March 22, 2013

ENGROSSED
SENATE BILL No. 169

DIGEST OF SB 169 (Updated March 20, 2013 3:03 pm - DI 97)

Citations Affected: IC 27-2.

Synopsis: Insurance proceeds set aside. Applies the law concerning insurance proceeds escrow deposits (law) to all cities and towns, phased in over three years. Defines "final settlement" for purposes of the law. Specifies requirements for application of the law. Requires the state fire marshal to maintain a list of municipalities electing governance under the law and sets an annual fee for electing municipalities. Specifies maximum amounts to be set aside and costs for which the proceeds may be used by a municipality. Repeals a definition made obsolete by the bill.

Effective: July 1, 2013.

Head, Bray, Young R, Randolph

(HOUSE SPONSORS — LEHMAN, HARRIS)

January 7, 2013, read first time and referred to Committee on Insurance.
January 24, 2013, reported favorably — Do Pass.
February 7, 2013, read second time, amended, ordered engrossed.
February 8, 2013, engrossed.
February 11, 2013, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Insurance.
March 21, 2013, amended, reported — Do Pass.

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March 22, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 169

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

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

SECTION 1. IC 27-2-15-2 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 2. As used in this chapter, "city" refers to a first class or second class city, as classified under IC 36-4-1-1.~~

SECTION 2. IC 27-2-15-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.2. (a) As used in this chapter, "final settlement" means a determination:**

(1) of the amount owed to an insured:

(A) under the building coverage part of an insurance policy issued by an insurer; and

(B) for damage to or loss of a building or other structure caused by fire or explosion; and

(2) made by any of the following means:

(A) Acceptance of a proof of loss by the insurer.

(B) Execution of a release by the named insured.

(C) Acceptance of an arbitration award by the named insured and the insurer.

(D) Judgment of a court of competent jurisdiction.

(b) The term "final settlement" does not apply to damage or loss related to contents, personal property, or another loss that is not covered under the building coverage part of an insurance policy.

SECTION 3. IC 27-2-15-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.2. As used in this chapter, "municipality" has the meaning set forth in IC 36-1-2-11.**

SECTION 4. IC 27-2-15-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.3. (a) This chapter applies to damage to or loss of a building or structure caused by fire or explosion only if all of the following are true:**

(1) The municipality in which the building or structure is located is included on the list maintained by the state fire marshal under section 4.4(b) of this chapter.

(2) The fire or explosion occurs on or after the effective date specified by the state fire marshal for the municipality under section 4.4(b) of this chapter.

(3) The amount of the final settlement concerning the damage or loss exceeds seventy-five percent (75%) of available insurance proceeds.

(4) If the insurer, in good faith, withheld payment under an insurance policy due to:

(A) suspected arson;

(B) suspected fraud; or

(C) another question concerning coverage;

the reason for withholding payment has been resolved and final settlement concerning the damage or loss has occurred.

SECTION 5. IC 27-2-15-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.4. (a) A municipality may elect to be governed by this chapter by submitting to the state fire marshal a written request. The request must:**

(1) be approved by resolution of the municipality's legislative body; and

(2) contain contact information for the specific individual who will act on behalf of the enforcement authority with respect to this chapter.

(b) The state fire marshal shall:

(1) maintain a list of all municipalities that submit a request under subsection (a), including the contact information

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required by subsection (a)(2);

(2) distribute the list to all insurers transacting property insurance business in Indiana;

(3) make the list available on an Internet web site;

(4) specify the effective date of each addition of a municipality to the list; and

(5) notify the added municipality and the insurers described in subdivision (2) of the effective date specified under subdivision (4).

The effective date specified under subdivision (4) must be a date occurring at least thirty (30) days after the date on which the insurers receive the notice under subdivision (5).

(c) A municipality that made an election under subsection (a) may elect to cease being governed by this chapter and may be removed from the list maintained under subsection (b) as follows:

(1) The municipality shall submit to the state fire marshal a written request to cease being governed by this chapter and to be removed from the list.

(2) The state fire marshal shall:

(A) amend the list by removing the municipality;

(B) specify on the amended list the effective date of the municipality's removal from the list;

(C) distribute the amended list to all insurers transacting property insurance business in Indiana;

(D) make the amended list available on the Internet web site described in subsection (b)(3); and

(E) notify the removed municipality and the insurers described in clause (C) of the effective date of the removal.

