

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.

SENATE ENROLLED ACT No. 169

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 IC 27-2-15-2 IS REPEALED [EFFECTIVE JULY 1, 2013].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 27-2-15-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. As used in this chapter, "department" refers to the department of insurance created by IC 27-1-1-1.**

SECTION 3. 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.**



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(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 4. 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 5. 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 department under section 4.4(b) of this chapter.

(2) The fire or explosion occurs on or after the effective date specified by the department 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 6. 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 department a written request. The request must:**

(1) be approved by adoption of an ordinance by 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 department 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) specify the effective date of each addition of a municipality to the list; and
- (3) publish the list on an Internet web site.

(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 department a written request, approved by adoption of an ordinance by the municipality's legislative body, to cease being governed by this chapter and to be removed from the list.
- (2) The department 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; and
 - (C) publish the amended list on the Internet web site described in subsection (b)(3).

(d) A municipality that is governed by this chapter shall remit to the department a one (1) time fee of one hundred dollars (\$100).

SECTION 7. 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 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

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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 8. 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 building or structure;

the insurer shall remit to the city municipality or the enforcement authority the amount determined under subsection (e): (d).

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~~(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 (15%)~~ **ten percent (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 9. 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



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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 10. IC 27-2-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. The **department, the commissioner and employees of the department, 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 11. 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.**

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

SECTION 12. IC 34-30-2-111 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 111. IC 27-2-15-9 (Concerning **the department of insurance, the commissioners and employees of the department of insurance, the state fire marshal, a deputy fire marshal, an enforcement authority, or an officer of a city municipality** for compliance with the statute concerning the set aside of insurance proceeds in arson cases).

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

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