

IC 8-21-3

Chapter 3. Aircraft Financial Responsibility Act

IC 8-21-3-1

Definitions

Sec. 1. The following words and phrases when used in this chapter shall, for the purpose of this chapter, unless a different meaning appears from the context, have the following meanings:

(1) The singular shall include the plural; the masculine shall include the feminine and neuter, as requisite.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Aircraft accident" means any mishap involving an aircraft resulting in injury or damage to such aircraft or to any person, property or thing.

(4) "Department" refers to the Indiana department of transportation; and "state" or "this state" means the state of Indiana.

(5) "Guest" means any person who rides in an aircraft for which no charge is made for such ride or flight.

(6) "Insured" means the person in whose name there is issued an aircraft liability policy (as defined in section 12 of this chapter) and any other person insured under the terms of such policy.

(7) "Judgment" means any judgment, except a judgment rendered against this state or any political subdivision thereof or any municipality therein, which shall have become final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States.

(8) "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

(9) "Operator" means any person who is in actual physical control of an aircraft.

(10) "Owner" means any person in whose name the aircraft is certificated, licensed, or registered by appropriate federal or state authority.

(11) "Passenger" means any person in, on or boarding an aircraft for the purpose of riding therein, or alighting therefrom, following a flight or attempted flight therein.

(12) "Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic; and includes any trustee,

receiver, assignee, or other similar representative thereof.

(13) "Policy" or "insurance policy" means an aircraft liability policy conforming to section 12 of this chapter.

(Formerly: Acts 1951, c.267, s.1; Acts 1953, c.85, s.1.) As amended by Acts 1980, P.L.74, SEC.316; P.L.18-1990, SEC.156; P.L.8-1993, SEC.148.

IC 8-21-3-2

Proof of financial responsibility

Sec. 2. The department may require proof of financial responsibility for a period of one (1) year in the manner provided for in this chapter.

(Formerly: Acts 1951, c.267, s.2.) As amended by Acts 1980, P.L.74, SEC.317.

IC 8-21-3-3

Report of accidents

Sec. 3. Any person who, while operating any aircraft, shall have been involved in any aircraft accident in this state resulting in bodily injury or death, or in damage to property of another in excess of one hundred dollars (\$100) or the owner of such aircraft, shall within ten (10) days following such aircraft accident report the same to the department. Aircraft accident reports, as herein required, shall be submitted in such form as the department may prescribe.

(Formerly: Acts 1951, c.267, s.3; Acts 1953, c.85, s.2.) As amended by Acts 1980, P.L.74, SEC.318.

IC 8-21-3-4

Reports; security

Sec. 4. (a) The department may require, within not less than ten (10) days nor more than sixty (60) days after an aircraft accident from any person, who, while operating any aircraft shall have been involved in any aircraft accident resulting in bodily injury or death to any person other than a guest passenger of such aircraft or in damage to property of another, other than property owned, rented, occupied, or used by, or in the care, custody or control of the owner or operator or carried in or on the aircraft, in excess of one hundred dollars (\$100), or, in the discretion of the department, the owner of such aircraft, or both, secured sufficient in the discretion of the department to indemnify the injured party against loss and guarantee the payment and satisfaction of any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator by or on behalf of the injured person or his legal representative, and in addition thereto, the department may require such operator, or in the department's discretion, the owner of such aircraft, or both, to file proof of financial responsibility for a period of one (1) year following the date of the accident: Provided, however, that if such owner operator shall satisfy the department that the liability, if any, for damages resulting from such accident is insured by an insurance policy or bond, the department shall not

require security from such owner operator.

(b) Such security, where ordered, shall be in such form and in such amount as the department may require, but in no case in excess of the amount of proof required by section 8 of this chapter. The department may modify the amount of security ordered in any case, if after further investigation it shall determine that the amount ordered is improper.

(Formerly: Acts 1951, c.267, s.4; Acts 1953, c.85, s.3.) As amended by Acts 1980, P.L.74, SEC.319.

