IC 34-13-8
Chapter 8. Special Supplemental Relief

IC 34-13-8-1
"Eligible person"

Sec. 1. As used in this chapter, "eligible person" refers to a person or the estate of a person that properly filed a claim with the state, in the form prescribed by the attorney general, before December 31, 2011, for physical injury or death resulting from an occurrence.
As added by P.L.160-2012, SEC.62.

IC 34-13-8-2
"Occurrence"

Sec. 2. As used in this chapter, "occurrence" refers to one (1) or more acts or omissions by the state or employees of the state in connection with a single event occurring after July 31, 2011, and before September 1, 2011, that resulted in the death of seven (7) or more persons.
As added by P.L.160-2012, SEC.62.

IC 34-13-8-3
"Supplemental fund"

Sec. 3. As used in this chapter, "supplemental fund" refers to the supplemental state fair relief fund established by section 9 of this chapter.
As added by P.L.160-2012, SEC.62.

IC 34-13-8-4
Intent; compromise of claims; application

Sec. 4. (a) Recognizing the special conditions created by an occurrence, it is the intent of the general assembly to provide supplemental relief for victims of the occurrence. It is not the intent of the general assembly to revise the tort claims act in order to address the special situation of the occurrence.

(b) The attorney general may compromise or settle a claim or suit brought against the state or its employees as provided in this chapter.

(c) Only eligible persons are eligible to receive compensation under this chapter.
As added by P.L.160-2012, SEC.62.

IC 34-13-8-5
Limitations on payments; formula for distribution

Sec. 5. (a) The attorney general shall attempt to resolve before January 1, 2013, all claims and suits brought against the state or its employees for an occurrence for an amount that, in the aggregate, does not exceed eleven million dollars ($11,000,000), consisting of:

(1) five million dollars ($5,000,000) paid from the state tort claim fund established to pay claims and expenses under

IC 34-13-3-24; and

(2) six million dollars ($6,000,000) to be paid from the supplemental fund.

(b) The attorney general shall attempt to resolve before January 1, 2013, claims or suits for an occurrence as follows:

(1) The estate of an eligible person whose death resulted from an occurrence shall receive seven hundred thousand dollars ($700,000). This amount includes any compensation under this chapter for the eligible person's attorney's fees. The amount distributed to the estate of the eligible person whose death resulted from an occurrence is exempt from inheritance taxes under IC 6-4.1 and shall not be included in the calculation of the amount transferred to a Class A transferee, Class B transferee, or Class C transferee for the purposes of applying the exemptions in IC 6-4.1-3-10, IC 6-4.1-3-11, and IC 6-4.1-3-12.

(2) Except as provided in subdivision (3), each other eligible person who was physically injured as a result of an occurrence shall be compensated (including any compensation under this chapter for the eligible person's attorney's fees) for the physical injury in an amount that does not exceed the least of the following:

(A) The amount of the eligible person's medical expenses incurred as a result of the physical injury.

(B) The amount claimed before the deadline established by the attorney general by the eligible person for medical expenses incurred as a result of the physical injury in relation to the claim filed before December 31, 2011.

(C) Seven hundred thousand dollars ($700,000).

(3) Eligible persons who suffered physical injuries involving permanent paralysis or permanent physical trauma or requiring major and ongoing long-term care shall be compensated for the physical injury in an amount equal to:

(A) the amount of compensation paid under subdivision (2); plus

(B) additional compensation determined under the process established by the attorney general under subdivision (4).

(4) The attorney general shall establish a process for determining the equitable amount of compensation for eligible persons under subdivision (3). The attorney general shall before January 1, 2013, determine the amount of compensation that each eligible person described in subdivision (3) is entitled to receive under subdivision (3). The attorney general may employ arbitrators, mediators, consultants, and other experts to assist in the process established by the attorney general for determining the compensation for eligible persons under subdivision (3).

As added by P.L.160-2012, SEC.62.