The effective date specified under clause (B) must be a date occurring at least thirty (30) days after the date on which the insurers receive the notice under clause (E).

(d) A municipality that is governed by this chapter shall annually remit one hundred dollars ($100) to the state fire marshal.

SECTION 6. IC 27-2-15-4.5, AS AMENDED BY P.L.119-2012, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.5. ~~(a) As used in this section, "city" refers to either of the following:~~

~~(1) A city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).~~

~~(2) A city having a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).~~

~~(b)~~ **(a)** An insurer that:

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(1) issued an insurance policy ~~covering~~ **that:**

(A) covers a building or other structure that is:

~~(1)~~ **(i)** located in a ~~city;~~ **municipality governed by this chapter;** and

~~(2)~~ **(ii)** damaged by a fire or explosion; **and**

(B) is in effect at the time that the fire or explosion occurs; and

(2) receives notice of a claim for the damage by the named insured;

shall, **not more than fifteen (15) days after a final settlement is reached,** notify the enforcement authority of the ~~city~~ **municipality** about the existence of the policy. ~~However, an insurer is not required to notify the enforcement authority under this section if the policy issued by the insurer is not in effect at the time of the fire or explosion that damages the building or structure.~~

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

~~(d)~~ **(b)** The notice **to an enforcement authority** required by ~~this section~~ **subsection (a)** must:

(1) be in writing;

(2) identify the insurer and state the insurer's address; **and**

(3) identify the building or structure and state the location of the building or structure. ~~and~~

~~(4) disclose the nature and extent of the coverage of the building or structure provided by the policy.~~

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

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

SECTION 7. IC 27-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) **This section does not apply to damage or loss to a building or structure described in section 4.5 of this chapter** if:

~~(1) a fire or explosion damages a building or other structure located in a city; and~~

~~(2)~~ **(1) not more than fifteen (15) days after final settlement has occurred concerning the building or structure, the named insured files with the insurer evidence of a contract to repair the building or structure; and**

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(2) upon receipt of the evidence of a contract to repair, the insurer notifies the municipality that this section does not apply due to the existence of the evidence.

(b) If:

(1) the requirements of subsection (a) are not met; and

(2) the enforcement authority of ~~the city~~ **a municipality that receives notice from an insurer under section 4.5(a) of this chapter** certifies to ~~an~~ **the** insurer ~~that issued a policy covering the building or structure~~ the amount of demolition or rehabilitation expenses that the ~~city~~ **municipality** anticipates incurring or has incurred under IC 36-7-9 in connection with the building or structure;

the insurer shall remit to the ~~city~~ **municipality** or the enforcement authority the amount determined under subsection ~~(c).~~ **(d).**

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

(1) provide the certification under subsection ~~(a)~~ **(b)** within ~~thirty (30)~~ **fifteen (15)** days after the ~~fire or explosion that damages the building or structure;~~ **enforcement authority receives notice under section 4.5(a) of this chapter;** and

(2) comply with subsection ~~(c).~~ **(d).**

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

~~(c)~~ **(d)** The amount that must be remitted to the ~~city~~ **municipality** or the enforcement ~~agency~~ **authority** under subsection ~~(a)~~ **(b)** is the lesser of:

(1) ~~fifteen~~ **ten** percent ~~(15%)~~ **(10%)** of the available insurance proceeds, if any; ~~or~~

(2) an amount equal to the amount certified; **or**

(3) the following:

(A) Seven thousand dollars ($7,000) for a residential building or structure.

(B) Fifteen thousand dollars ($15,000) for a nonresidential building or structure.

For purposes of this subsection, "a residential building or structure" means real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured.

~~(d)~~ **(e)** The amount remitted under this section shall be placed **by**

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the enforcement authority in an interest bearing escrow account to be administered by the enforcement authority and the ~~city.~~ **municipality.** The insured shall be notified by the enforcement authority of the actions taken under this section.

SECTION 8. IC 27-2-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. **(a)** Upon a judgment being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the ~~city~~ **municipality** is entitled to the available insurance proceeds set aside **only:**

(1) to the extent of the costs set forth in IC 36-7-9-12; **and**

(2) for demolition and rehabilitation expenses certified under section 5(b) of this chapter.

Available insurance proceeds set aside under section 5 of this chapter may not be used to pay the costs of fire service, police service, or any other service provided in the normal course of the municipality's business.

