

ANTI-ARSON APPLICATION MODEL BILL

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Section 1. Purpose

The purpose of this Act is to promote the public welfare by reducing the loss of life and fire damage to property caused by the crime of arson by requiring insurance companies to secure Anti-Arson Applications from applicants for new policies of property insurance containing information to control the incidence of arson fraud.

Section 2. Anti-Arson Application--Definitions, Use and Form

- A. "Anti-Arson Application" means any application for insurance covering the peril of fire that includes certain questions which shall be answered by the applicant in addition to the basic information normally supplied to an insurer by an applicant.
- B. "Insurance policy" and "contract" shall not be construed to mean an existing property insurance policy or contract that is being renewed; provided, however, that assignment of the policy or contract because of the transfer of a major financial interest in the insured real property shall require completion of an Anti-Arson Application if otherwise required under this Act.
- C. The use of the Anti-Arson Application shall be mandatory for commercial monoline fire policies, designated occupancies, and designated areas of the state, based upon a finding by the insurance commissioner, after a public hearing, that such commercial monoline fire policies, such designated occupancies, and such areas of the state have an abnormally high incidence of arson. Provided; however, that if the insurance commissioner desires to extend the application of this Act to other than commercial monoline fire policies, he or she must first find, after public hearing, that the properties insured through such other types of policies are especially prone to arson.

OR Optional Section C:

- [C. The use of the Anti-Arson Application shall be mandatory for commercial monoline fire policies in cities with a population over [insert number] persons according to the 19[] census, except that upon petition by the governing board of the local municipal government the insurance commissioner shall mandate the use of the Anti-Arson Application within specific designations contained in the petition, within a reasonable time after receiving the petition.]
- D. The insurance commissioner, in promulgating the Anti-Arson Application form, shall consider the generally recognized two-tier application forms. If the initial first-tier application elicits certain predesignated answers, then the administration of a second tier supplementary application shall be mandatory. The two-tiered application shall secure the disclosure of information including, but not limited to:
 - (1) The name and address of the applicant and any mortgagees and any other parties who have an ownership interest in the property;
 - (2) The amount of insurance requested and the method of valuation used to establish the amount of insurance;

- (3) The dates and selling prices of the property in all real estate transactions involving such property during the last three (3) years;
 - (4) The applicant's loss history over the last five (5) years with regard to any property in which he held an equity interest or a mortgage and where the loss exceeded \$1,000 in damages;
 - (5) All taxes unpaid or overdue for one or more years, and any mortgage payments overdue by three (3) months or more;
 - (6) All current violations of fire, safety, health, building or construction codes on the property to be insured; and
 - (7) The present occupancy of the structure.
- E. Designation of any area of the state under this Act shall not be deemed a valid reason for refusal to write, termination or nonrenewal of any policy or contract of insurance.

Section 3. Anti-Arson Application--Requirements

- A. No insurer may enter into a contract to insure any building, except one- to four-family owner-occupied dwellings, against the peril of fire to be issued after the effective date of this Act unless the insurer first receives an Anti-Arson Application signed and affirmed by the insured, if required by the insurance commissioner in accordance with the provisions of this Act.
- B. Any Anti-Arson Application required by this Act shall be deemed a material part of the insurance policy to which the application pertains. A material misrepresentation shall be deemed grounds to rescind the insurance policy.
- C. Policyholders shall notify their insurer of any change in the information contained in the Anti-Arson Application, within a period of time to be specified. A material failure to notify or a material misrepresentation in the notification shall be deemed grounds to rescind the insurance policy.

Section 4. Alternative Anti-Arson Application

- A. The insurance commissioner may not mandate the use of any applications other than the Anti-Arson Application as defined in Section 2 of this Act; provided, however, that the insurance commissioner may mandate alternative anti-arson applications pursuant to a finding after a public hearing that:
 - (1) There exists certain types of policies, certain classes of property, and certain geographic areas of the state which have an abnormally high incidence of arson; and
 - (2) The Anti-Arson Application described in Section 2 was implemented as respects such types of insurance policies, such classes of property, and areas of the state pursuant to the provisions of this Act; and
 - (3) The use of the Anti-Arson Application, pursuant to this Act, failed to substantially decrease the arson problem for those types of insurance policies, classes of property and geographic areas.
- B. Alternative anti-arson applications may only be mandated for the types of insurance policies, types of occupancies, and the areas of the state which would be permissible subjects for the Anti-Arson Application authorized by this Act.

Section 5. Termination of Contracts

Despite any other provision of law which limits the time for termination of insurance policies to the contrary, an insurer may terminate any policy or contract of insurance where the Anti-Arson Application or any alternative anti-arson application (as provided for in Section 4) is required at any time within ninety (90) days from the insurer's acceptance of such applications. The notice of cancellation to the insured shall contain the specific reason or reasons for the termination of the policy, provided that the reason or reasons are not otherwise prohibited by law.

Section 6. Penalty

Any insurer willfully violating the provisions of this Act shall be subject to a fine imposed by the insurance commissioner of not more than \$[insert amount].

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1981 Proc. 147, 51, 812, 818, 822-824 (adopted).

1983 Proc. 16, 10, 834, 859, 879-880 (amended and reprinted).