IC 8-21-3-5

Injunction of operation of aircraft

Sec. 5. If the person required to furnish proof of financial responsibility in the future or if the person required to furnish financial security under this chapter, neglects or refuses to comply with such requirements, the department, the attorney general or the prosecuting attorney of the county in which such party resides, may, in accordance with the laws of the state of Indiana governing injunctions, maintain an action in the name of the state of Indiana to enjoin such person neglecting or refusing to comply with the financial responsibility or security requirements of this chapter from engaging in the operation of any aircraft or causing to be operated any aircraft within this state until such person has complied with such requirements or until such person has, by final judicial determination, been proved not legally liable for, or has been released from all liability for damages resulting from such aircraft accident.

(Formerly: Acts 1951, c.267, s.5.) As amended by Acts 1980, P.L.74, SEC.320.

IC 8-21-3-6

Payment from security deposit; information regarding security

Sec. 6. (a) Security furnished in compliance with the requirements of this chapter shall be placed by the department in the custody of the treasurer of state and shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law in a court of this state begun not later than one (1) year after the date of such accident or, upon assignment of the depositor. All such payments made out of the deposited security shall be made as follows:

(1) Payment shall first be made to each of the judgment creditors in the order of judgment entry and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the department, in an amount not greater than the amount fixed in their respective evaluations.

(2) Whenever the department shall be given evidence, satisfactory to it, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first distribution to

each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the department, in proportion to the amounts of their respective evaluations unless there is a sufficient amount to make payment in full.

(3) Any balance remaining after the first and second distributions are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is a sufficient amount to make payment in full.

Such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever after the expiration of such year the department shall be given evidence, satisfactory to it, that there is no such judgment unsatisfied and that there is no pending action against the depositor for damages arising out of such accident.

(b) Neither the action taken by the department pursuant to this chapter, the findings, if any, of the department upon which such action is based, nor the security filed by the owner or operator as provided in this chapter shall be referred to in any way, nor be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(c) In lieu of deposit of security when required pursuant to this chapter the aircraft owner or operator may, if the person who has sustained bodily injury, including death, or damage to his property or his legal representative consents, effect and deliver a consent judgment or release for such amount and payable when and in such installments as the judgment creditor or claimant may agree to. In the event the judgment debtor fails to pay any installment as agreed, then upon notice of such default, the department, the attorney-general, or the prosecuting attorney may pursuant to section 5 of this chapter maintain an action to enjoin such person from engaging in the operation of any aircraft or causing to be operated any aircraft within this state until such judgment is appropriately satisfied as required herein.

(d) Information regarding security taken under this section shall be available to the person injured or the representative of any person killed and their duly authorized agents or attorney.

(Formerly: Acts 1951, c.267, s.6.) As amended by Acts 1980, P.L.74, SEC.321; P.L.1-1993, SEC.51.

IC 8-21-3-7

Nonresidents

Sec. 7. (a) The provisions of this chapter shall apply to any person who is not a resident of this state under the same circumstances as they would apply to a resident, and, in such event, such a nonresident shall not operate any aircraft in this state nor shall any aircraft owned by him be operated in this state, unless and until such nonresident, or

the owner of the aircraft, if another person, has complied with the requirements of this chapter with respect to security and proof of financial responsibility covering such aircraft.