(b) All claims by the ~~city~~ **municipality** 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 9. IC 27-2-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. The state fire marshal, a deputy fire marshal, an enforcement authority, or an officer of a ~~city~~ **municipality** complying with this chapter or attempting in good faith to comply with this chapter is immune from civil and criminal liability in connection with actions taken under this chapter.

SECTION 10. IC 27-2-15-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 11. (a) The definitions in IC 36-1-2 apply throughout this section.**

(b) As used in this section, "third class city" means a third class city as classified under IC 36-4-1-1.

(c) The amendments to this chapter made by SEA 169-2013 apply as follows:

(1) After June 30, 2013, only to third class cities.

(2) After June 30, 2014, only to towns and third class cities.

(3) After June 30, 2015, to all municipalities.

(d) Before the date that applies to a municipality under subsection (c), the law that applies to the municipality is this chapter as if it had not been amended by SEA 169-2013.

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1 **(e) This SECTION expires July 1, 2015.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance, to which was referred Senate Bill No. 169, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 169 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 169 be amended to read as follows:

Page 1, delete lines 1 through 4, begin a new paragraph and insert:

"SECTION 1. IC 27-2-15-2 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 2. As used in this chapter, "city" refers to a first class or second class city, as classified under IC 36-4-1-1.~~

SECTION 2. IC 27-2-15-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.3. As used in this chapter, "municipality" has the meaning set forth in IC 36-1-2-11.**

SECTION 3. IC 27-2-15-4.5 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 4.5. (a) As used in this section, "city" refers to either of the following:~~

~~(1) A city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).~~

~~(2) A city having a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).~~

~~(b) An insurer that issued an insurance policy covering a building or other structure that is:~~

~~(1) located in a city; and~~

~~(2) damaged by a fire or explosion;~~

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

~~(c) The insurer shall provide the notice required under this section if the enforcement authority makes a request for the notice within~~

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~~twenty (20) days after the damage occurs.~~

~~(d) The notice required by this section must:~~

~~(1) be in writing;~~

~~(2) identify the insurer and state the insurer's address;~~

~~(3) identify the building or structure and state the location of the building or structure; and~~

~~(4) disclose the nature and extent of the coverage of the building or structure provided by the policy.~~

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

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

Page 1, line 8, strike "city;" and insert "**municipality;**".

Page 1, line 9, strike "enforcement authority of the city certifies to" and insert "**insured files a claim with**".

Page 1, line 10, after "structure" insert ";".

Page 1, line 10, strike "the amount of".

Page 1, strike lines 11 through 13.

Page 1, line 14, after "shall" insert ",".

Page 1, line 14, strike "remit to" and insert "**not more than thirty (30) days after the claim is filed, notify**".

Page 1, line 14, strike "city" and insert "**municipality**".

Page 1, line 14, after "authority" strike "the" and insert "**that the claim has been filed.**".

Page 1, strike lines 15 through 17.

Page 2, strike lines 1 through 10.

Page 2, line 11, delete "authority".

Page 2, line 11, strike "under subsection (a) is the lesser of:".

Page 2, between lines 11 and 12, begin a new paragraph and insert:

"**(b) A municipality or enforcement authority that receives notice from an insurer under subsection (a) shall, not more than sixty (60) days after the notice is received:**

(1) determine the actual or estimated cost that has been or will be incurred by the municipality or enforcement authority under IC 36-7-9 for demolition or rehabilitation of the building or structure; and

(2) notify the insurer of the cost amount determined under subdivision (1).

(c) An insurer that receives notice of an amount determined under subsection (b) shall, not more than thirty (30) days after

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receiving the notice, deposit an amount equal to the lesser of:".

Page 2, line 14, strike "an amount equal to".

Page 2, line 14, strike "certified." and insert "**determined under subsection (b);**".

Page 2, line 15, strike "(d) The amount remitted under this section shall be placed"

Page 2, line 15, beginning with "in" begin a new line blocked left.

Page 2, line 17, strike "city." and insert "**municipality.**

(d)".

