(B) comply with subsection (d) with respect to the municipality.

(d) The state fire marshal shall, upon receiving notice from an insurer under section 4.5 of this chapter:

(1) determine whether the municipality in which the building or other structure specified in the notice is included on the list maintained under subsection (c)(1); and

(2) if the municipality is included on the list, report to the individual described in subsection (b) the existence of the insurance policy that covers the building or other structure.

SECTION 6. IC 27-2-15-5.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 5.4. An insurer that sends notice to the state fire marshal under section 4.5 of this chapter shall:**

(1) withhold payment to the insured of available insurance proceeds for ten (10) business days after the date the notice is sent to the state fire marshal; and

(2) upon request of the municipality within the ten (10) business day period, extend the period of withholding payment under subdivision (1) for an additional fifteen (15) days.

SECTION 7. IC 27-2-15-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 6. Upon a judgment being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the city is entitled to the available insurance proceeds set aside to the extent of the costs set forth in IC 36-7-9-12. All claims by the city against the available insurance proceeds must be made within one (1) year after the date of the fire or explosion or within one (1) year after the final outcome of a case or appeal initiated under IC 36-7-9, whichever is later. Proceeds in the escrow account that are not claimed in this manner shall be paid to the insured.~~

SECTION 8. IC 27-2-15-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 6.1. (a) A municipality may file a written request with the state fire marshal to be deleted from the list maintained under section 5.1 of this chapter.**

**(b) Upon receiving a written request under subsection (a), the state fire marshal shall remove the municipality from the list.**

SECTION 9. IC 27-2-15-8 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 8: Insurance proceeds set aside in an escrow account under section 5 of this chapter shall be considered as having been paid to the insured in satisfaction of any contractual liability under the policy.~~

SECTION 10. IC 27-2-15-9 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. The state fire  
2 marshal, a deputy fire marshal, an enforcement authority, or an officer  
3 of a **city municipality** complying with this chapter or attempting in  
4 good faith to comply with this chapter is immune from civil and  
5 criminal liability in connection with actions taken under this chapter.

6 SECTION 11. IC 27-2-15-10 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. The insurance  
8 commissioner may adopt rules under IC 4-22-2 necessary to implement  
9 this chapter. ~~These rules must include a procedure for the~~  
10 ~~administration of escrow accounts established under section 5 of this~~  
11 ~~chapter, including the disposition of any funds in the escrow account~~  
12 ~~not claimed under section 6 of this chapter.~~

13 SECTION 12. IC 34-30-2-111, AS ADDED BY P.L.1-1998,  
14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2012]: Sec. 111. IC 27-2-15-9 (Concerning the state fire  
16 marshal, a deputy fire marshal, an enforcement authority, or an officer  
17 of a **city municipality** for compliance with the statute concerning the  
18 set aside of insurance proceeds in arson cases).

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