(b) The operation by a nonresident, or by his duly authorized agent, of an aircraft in this state shall be deemed equivalent to an appointment by such nonresident of the secretary of state, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against him, growing out of any aircraft accident in which such nonresident may be involved while so operating or so permitting to be operated an aircraft in this state, and such operation shall be signification of his agreement that any such process against him, which is so served, shall be of the same legal force and validity as if served upon him personally. Such action may be filed in the county of the residence of the plaintiff or in the county where the accident occurred, at the election of the plaintiff, and service of such process shall be made by leaving a copy thereof, with a fee of two dollars (\$2), for such defendant to be served, with the secretary of state, or in his office, and such service shall be sufficient service upon such nonresident, provided that notice of such service and a copy of the process are forthwith sent by registered mail to the defendant and the defendant's return receipt is appended to the original process and filed therewith in the court. In the event that the defendant refuses to accept or claim such registered mail, then such registered mail shall be returned by the secretary of state to the plaintiff or to his attorney, and the same shall be appended to the original process, together with an affidavit of the plaintiff or of his attorney or agent to the effect that such summons was delivered to the secretary of state, together with a fee of two dollars (\$2), and was thereafter returned unclaimed by the postoffice department, and such affidavit, together with the returned affidavit including said summons, shall be considered sufficient service upon such nonresident defendant. The court in which the action is brought may order such continuances as may be reasonable to afford the defendant opportunity to defend the action.

(c) No insurance policy or bond shall be effective under section 4 of this chapter in the case of an aircraft owned or operated by a nonresident in this state at the time of the accident or at the effective date of the policy or bond, or the most recent renewal thereof, unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the secretary of state to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(Formerly: Acts 1951, c.267, s.7; Acts 1953, c.85, s.4.) As amended by P.L.66-1984, SEC.137.

IC 8-21-3-8

Proof of financial responsibility defined

Sec. 8. Proof of financial responsibility shall mean proof of ability to respond in damages for liability thereafter incurred, arising out of

the ownership, maintenance or use of an aircraft, in the amount of ten thousand dollars (\$10,000) because of bodily injury to or death of any one (1) person, and, subject to said limit respecting one (1) person, in the amount of twenty thousand dollars (\$20,000) because of bodily injury or death of two (2) or more persons in any one (1) accident, and in the amount of twenty thousand dollars (\$20,000) because of injury to or destruction of property in any one (1) accident. Such proof in such amounts shall be furnished for each aircraft owned by such person and operated in this state.
(Formerly: Acts 1951, c.267, s.8.)

IC 8-21-3-9

Methods of proof

Sec. 9. Proof of financial responsibility when required under this chapter may be given by the following alternate methods, either by proof:

- (1) that a policy or policies of aircraft liability insurance have been obtained and are in full force and effect;
- (2) that a bond has been duly executed; or
- (3) that deposit has been made of money or securities;

all as provided in this chapter.

(Formerly: Acts 1951, c.267, s.9.) As amended by P.L.66-1984, SEC.138.

IC 8-21-3-10

Filing of insurance certificates

Sec. 10. (a) Proof of financial responsibility may be made by filing with the department the written certificate or certificates of any insurance carrier certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured, an aircraft liability policy or policies meeting the requirements of this chapter, and such other information as the department may require.

(b) When the person required to give proof of financial responsibility, is not the owner of an aircraft, then an operator's policy of liability insurance as defined in this chapter shall be sufficient proof of financial responsibility.

(Formerly: Acts 1951, c.267, s.10.) As amended by Acts 1980, P.L.74, SEC.322.

IC 8-21-3-11

Default of foreign insurance carrier

Sec. 11. If any foreign insurance carrier which has furnished proof of financial responsibility defaults in any said undertakings or agreements, the department shall not thereafter accept any certificate of said carrier whether theretofore filed or thereafter tendered as proof of financial responsibility so long as such default continues.

(Formerly: Acts 1951, c.267, s.11.) As amended by Acts 1980, P.L.74, SEC.323.

IC 8-21-3-12

"Aircraft liability policy" defined

Sec. 12. An aircraft liability policy as said term is used in this chapter, shall mean an owner's policy of liability insurance or an operator's policy of liability insurance for which a certificate has been filed with the department by an insurance carrier authorized to do business in this state pursuant to the insurance laws of this state for the benefit of the person named therein as insured; which policy shall contain the terms, conditions and provisions required by the laws of this state and with sufficient liability coverage to meet the security and proof of financial responsibility requirements established within the purview of section 4 and pursuant to this chapter by the department as a result of an aircraft accident occurring within this state and shall be approved by the insurance commissioner of the state of Indiana.