Page 2, after line 18, begin a new paragraph and insert:

"SECTION 5. IC 27-2-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. **(a)** Upon:

(1) completion of the demolition or rehabilitation of a building or structure described in section 5 of this chapter; and

(2) a judgment being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d);

the ~~city~~ **municipality** is entitled to the available insurance proceeds set aside to the extent of the costs set forth in IC 36-7-9-12 **and shall claim the amount to which the municipality is entitled from the escrow account described in section 5 of this chapter.**

(b) All claims by the ~~city~~ **municipality** 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 6. IC 27-2-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. The state fire marshal, a deputy fire marshal, an enforcement authority, or an officer of a ~~city~~ **municipality** complying with this chapter or attempting in good faith to comply with this chapter is immune from civil and criminal liability in connection with actions taken under this chapter.

SECTION 7. IC 27-2-15-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 11. (a) The definitions in IC 36-1-2 apply throughout this section.**

(b) As used in this section, "third class city" means a third class city as classified under IC 36-4-1-1.

(c) The amendments to this chapter made by SEA 169-2013 apply as follows:

(1) After June 30, 2013, only to third class cities.

(2) After June 30, 2014, only to towns and third class cities.

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(3) After June 30, 2015, to all municipalities.

(d) Before the date that applies to a municipality under subsection (c), the law that applies to the municipality is this chapter as if it had not been amended by SEA 169-2013.

(e) This SECTION expires July 1, 2015.".

Renumber all SECTIONS consecutively.

(Reference is to SB 169 as printed January 25, 2013.)

HEAD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 169, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 2. IC 27-2-15-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.2. (a) As used in this chapter, "final settlement" means a determination:**

(1) of the amount owed to an insured:

(A) under the building coverage part of an insurance policy issued by an insurer; and

(B) for damage to or loss of a building or other structure caused by fire or explosion; and

(2) made by any of the following means:

(A) Acceptance of a proof of loss by the insurer.

(B) Execution of a release by the named insured.

(C) Acceptance of an arbitration award by the named insured and the insurer.

(D) Judgment of a court of competent jurisdiction.

(b) The term "final settlement" does not apply to damage or loss related to contents, personal property, or another loss that is not covered under the building coverage part of an insurance policy.".

Page 1, line 4, delete "IC 27-2-15-4.3" and insert "IC 27-2-15-4.2".

Page 1, line 6, delete "4.3" and insert "**4.2**".

Page 1, delete lines 8 through 17, begin a new paragraph and insert:

"SECTION 4. IC 27-2-15-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.3. (a) This chapter applies to**

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damage to or loss of a building or structure caused by fire or explosion only if all of the following are true:

(1) The municipality in which the building or structure is located is included on the list maintained by the state fire marshal under section 4.4(b) of this chapter.

(2) The fire or explosion occurs on or after the effective date specified by the state fire marshal for the municipality under section 4.4(b) of this chapter.

(3) The amount of the final settlement concerning the damage or loss exceeds seventy-five percent (75%) of available insurance proceeds.

(4) If the insurer, in good faith, withheld payment under an insurance policy due to:

(A) suspected arson;

(B) suspected fraud; or

(C) another question concerning coverage;

the reason for withholding payment has been resolved and final settlement concerning the damage or loss has occurred.

SECTION 5. IC 27-2-15-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.4. (a) A municipality may elect to be governed by this chapter by submitting to the state fire marshal a written request. The request must:**

(1) be approved by resolution of the municipality's legislative body; and

(2) contain contact information for the specific individual who will act on behalf of the enforcement authority with respect to this chapter.

(b) The state fire marshal shall:

(1) maintain a list of all municipalities that submit a request under subsection (a), including the contact information required by subsection (a)(2);

(2) distribute the list to all insurers transacting property insurance business in Indiana;

(3) make the list available on an Internet web site;

(4) specify the effective date of each addition of a municipality to the list; and

(5) notify the added municipality and the insurers described in subdivision (2) of the effective date specified under subdivision (4).

The effective date specified under subdivision (4) must be a date occurring at least thirty (30) days after the date on which the

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insurers receive the notice under subdivision (5).

(c) A municipality that made an election under subsection (a) may elect to cease being governed by this chapter and may be removed from the list maintained under subsection (b) as follows:

(1) The municipality shall submit to the state fire marshal a written request to cease being governed by this chapter and to be removed from the list.

(2) The state fire marshal shall:

(A) amend the list by removing the municipality;

(B) specify on the amended list the effective date of the municipality's removal from the list;

(C) distribute the amended list to all insurers transacting property insurance business in Indiana;

(D) make the amended list available on the Internet web site described in subsection (b)(3); and

(E) notify the removed municipality and the insurers described in clause (C) of the effective date of the removal.