IC 34-13-8-6
Requirement; release of additional claims

Sec. 6. (a) To receive a distribution under this chapter for an occurrence, an eligible person must have already released all governmental entities and public employees from any liability for loss resulting from the occurrence. The release must be in a form that is satisfactory to the attorney general.

(b) A distribution may not be paid under this chapter from the supplemental fund to an eligible person unless the eligible person has entered into an agreement with the state providing that the person will not bring any action against the state based on an indemnification clause.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-7
Additional payments reduced by prior payments

Sec. 7. The amount payable after December 31, 2011, as provided in section 5(b) of this chapter to an eligible person shall be reduced by any amount that was paid under IC 34-13-3 from the state tort claim fund before January 1, 2012, for the death or physical injury.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-8
Limitation on attorney's fees

Sec. 8. If an eligible person is represented by an attorney regarding compensation from the supplemental fund, the attorney's fees paid to the attorney or attorneys for the representation of the eligible person regarding compensation from the supplemental fund may not exceed, in aggregate, ten percent (10%) of the total compensation paid to the eligible person from the supplemental fund.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-9
Establishment of fund

Sec. 9. (a) The supplemental state fair relief fund is established for the purpose of providing supplemental relief to the victims of the occurrence.

(b) The supplemental fund consists of grants, donations, and appropriations made by the general assembly. The supplemental fund shall be administered by the attorney general. The treasurer of state shall invest the money in the supplemental fund not currently needed to meet the obligations of the supplemental fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the state general fund. The expenses of administering the supplemental fund shall be paid from the state tort claim fund established to pay claims and expenses under IC 34-13-3-24.

(c) The supplemental fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the supplemental fund by the state board of finance, the budget agency, or any other state agency except as provided in this chapter.

(d) Money in the supplemental fund at the end of a state fiscal year does not revert to the state general fund. Money in the supplemental fund is continually appropriated to the attorney general to carry out the purposes of the supplemental fund.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-10

Use of money in fund

Sec. 10. (a) The attorney general may use the money in the supplemental fund to pay compensation to eligible persons as provided in this chapter.

(b) After the estate of each eligible person whose death resulted from an occurrence has received seven hundred thousand dollars ($700,000), and each other eligible person who was physically injured as a result of an occurrence has been compensated in the amount determined under section 5(b)(2) of this chapter, the remaining balance in the supplemental fund shall be used to pay compensation for ongoing expenses to eligible persons described in section 5(b)(3) of this chapter according to the process established by the attorney general under section 5(b)(4) of this chapter. Compensation paid from the supplemental fund may not be used for the following:

(1) Expenses covered by insurance.

(2) Expenses covered by another party.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-11

Payment of expenses of administration

Sec. 11. The expenses incurred by the attorney general in carrying out this chapter (including any expenses for arbitrators, mediators, consultants, or any other experts) shall be paid from the state tort claim fund established to pay claims and expenses under IC 34-13-3-24.

As added by P.L.160-2012, SEC.62.

IC 34-13-8-12

Assignment of claims to state

Sec. 12. (a) An eligible person may assign to the attorney general the eligible person's right to pursue a cause of action for the tortious breach of an insurer's duty to deal with an insured person in good faith.

(b) If the insurance commissioner believes that a person has engaged in any of the acts or practices listed in IC 27-4-1-4.5 in relation to an occurrence, the insurance commissioner may issue and

cause to be served upon the person a statement of the charges and a notice in writing of a hearing as provided in IC 27-4-1-5. If after a hearing under IC 4-21.5-3, the insurance commissioner determines that the person has engaged in any of the acts or practices listed in IC 27-4-1-4.5 in relation to an occurrence, the insurance commissioner may at the insurance commissioner's discretion order one (1) or more of the remedies provided in IC 27-4-1-6. Notwithstanding IC 27-4-1, the insurance commissioner may take an action under this subsection regarding the commission by a person of a single act or practice listed in IC 27-4-1-4.5 in relation to an occurrence, without having to demonstrate that the act or practice occurs with such frequency as to indicate a general practice by the person.
As added by P.L.160-2012, SEC.62.