(Formerly: Acts 1951, c.267, s.12; Acts 1953, c.85, s.5.) As amended by Acts 1980, P.L.74, SEC.324.

IC 8-21-3-13**Certificate of issuance of insurance policy**

Sec. 13. An insurance carrier which has issued an aircraft liability policy or policies meeting the requirements of this chapter shall, upon request of the named insured, deliver to such insured for filing or at the request of such insured shall file direct with the department, an appropriate certificate showing that such policy or policies have been issued, which certificate shall meet the requirements of this chapter. The issuance of a certificate to serve as proof of financial responsibility under this chapter shall be conclusive evidence that every aircraft liability policy therein cited conforms to all the requirements of this chapter.

(Formerly: Acts 1951, c.267, s.13.) As amended by Acts 1980, P.L.74, SEC.325.

IC 8-21-3-14**Notice of cancellation**

Sec. 14. When an insurance carrier has certified an aircraft liability policy under this chapter for the purpose of furnishing evidence of future financial responsibility, it shall give ten (10) days' written notice to the department before effecting a cancellation of such policy and the policy shall continue in full force and effect until the date of such cancellation specified in such notice or until its expiration.

(Formerly: Acts 1951, c.267, s.14.) As amended by Acts 1980, P.L.74, SEC.326.

IC 8-21-3-15**Bond giving proof of financial responsibility**

Sec. 15. (a) A person required to give proof of financial responsibility may file with the department a bond meeting the requirements of this section. Such bond shall be executed by the person giving such proof and by a surety company duly authorized

to transact business in this state pursuant to the laws of this state.

(b) The department shall not accept any such bond unless it is conditioned for payments in amounts and under the same circumstances as would be required in an aircraft liability policy furnished by the person giving such proof under this chapter.

(c) No such bond shall be cancelled unless ten (10) days' prior written notice of cancellation is given the department but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

(d) If a judgment is rendered against the principal of any such surety bond upon a liability covered by the conditions of such bond and such judgment is not satisfied within sixty (60) days after it becomes final, the department may require the judgment creditor to bring an action or actions, at his sole expense, against the company or person which executed such bond for the recovery of said judgment.

(Formerly: Acts 1951, c.267, s.15; Acts 1953, c.85, s.6.) As amended by Acts 1980, P.L.74, SEC.327.

IC 8-21-3-16

Deposit with treasurer giving proof of financial responsibility

Sec. 16. (a) A person may give proof of financial responsibility by delivering to the department a receipt of the treasurer of this state showing a deposit with said treasurer of an amount consistent with the provisions of section 8 of this chapter in cash or of securities such as may legally be purchased at savings banks or for trust funds of a market value in the full amount required.

(b) All moneys or securities so deposited shall be subject to execution to satisfy any judgment mentioned in this chapter or settlement agreed upon, but shall not otherwise be subject to attachment or execution.

(c) The state treasurer shall not accept any such deposit or issue a receipt therefor, and the department shall not accept such receipt, unless accompanied by evidence that there are no unsatisfied judgments of record against the depositor in the county where the depositor resides, for which he is not exempt.

(Formerly: Acts 1951, c.267, s.16.) As amended by Acts 1980, P.L.74, SEC.328.

IC 8-21-3-17

Substitution of proof of financial responsibility

Sec. 17. The department shall cancel any bond or return any certificate of insurance, or the department shall direct and the state treasurer shall return any money or securities, to the person entitled thereto, upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

(Formerly: Acts 1951, c.267, s.17.) As amended by Acts 1980, P.L.74, SEC.329.

IC 8-21-3-18**Inadequate security; requiring alternative security**

Sec. 18. Whenever any proof of financial responsibility filed by any person under this chapter no longer fulfills the purpose for which required, the department shall, for the purpose of this chapter, require other proof of financial responsibility as required by this chapter.

(Formerly: Acts 1951, c.267, s.18.) As amended by Acts 1980, P.L.74, SEC.330.

