

ARTICLE 3. TORT CLAIMS

Rule 1. Tort Claims

10 IAC 3-1-1 Tort claims against the state; form

Authority: IC 34-13-3-6

Affected: IC 8-15-2-4; IC 8-15-3-7; IC 8-15.7-2-4; IC 9-13-2-73; IC 11-10-8; IC 11-12; IC 12-23; IC 13-11-2-19.3; IC 20-33-8-12; IC 34-6-2-38; IC 34-13-3-3; IC 34-13-3-7; IC 35-33-8; IC 35-46-1-15.1

Sec. 1. (a) A claim for personal injury or property damage against the state of Indiana must be:

- (1) filed on the form prescribed in subsection (b); or
- (2) in writing as prescribed under IC 34-13-3 and this rule.

(b) The claim form is as follows:

STATE OF INDIANA
CLAIM FOR PERSONAL INJURY OR PROPERTY DAMAGE

* Use additional sheets if necessary *

1. Name of Claimant: _____ Driver's License No.: _____
2. Date and Time of Loss: _____
3. Exact Location of Loss (Include County, Nearest Crossroad, and Town, etc.):

4. Dollar Amount of Loss: _____
5. State Agency and State Vehicle Commission Number (If known):

6. Names and Addresses of All Persons Involved (If known):

7. Address of Claimant at Time of Loss: _____
8. Claimant's Current Address and Work/Home Telephone Numbers:

9. How was the State Negligent:

10. Explanation of What Happened:

I swear and affirm under the penalties for perjury that the foregoing information is true and correct to the best of my knowledge and belief.

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Claimant's Signature

Date

****ATTACH COPIES OF MEDICAL BILLS, ACCIDENT REPORTS, VEHICLE REGISTRATION, PHOTOGRAPHS, TWO ESTIMATES OF REPAIR, OR RECEIPTS FOR REPAIRS TO YOUR PROPERTY, AND ANY ADDITIONAL DOCUMENTATION IN REFERENCE TO THIS MATTER.****

Mail this claim form and any attachments by CERTIFIED or REGISTERED mail to:
Office of the Attorney General
Attn: Tort Claims Investigations
IGCS - 5th Floor
302 West Washington Street
Indianapolis, Indiana 46204

NOTICE OF TORT CLAIM FORM
for PROPERTY DAMAGE & PERSONAL INJURY
Provided by the State of Indiana - Office
of the Attorney General

Anyone who has a claim for personal injury or property damage against the State of Indiana must either use the following form to file a claim or make the claim in writing as prescribed in Indiana Code 34-13-3 and this rule.

KEEP A COPY OF YOUR CLAIM FORM, YOUR RECEIPTS FOR YOUR BILLS, AND YOUR CERTIFIED OR REGISTERED MAIL RECEIPT.

If your claim is properly filed, the Office of the Attorney General will investigate it and will notify you in writing within 90 days of receipt if your claim is approved. A claim is denied if not approved within 90 days.

DO NOT DELAY MAKING YOUR CLAIM. INDIANA LAW GIVES YOU ONLY 270 (TWO HUNDRED SEVENTY) DAYS AFTER THE LOSS TO MAKE A CLAIM, AND IT MUST COMPLY WITH INDIANA CODE 34-13-3. EACH PERSON WHO HAD A LOSS SHOULD FILE A SEPARATE FORM.

The filing of this claim is part of a legal process. If you have any questions about the right way to file a claim, you should contact an attorney of your choice. The state's attorneys are not authorized by law to assist you with filing a claim.

You should be aware that the State is not liable for some losses, including the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.
- (7) The performance of a discretionary function; however, the provision of medical or optical care, as provided in IC 34-6-2-38 shall be considered as a ministerial act.
- (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
- (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
- (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
- (11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.
- (12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

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- (13) Entry upon any property where the entry is expressly or impliedly authorized by law.
- (14) Misrepresentation if unintentional.
- (15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.
- (16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by IC 34-13-3-7.
- (17) Injury to the person or property of a person under supervision of a governmental entity and who is:
 - (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.
- (18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve the responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.
- (19) Development, adoption, or implementation, operation, maintenance, or use of an enhanced emergency communication system.
- (20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-12(b).
- (21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.
- (22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:
 - (A) the loss is a result of reckless conduct; or
 - (B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(Office of Attorney General for the State; 10 IAC 3-1-1; filed Jul 1, 1997, 4:15 p.m.: 20 IR 2994; filed Nov 7, 2003, 12:15 p.m.: 27 IR 824; filed Sep 4, 2009, 2:34 p.m.: 20090930-IR-010090378FRA)

10 IAC 3-1-2 Claim forms available

Authority: IC 34-13-3-6
Affected: IC 34-13-3

Sec. 2. The office of the attorney general will make claim forms available to all:

- (1) state agencies; and
- (2) persons who request a claim form.

(Office of Attorney General for the State; 10 IAC 3-1-2; filed Jul 1, 1997, 4:15 p.m.: 20 IR 2996; filed Nov 7, 2003, 12:15 p.m.: 27 IR 825; filed Sep 4, 2009, 2:34 p.m.: 20090930-IR-010090378FRA)

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