The effective date specified under clause (B) must be a date occurring at least thirty (30) days after the date on which the insurers receive the notice under clause (E).

(d) A municipality that is governed by this chapter shall annually remit one hundred dollars ($100) to the state fire marshal.

SECTION 6. IC 27-2-15-4.5, AS AMENDED BY P.L.119-2012, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.5. ~~(a) As used in this section, "city" refers to either of the following:~~

~~(1) A city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).~~

~~(2) A city having a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).~~

~~(b)~~ **(a)** An insurer that:

(1) issued an insurance policy ~~covering~~ **that:**

(A) covers a building or other structure that is:

~~(1)~~ **(i)** located in a ~~city;~~ **municipality governed by this chapter;** and

~~(2)~~ **(ii)** damaged by a fire or explosion; **and**

(B) is in effect at the time that the fire or explosion occurs; and

(2) receives notice of a claim for the damage by the named insured;

shall, **not more than fifteen (15) days after a final settlement is reached,** notify the enforcement authority of the ~~city~~ **municipality**

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about the existence of the policy. ~~However, an insurer is not required to notify the enforcement authority under this section if the policy issued by the insurer is not in effect at the time of the fire or explosion that damages the building or structure.~~

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

~~(d)~~ **(b)** The notice **to an enforcement authority** required by ~~this section~~ **subsection (a)** must:

(1) be in writing;

(2) identify the insurer and state the insurer's address; **and**

(3) identify the building or structure and state the location of the building or structure. ~~and~~

~~(4) disclose the nature and extent of the coverage of the building or structure provided by the policy.~~

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

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

SECTION 7. IC 27-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) **This section does not apply to damage or loss to a building or structure described in section 4.5 of this chapter** if:

~~(1) a fire or explosion damages a building or other structure located in a city; and~~

~~(2)~~ **(1) not more than fifteen (15) days after final settlement has occurred concerning the building or structure, the named insured files with the insurer evidence of a contract to repair the building or structure; and**

(2) upon receipt of the evidence of a contract to repair, the insurer notifies the municipality that this section does not apply due to the existence of the evidence.

(b) If:

(1) the requirements of subsection (a) are not met; and

(2) the enforcement authority of ~~the city~~ **a municipality that receives notice from an insurer under section 4.5(a) of this chapter** certifies to ~~an~~ **the** insurer ~~that issued a policy covering the building or structure~~ the amount of demolition or rehabilitation expenses that the ~~city~~ **municipality** anticipates incurring or has incurred under IC 36-7-9 in connection with the

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building or structure;

the insurer shall remit to the ~~city~~ **municipality** or the enforcement authority the amount determined under subsection ~~(c).~~ **(d).**

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

(1) provide the certification under subsection ~~(a)~~ **(b)** within ~~thirty (30)~~ **fifteen (15)** days after the ~~fire or explosion that damages the building or structure;~~ **enforcement authority receives notice under section 4.5(a) of this chapter;** and

(2) comply with subsection ~~(c).~~ **(d).**

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

~~(c)~~ **(d)** The amount that must be remitted to the ~~city~~ **municipality** or the enforcement ~~agency~~ **authority** under subsection ~~(a)~~ **(b)** is the lesser of:

(1) ~~fifteen~~ **ten** percent ~~(15%)~~ **(10%)** of the available insurance proceeds, if any; ~~or~~

(2) an amount equal to the amount certified; **or**

(3) the following:

(A) Seven thousand dollars ($7,000) for a residential building or structure.

(B) Fifteen thousand dollars ($15,000) for a nonresidential building or structure.

For purposes of this subsection, "a residential building or structure" means real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured.

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

SECTION 8. IC 27-2-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. **(a)** Upon a judgment being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the ~~city~~ **municipality** is entitled to the available insurance proceeds set aside **only:**

(1) to the extent of the costs set forth in IC 36-7-9-12; **and**

(2) for demolition and rehabilitation expenses certified under

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section 5(b) of this chapter.

Available insurance proceeds set aside under section 5 of this chapter may not be used to pay the costs of fire service, police service, or any other service provided in the normal course of the municipality's business.

(b) All claims by the ~~city~~ **municipality** 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.".

Delete pages 2 through 3.

Page 4, delete line 1.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 169 as reprinted February 8, 2013, Printer's Error.)

LEHMAN, Chair

Committee Vote: yeas 11, nays 0.

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