

SENATE BILL No. 155

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-2-24.

Synopsis: Coverage of innocent coinsured. Prohibits certain actions by a property or casualty insurer with respect to an innocent coinsured, including denying payment on a claim and refusing to issue or renew a policy.

Effective: July 1, 2019.

Randolph Lonnie M

January 3, 2019, read first time and referred to Committee on Insurance and Financial Institutions.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 155

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 27-2-24-1, AS ADDED BY P.L.148-2017,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1. **The amendments to this chapter applies**
4 **enacted in 2019 apply** to a policy of property or casualty insurance
5 that is entered into, amended, or renewed after June 30, ~~2017~~. **2019**.

6 SECTION 2. IC 27-2-24-2 IS REPEALED [EFFECTIVE JULY 1,
7 2019]. Sec. 2: As used in this chapter, "authorized agency" means the
8 following:

9 (1) ~~The state fire marshal or a fire department acting under~~
10 ~~IC 36-8-17.~~

11 (2) The superintendent of the state police.

12 (3) The prosecuting attorney responsible for prosecutions in the
13 county where damage to property occurs:

14 (4) The attorney general.

15 (5) An officer of a unit of local government whose duties include
16 the investigation of arson where damage to property occurs.

17 SECTION 3. IC 27-2-24-3 IS REPEALED [EFFECTIVE JULY 1,



1 2019]. Sec. 3: As used in this chapter, "available insurance proceeds"
 2 means:

3 (1) the proceeds payable under a policy of property or casualty
 4 insurance:

5 (A) to an innocent coinsured; and

6 (B) based on a claim for property loss to the innocent
 7 coinsured's primary residence; minus

8 (2) proceeds already paid under the policy of property or casualty
 9 insurance to:

10 (A) the innocent coinsured for:

11 (i) emergency living expenses;

12 (ii) emergency action necessary to secure the premises of the
 13 primary residence; and

14 (iii) action necessary to prevent further damage to the
 15 premises of the primary residence; and

16 (B) a lienholder or mortgagee who is not under investigation
 17 by an authorized agency;

18 in connection with the property loss described in subdivision (1).

19 SECTION 4. IC 27-2-24-4 IS REPEALED [EFFECTIVE JULY 1,
 20 2019]. Sec. 4: (a) As used in this chapter, "final settlement" means a
 21 determination:

22 (1) of the amount owed to an innocent coinsured by an insurer:

23 (A) under the building coverage part of a policy of property or
 24 casualty insurance; and

25 (B) for property loss to the innocent coinsured's primary
 26 residence; and

27 (2) made by any of the following methods:

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

29 (B) Execution of a release by the innocent coinsured.

30 (C) Acceptance of an arbitration award by the innocent
 31 coinsured and the insurer.

32 (D) Judgment of a court of competent jurisdiction.

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

37 SECTION 5. IC 27-2-24-5, AS ADDED BY P.L.148-2017,
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2019]: Sec. 5. As used in this chapter, "innocent coinsured"
 40 means an individual who:

41 (1) is insured under a policy of property or casualty insurance;

42 (2) did not have knowledge of, cooperate in or intentionally



1 contribute to a property loss that was caused or arranged by
 2 another individual who

3 ~~(A)~~ is also insured under the policy of property or casualty
 4 insurance; and

5 ~~(B)~~ either:

6 (i) died; or

7 (ii) has been charged with a crime based on a court finding
 8 that there is probable cause to believe that the individual
 9 committed the crime;

10 in connection with the circumstances that caused the property
 11 loss;

12 (3) signs a sworn affidavit attesting that the individual did not
 13 have knowledge of, cooperate in or intentionally contribute to the
 14 property loss; and

15 (4) cooperates in:

16 (A) the investigation and resolution of the claim for the
 17 property loss;

18 (B) any police investigation related to the property loss; and

19 (C) any criminal prosecution of the individual that caused or
 20 arranged the property loss.

21 SECTION 6. IC 27-2-24-8, AS ADDED BY P.L.148-2017,
 22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2019]: Sec. 8. (a) An insurer may not deny, exclude, or limit
 24 payment of a claim made:

25 (1) by an innocent coinsured;

26 (2) for coverage of a property loss; to the primary residence of the
 27 innocent coinsured; and

28 (3) under a policy of property or casualty insurance.

29 unless the denial, exclusion, or limitation of payment is otherwise
 30 allowed by law and applied to the innocent coinsured in the same
 31 manner and to the same extent as the denial, exclusion, or limitation of
 32 payment is applied by the insurer to all other insureds, regardless of
 33 whether an insured is an innocent coinsured.

34 (b) An insurer shall pay the following on a claim described in
 35 subsection (a):

36 (1) The actual cost of repair or replacement of the property that is
 37 the subject of the claim if the actual cost of repair or replacement
 38 is less than or equal to the maximum limit of coverage under the
 39 policy of property or casualty insurance.

40 (2) The maximum limit of coverage under the policy of property
 41 or casualty insurance if the actual cost of repair or replacement of
 42 the property that is the subject of the claim is greater than the



- 1 maximum limit of coverage under the policy of property or
 2 casualty insurance.
- 3 ~~(e)~~ **(b)** This section does not require an insurer to make payment on
 4 a claim described in subsection (a) in an amount that is greater than
 5 the:
- 6 **(1)** amount applicable to the part of the damaged property to
 7 which the innocent coinsured is entitled under a decree of
 8 dissolution of marriage between the innocent coinsured and the
 9 individual described in section 5(2) of this chapter: **innocent**
 10 **coinsured's interest in the property; or**
- 11 **(2) limits of coverage under the policy of property or casualty**
 12 **insurance.**
- 13 ~~(d)~~ This section does not require an insurer to do the following:
- 14 **(1)** Make payment to an innocent coinsured on a claim described
 15 in subsection (a) in an amount that exceeds:
- 16 **(A)** the innocent coinsured's ownership interest in the
 17 property; minus
- 18 **(B)** any payment by the insurer to a mortgagee or another
 19 lienholder with a secured interest in the property.
- 20 **(2)** Make payment to another coinsured for the part of a loss for
 21 which the insurer has already made payment to the innocent
 22 coinsured.
- 23 SECTION 7. IC 27-2-24-10 IS REPEALED [EFFECTIVE JULY 1,
 24 2019]. Sec. 10. This chapter does not require an insurer that issued a
 25 policy of property or casualty insurance to pay a claim to an innocent
 26 coinsured if the final settlement for the property loss is less than sixty
 27 percent (60%) of available insurance proceeds under the policy.
- 28 SECTION 8. IC 27-2-24-11 IS REPEALED [EFFECTIVE JULY 1,
 29 2019]. Sec. 11. This chapter does not prohibit an insurer from
 30 application of reasonable standards of proof to rebut an assertion that
 31 an individual meets the requirements to be considered an innocent
 32 coinsured under section 5 of this chapter.
- 33 SECTION 9. IC 27-2-24-12 IS REPEALED [EFFECTIVE JULY 1,
 34 2019]. Sec. 12. This chapter does not affect an insurer's right of
 35 subrogation under a policy of property or casualty insurance to recover
 36 payments made from the person that is responsible for the property
 37 loss.

