

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 353

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AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-29-5, AS AMENDED BY P.L.53-2014, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) The Indiana political subdivision risk management commission is created as a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this chapter, but not a state agency. The commission is separate from the state in its corporate and sovereign capacity. The purpose of the commission is aiding political subdivisions in protecting themselves against liabilities. The commission is not subject to IC 27-6-8, and the Indiana guaranty association created by IC 27-6-8-5 has no obligation to insureds or claimants of the commission.

(b) The commission consists of the insurance commissioner, who shall serve as chairman, and nine (9) other commission members. However, the reduction in membership of the commission from ten (10) appointed members to nine (9) appointed members shall be accomplished as the terms of members end and new members are appointed. Until the expiration of the term of a member who is serving on the commission on January 1, 2014, and resides in the same congressional district as another member, the commission consists of ten (10) appointed members. Except for the **insurance** commissioner, the members of the commission shall be appointed by the governor for

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a term of four (4) years. No more than five (5) commission members appointed by the governor under this section may be members of the same political party. The commission members appointed by the governor under this section must include one (1) resident of each congressional district in Indiana. The commission shall elect one (1) of the appointed commission members as secretary of the commission.

(c) A commission member may be reappointed to the commission.

(d) In appointing commission members under this section, the governor shall consider the qualifications, expertise, and background that would provide the proper talent to administer this chapter. To the degree possible, the members must have backgrounds in educational administration, risk management, and governance of a political subdivision and must include persons with knowledge of insurance matters.

(e) A vacancy occurring on the commission shall be filled through the appointment of a resident of the same congressional district as the vacating commission member for the unexpired term of the commission member leaving the commission.

(f) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a commission member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(g) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the commission member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(h) All property of the commission is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the state or a political subdivision of the state.

**(i) The term of a member of the commission expires upon the expiration of this chapter under section 29 of this chapter.**

SECTION 2. IC 27-1-29-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 28. (a) As used in this section, "fund" means the political subdivision risk management fund established by section 10 of this chapter.

~~(b) Notwithstanding any other provision of this chapter, the~~



commission:

- (1) with the approval of the insurance commissioner; and
- (2) upon a determination by the commission that:
  - (A) membership in the fund is declining; and
  - (B) financial conditions warrant the action;

is authorized to take action under subsection (c):

**(b) Upon a determination by the commissioner that:**

- (1) all members have withdrawn from the fund; and**
- (2) all payments of liabilities of former members of the fund have been determined and finalized;**

**the commissioner is authorized to take action under subsection (c).**

(c) Under the circumstances set forth in subsection (b), the ~~commission may~~ **commissioner shall** do the following with respect to the fund:

- (1) Prevent any political subdivision that is not already a member of the fund from becoming a member.
- (2) Decline to renew the membership of the political subdivisions that are members of the fund.
- (3) ~~When the membership of the last member has expired; Cease the operation of the fund. except for:~~
  - ~~(A) the payment of liabilities of former members of the fund; and~~
  - ~~(B) the collection of assessments from former members of the fund; if any are due;~~

~~in accordance with this chapter and rules adopted by the commission.~~

~~(4) Allow or cause a partial reduction or complete depletion of the balance of the fund through:~~

- ~~(A) the payment of liabilities of former members of the fund; and~~
- ~~(B) at the discretion of the commission, and with the approval of the commissioner, the pro rata return to former members of assessments paid by former members of the fund;~~

~~in accordance with this chapter and rules adopted by the commission.~~

**(4) Distribute the balance in the fund, including the reserve account created under section 10(f) of this chapter, to former members of the fund, distributing to each former member of the fund an amount proportional to the total of:**

- (A) assessments paid under section 12 of this chapter; and**
- (B) surcharges paid under section 7(b)(10) of this chapter; by the former member, regardless of when the former**



**member withdrew from the fund.**

(d) After any or all of the actions authorized by subsection (c), the commission, with the approval of the insurance commissioner, may resume using the fund to pay the liabilities of members of the fund under this chapter:

SECTION 3. IC 27-1-29-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 29. (a) Except as provided in subsection (b), this chapter expires when the insurance commissioner certifies to the executive director of the legislative services agency that:**

- (1) the fund has no remaining members;**
- (2) all payments of liabilities of former members of the fund have been determined and finalized; and**
- (3) the balance in the fund has been distributed to former members of the fund in accordance with section 28(c)(4) of this chapter.**

**(b) This chapter does not expire under subsection (a) unless IC 27-1-29.1:**

- (1) has previously expired under IC 27-1-29.1-24; or**
- (2) expires under IC 27-1-29.1-24 at the same time as this chapter expires under subsection (a)(1) through (a)(3).**

SECTION 4. IC 27-1-29.1-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 23. (a) Upon a determination by the commissioner that:**

- (1) all members have withdrawn from the fund; and**
- (2) all payments of liabilities of former members of the fund have been determined and finalized;**

**the commissioner is authorized to take action under subsection (b).**

**(b) Under the circumstances set forth in subsection (a), the commissioner shall do the following with respect to the fund:**

- (1) Prevent any political subdivision that is not already a member of the fund from becoming a member.**
- (2) Decline to renew the membership of the political subdivisions that are members of the fund.**
- (3) Cease operation of the fund.**
- (4) Distribute the balance in the fund, including the reserve account created under section 8 of this chapter, to former members of the fund, distributing to each former member of the fund an amount proportional to the total of assessments paid under section 22 of this chapter by the former member, regardless of when the former member withdrew from the**



**fund.**

SECTION 5. IC 27-1-29.1-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 24. This chapter expires when the insurance commissioner certifies to the executive director of the legislative services agency that:**

- (1) the fund has no remaining members;**
- (2) all payments of liabilities of former members of the fund have been determined and finalized; and**
- (3) the balance in the fund has been distributed to former members of the fund in accordance with section 23(b)(4) of this chapter.**

SECTION 6. IC 34-13-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except as provided in section 9 of this chapter **and subsection (b)**, a claim against a political subdivision is barred unless notice is filed with:

- (1) the governing body of that political subdivision; and
- (2) unless IC 27-1-29 has expired under IC 27-1-29-29**, the Indiana political subdivision risk management commission created under IC 27-1-29;

within one hundred eighty (180) days after the loss occurs.

(b) A claim against a political subdivision is not barred for failure to file notice with the Indiana political subdivision risk management commission ~~created under IC 27-1-29-5~~ **under subsection (a)(2)** if the political subdivision was not a member of the political subdivision risk management fund established under IC 27-1-29-10 at the time the act or omission took place.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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