

SENATE BILL No. 120

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-4-1; IC 27-4-1.7.

Synopsis: Motor vehicle insurance claim settlement. Requires a motor vehicle insurer to make a good faith effort to contact a policyholder and any other individual necessary to resolve a claim for damage to a third party. Requires settlement of certain claims after 30 days. Makes a violation of the requirement an unfair claim settlement practice.

Effective: July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 120



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 27-4-1-4.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.5. The following are
- 3 unfair claim settlement practices:
- 4 (1) Misrepresenting pertinent facts or insurance policy provisions
- 5 relating to coverages at issue.
- 6 (2) Failing to acknowledge and act reasonably promptly upon
- 7 communications with respect to claims arising under insurance
- 8 policies.
- 9 (3) Failing to adopt and implement reasonable standards for the
- 10 prompt investigation of claims arising under insurance policies.
- 11 (4) Refusing to pay claims without conducting a reasonable
- 12 investigation based upon all available information.
- 13 (5) Failing to affirm or deny coverage of claims within a
- 14 reasonable time after proof of loss statements have been
- 15 completed.
- 16 (6) Not attempting in good faith to effectuate prompt, fair, and
- 17 equitable settlements of claims in which liability has become



- 1 reasonably clear.
- 2 (7) Compelling insureds to institute litigation to recover amounts
- 3 due under an insurance policy by offering substantially less than
- 4 the amounts ultimately recovered in actions brought by such
- 5 insureds.
- 6 (8) Attempting to settle a claim for less than the amount to which
- 7 a reasonable individual would have believed the individual was
- 8 entitled by reference to written or printed advertising material
- 9 accompanying or made part of an application.
- 10 (9) Attempting to settle claims on the basis of an application that
- 11 was altered without notice to or knowledge or consent of the
- 12 insured.
- 13 (10) Making claims payments to insureds or beneficiaries not
- 14 accompanied by a statement setting forth the coverage under
- 15 which the payments are being made.
- 16 (11) Making known to insureds or claimants a policy of appealing
- 17 from arbitration awards in favor of insureds or claimants for the
- 18 purpose of compelling them to accept settlements or compromises
- 19 less than the amount awarded in arbitration.
- 20 (12) Delaying the investigation or payment of claims by requiring
- 21 an insured, a claimant, or the physician of either to submit a
- 22 preliminary claim report and then requiring the subsequent
- 23 submission of formal proof of loss forms, both of which
- 24 submissions contain substantially the same information.
- 25 (13) Failing to promptly settle claims, where liability has become
- 26 reasonably clear, under one (1) portion of the insurance policy
- 27 coverage in order to influence settlements under other portions of
- 28 the insurance policy coverage.
- 29 (14) Failing to promptly provide a reasonable explanation of the
- 30 basis in the insurance policy in relation to the facts or applicable
- 31 law for denial of a claim or for the offer of a compromise
- 32 settlement.
- 33 (15) In negotiations concerning liability insurance claims,
- 34 ascribing a percentage of fault to a person seeking to recover from
- 35 an insured party, in spite of an obvious absence of fault on the
- 36 part of that person.
- 37 (16) The unfair claims settlement practices defined in
- 38 IC 27-4-1.5.

(17) A violation of IC 27-4-1.7.

SECTION 2. IC 27-4-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

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Chapter 1.7. Motor Vehicle Insurance Claim Settlement

Sec. 1. As used in this chapter, "motor vehicle insurance" means the kind of insurance described in Class 2(f) of IC 27-1-5-1.

Sec. 2. (a) If an insurer receives a claim for damage that:

(1) resulted from a motor vehicle accident that is alleged to be the fault of an insured under a motor vehicle insurance policy issued by the insurer; and

(2) was incurred by a third party;

the insurer shall immediately begin to make good faith efforts to contact the policyholder and any other individual necessary to resolve the claim.

(b) An insurer that is unable to contact the policyholder or another individual as required by subsection (a) shall not require the third party to attempt to contact the policyholder or other individual.

Sec. 3. If:

(1) thirty (30) days have elapsed after a claim described in section 2 of this chapter was filed;

(2) the insurer has been unsuccessful in making the contacts described in section 2(a) of this chapter;

(3) a police report concerning the accident has been filed; and

(4) the third party does not object to settlement of the claim based on the information contained in the police report;

the insurer shall settle the claim with the third party, basing fault on the information obtained from the police report.

Sec. 4. A violation of this chapter is an unfair claim settlement practice under IC 27-4-1-4.5.

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