IC 8-21-3-19**Cancellation; waiver of proof of financial responsibility**

Sec. 19. The department shall upon request cancel any bond or return any certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities, deposited pursuant to this chapter as proof of financial responsibility or waive the requirement of filing proof of financial responsibility when the purposes for the requiring of such proof have been satisfied.

(Formerly: Acts 1951, c.267, s.19.) As amended by Acts 1980, P.L.74, SEC.331.

IC 8-21-3-19.5**Aircraft rental; notice of insurance coverage**

Sec. 19.5. (a) Each person offering an aircraft for rental shall, at the time the aircraft is rented, provide the renter of the aircraft with written notice of the nature and extent of any insurance covering the aircraft as specified in subsection (b).

(b) The form of the notice required by subsection (a) must be as follows:

NOTICE OF INSURANCE COVERAGE

As a renter of aircraft, you are hereby notified that:

(1) You (are)(are not) (strike phrase not applicable) insured under a policy or policies of insurance provided by the undersigned and providing liability coverage to renters of aircraft. If coverage is provided, it is in the amount of \$ ____.

(a) The above insurance is subject to a deductible amount of \$ ____.

(2) You (are)(are not) (strike phrase not applicable) insured for hull damage to the aircraft. If hull insurance is provided, it is in the amount of \$ ____.

(a) The above insurance is subject to a deductible amount of \$ ____.

(3) Although insurance may be provided for liability or hull coverage (or both), the undersigned's insurance carrier has full rights to subrogate against you for any payments it may be required to make on account of any damage or loss arising out of your operation of the aircraft. It is suggested that you carry insurance to protect you to partially or fully cover this possibility.

(Signature of Person or Officer of
Company Renting Aircraft)

Dated _____, 20____
(Month) (Day) (Year)

I acknowledge receipt of this notice of insurance coverage.

Dated _____, 20____
(Month) (Day) (Year)

(c) The notice required by this section constitutes a part of a rental agreement, whether written or oral. Each renter must provide written acknowledgment of receipt of the notice.

(d) Receipt of notice under this section constitutes notice for a subsequent rental of the same aircraft to the same person unless the amount of insurance coverage has been reduced or eliminated (as specified in the original notice), in which case a new notice is required.

(e) A person offering an aircraft for rental shall maintain a copy of the notice provided to each renter for at least three (3) years from the date of the last rental to that renter.

(f) A person offering an aircraft for rental who fails to provide notice as required by this section commits a Class A infraction.

As added by P.L.120-1989, SEC.1. Amended by P.L.2-2005, SEC.28.

IC 8-21-3-20

Violations; penalties

Sec. 20. A person who fails to submit an accident report to the department as provided in section 3 of this chapter commits a Class C infraction.

(Formerly: Acts 1951, c.267, s.20.) As amended by Acts 1978, P.L.2, SEC.860; Acts 1980, P.L.74, SEC.332.

IC 8-21-3-21

Construction of chapter

Sec. 21. This chapter shall not be construed to prevent the plaintiff in any action at law from relying upon other security or upon the other processes provided by law.

(Formerly: Acts 1951, c.267, s.22.) As amended by P.L.66-1984, SEC.139.

IC 8-21-3-22

Certificate of self-insurance

Sec. 22. (a) The department may, in its discretion, upon the application of such a person issue a certificate of self-insurance when it is reasonably satisfied that such person is possessed of and will continue to be possessed of financial ability to respond to judgments, as hereinbefore described, obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's aircraft.

(b) Upon not less than five (5) days' notice and a hearing pursuant to such notice, the department may, in its discretion and upon reasonable grounds, cancel a certificate of self-insurance.

(Formerly: Acts 1951, c.267, s.24.) As amended by Acts 1980, P.L.74, SEC.333.

IC 8-21-3-23

Title

Sec. 23. This chapter shall be known and may be cited as the Indiana Aircraft Financial Responsibility Act.

(Formerly: Acts 1951, c.267, s.25.) As amended by P.L.66-1984, SEC.140.