

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6635**  
**BILL NUMBER:** SB 194

**NOTE PREPARED:** Dec 22, 2011  
**BILL AMENDED:**

**SUBJECT:** Insurance Proceeds Withholding.

**FIRST AUTHOR:** Sen. Arnold  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill amends the current law concerning insurance proceeds set aside for structures damaged by fire or explosion and does the following:

- (1) Requires an insurer to notify the State Fire Marshal of the existence of a policy covering a structure damaged by fire or explosion and to withhold payment of a claim for the damage for a certain period.
- (2) Requires the State Fire Marshal to maintain a list of municipalities requesting notice of the existence of such a policy and to notify a listed municipality upon notice from the insurer.

The bill makes conforming amendments to the current law by repealing a definition and other provisions made obsolete by the bill.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *Department of Insurance (DOI).* The bill could increase administrative expenses for the DOI to the extent that the DOI modifies rules, guidelines, or publications to incorporate the new requirements. Additionally, violators may be subject to a hearing by the Commissioner of Insurance. The DOI should be able to handle any increases in administrative costs given its existing level of resources.

*State Fire Marshal:* The bill will increase the workload of the State Fire Marshal to maintain required information and provide notification requirements contained in the bill. The Indiana Department of Homeland Security (IDHS) reports the provisions of this bill are expected to increase state expenditures by \$60,000 in the first year of implementation and by \$50,000 per year in succeeding years. The IDHS reports

\$10,000 will be required to develop and maintain necessary software to maintain information on municipalities who request notifications under the bill, and an additional \$50,000 will be required annually for one FTE position to process the additional workload.

**Explanation of State Revenues:** Under current law, insurance companies that fail to notify the enforcement authority of a damaged building in a qualifying city may be subject to license revocation and potential court action. If this bill increases the number of insurance companies found in noncompliance, state revenue will increase from civil court fees.

The DOI reports that when relief for noncompliance is sought through court action, the insurance company, if found to be in noncompliance, is responsible for civil court fees. The DOI would pay for civil court fees only if a defendant insurance company is not found to be in noncompliance. Funding to pay for these civil court fees would come from the Department of Insurance Fund.

*Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:**

*Background Information:* By current statute, if the DOI takes action against an insurer who conducts business contrary to law (or in an unsafe or unauthorized manner), the action is required to be filed in the Marion County Circuit Court.

**Explanation of Local Revenues:** Current law allows only the cities of Gary and Hammond to receive the lesser of either (1) 15% of the available insurance proceeds or (2) an amount equal to the structure's certified demolition or rehabilitation expenses, to assist the city with demolition of any damaged structure. According to the Insurance Institute of Indiana, this provision has not been used to collect insurance proceeds for the demolition of a damaged structure. Therefore, the changes in the bill are not expected to affect local revenue in the cities of Gary and Hammond.

The bill does not establish any payment amount for municipalities that have a damaged structure, but only requires insurers to withhold available insurance proceeds to insureds for specified time periods. This withholding time allows insurers time to survey whether an insured plans on rebuilding the damaged structure. It is assumed the intentions of the insured will be communicated to the municipality (provided the municipality had previously requested notification from the State Fire Marshal).

The remedy currently available to municipalities for the costs of demolishing damaged structures is to file a lien on the property for the payment of any demolition costs the municipality experiences. By allowing municipalities to receive notifications from the State Fire Marshal regarding damaged structures within the boundaries of the municipality, this bill may increase the number of liens filed by municipalities for reimbursement of the cost of demolishing buildings. To the extent municipalities participate in this program and file liens for the reimbursement of demolished buildings (that are eventually paid by insureds), this bill may result in municipalities receiving additional revenue to offset local demolition expenditures. Actual

increases in local revenue are indeterminable.

*Court Fee Revenue:* If this bill increases the number of civil actions taken against insurance companies that are found to be in noncompliance with the requirements of the bill, the Marion County general fund would receive 30% of the \$100 civil costs fee that is assessed in a court of record. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** DOI; State Fire Marshal.

**Local Agencies Affected:** Municipalities.

**Information Sources:** Census Data, Division of State Court Administration; Mara Snyder, IDHS.

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