

## **IC 27-2-15**

### Chapter 15. Available Insurance Proceeds Set Aside

#### **IC 27-2-15-1**

##### **"Available insurance proceeds" defined**

Sec. 1. As used in this chapter, "available insurance proceeds" means the proceeds payable under an insurance policy based upon a claim for damage to or loss of a building or other structure caused by fire or explosion, minus proceeds paid to:

- (1) the insured for emergency living expenses;
- (2) take emergency action necessary to secure the premises;
- (3) prevent further damage to the premises; or
- (4) a lienholder or mortgagee who is not the target of an investigation by an authorized agency (as defined in IC 27-2-13-1).

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-2**

##### **"City" defined**

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.

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-3**

##### **"Enforcement authority" defined**

Sec. 3. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-4**

##### **"Insurer" defined**

Sec. 4. As used in this chapter, "insurer" means a fire and marine insurance company, as defined in IC 27-1-2-3(u).

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-4.5**

##### **Notice to enforcement authority of existence of policy**

Sec. 4.5. (a) As used in this section, "city" refers to a city having a population of more than thirty-five thousand (35,000) that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(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 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.

*As added by P.L.123-1992, SEC.1.*

### **IC 27-2-15-5**

#### **Set aside of insurance proceeds; amount**

Sec. 5. (a) If:

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

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

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

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

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

- (1) fifteen percent (15%) of the available insurance proceeds, if any; or
- (2) an amount equal to the amount certified.

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

*As added by P.L.247-1989, SEC.2. Amended by P.L.123-1992, SEC.2.*

#### **IC 27-2-15-6**

##### **Claims against set aside**

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.

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-7**

##### **Immunity of insurers**

Sec. 7. An insurer 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, and those actions, including withholding payment of any insurance proceeds under this chapter or releasing or disclosing any information under this chapter, may not be considered to violate IC 27-4-1.

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-8**

##### **Satisfaction of contractual liability**

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.

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-9**

##### **Immunity of public officials**

Sec. 9. The state fire marshal, a deputy fire marshal, an enforcement authority, or an officer of a city 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.

*As added by P.L.247-1989, SEC.2.*

#### **IC 27-2-15-10**

##### **Rules**

Sec. 10. The insurance commissioner may adopt rules under IC 4-22-2 necessary to implement this chapter. These rules must include a procedure for the administration of escrow accounts established under section 5 of this chapter, including the disposition

of any funds in the escrow account not claimed under section 6 of this chapter.

*As added by P.L.247-1989, SEC.2.*