

HOUSE BILL No. 1269

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-7-14.

Synopsis: Environmental coverage. Specifies language that, if used in an insurance policy, excludes environmental coverage from the insurance policy. Defines "environmental coverage". Requires certain insurers to issue written notice if an insurance policy excludes environmental coverage.

Effective: July 1, 2013.

Carbaugh, Lehman

January 14, 2013, read first time and referred to Committee on Insurance.

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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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HOUSE BILL No. 1269



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 27-7-14 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2013]:
 4 **Chapter 14. Environmental Coverage**
 5 **Sec. 1. (a) This chapter does not apply to the following:**
 6 **(1) Bodily injury or property damage arising out of heat,**
 7 **smoke, or fumes from a hostile fire otherwise covered under**
 8 **an insurance policy.**
 9 **(2) A part of an insurance policy that:**
 10 **(A) covers first party loss to property located in Indiana;**
 11 **and**
 12 **(B) insures against loss or damage to:**
 13 **(i) real property consisting of not more than four (4)**
 14 **residential units, one (1) of which is the principal place**
 15 **of residence of the named insured; or**
 16 **(ii) personal property in which the named insured has an**
 17 **insurable interest and that is used within a residential**



1 dwelling for personal, family, or household purposes.
 2 (b) This chapter applies:
 3 (1) to an insurance policy that is issued, delivered, amended,
 4 or renewed after June 30, 2013; and
 5 (2) only to:
 6 (A) an occurrence; or
 7 (B) a discharge, dispersal, seepage, migration, release, or
 8 escape of a pollutant;
 9 that occurs after June 30, 2013.
 10 Sec. 2. As used in this chapter, "environmental coverage" means
 11 insurance coverage for an injury, damage, clean up, loss, cost, or
 12 expense arising from an actual, alleged, or threatened discharge,
 13 dispersal, seepage, migration, release, escape, inhalation, ingestion,
 14 or absorption of:
 15 (1) an irritant;
 16 (2) a contaminant;
 17 (3) a pollutant;
 18 (4) a hazardous chemical;
 19 (5) a hazardous substance;
 20 (6) a hazardous waste;
 21 (7) petroleum;
 22 (8) a regulated substance; or
 23 (9) a substance that is:
 24 (A) subject to regulation under IC 13 and included in a
 25 term defined in IC 13-11-2; or
 26 (B) regulated under Title 42 of the United States Code.
 27 Sec. 3. When used in an insurance policy that generally defines
 28 "pollutant" or "pollutants", the term means:
 29 (1) an irritant;
 30 (2) a contaminant;
 31 (3) a hazardous substance;
 32 (4) a hazardous waste;
 33 (5) petroleum;
 34 (6) a regulated substance; or
 35 (7) a substance that is:
 36 (A) subject to regulation under IC 13 and included in a
 37 term defined in IC 13-11-2; or
 38 (B) regulated under Title 42 of the United States Code.
 39 Sec. 4. An insurance policy issued or renewed after June 30,
 40 2013, does not provide environmental coverage if the insurance
 41 policy contains the following language or substantially similar
 42 language:

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- "Exclusions. This insurance policy does not apply to:**
- (1) "Bodily injury" or "property damage" arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants:**
 - (A) at or from any premises, site, or location that is or was at any time owned or occupied by, or rented or loaned to, any insured;**
 - (B) at or from any premises, site, or location that is or was at any time used by or for any insured or others for the handling, storage, disposal, processing, or treatment of waste;**
 - (C) that are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom the named insured may be legally responsible; or**
 - (D) at or from any premises, site, or location on which any insured or any contractor or subcontractor working directly or indirectly on any insured's behalf is performing operations:**
 - (i) if the pollutants are brought on or to the premises, site, or locations in connection with the operations by the insured, contractor, or subcontractor; or**
 - (ii) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of pollutants.**
 - (2) Any loss, cost, or expense arising out of any:**
 - (A) request, demand, or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to or assess the effects of pollutants; or**
 - (B) claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to or assessing the effects of pollutants.**

"Pollutant" or "pollutants" means any solid, liquid, gaseous, or thermal irritant or contaminant."

Sec. 5. An insurer that, after January 1, 2014, issues, delivers, amends, or renews an insurance policy that contains the exclusions described in section 4 of this chapter shall issue to each policyholder under the insurance policy written notice containing a statement that the insurance policy does not provide

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