
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1106

Session of
1979

INTRODUCED BY MESSRS. VROON, YOHN, F. TAYLOR, E. H. SMITH,
HALVERSON, CORNELL, PYLES AND MACKOWSKI, APRIL 30, 1979

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 13, 1979

AN ACT

1 Providing for certain authorized agencies to receive from
2 insurance companies information relating to fire losses;
3 providing for insurance companies to notify authorized
4 agencies of suspicious fire losses, providing for immunity
5 for insurance companies that provide information under this
6 act; providing for the exchange and confidentiality of
7 information and providing penalties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the "Arson
12 Reporting Immunity Act."

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have, unless the context clearly indicates otherwise, the
16 meanings given to them in this section:

17 "Action." Includes nonaction or the failure to take action.

18 "Authorized agencies."

19 (1) For the purposes of this act SHALL INCLUDE:

<—

1 ~~(i) the State Police Commissioner when authorized or~~ <—
2 ~~charged with the investigation of fires at the place~~
3 ~~where the fire actually took place;~~

4 ~~(ii) the Fire Commissioner or Fire Chief of all~~
5 ~~first, second, second class A and third class cities;~~

6 ~~(iii) the prosecuting attorney responsible for~~
7 ~~prosecutions in the county where the fire occurred; or~~

8 ~~(iv) the State's attorney responsible for the~~
9 ~~prosecution in the county where the fire occurred.~~

10 ~~(2) Solely for the purposes of section 3(a):~~

11 ~~(i) the Federal Bureau of Investigation or Federal~~
12 ~~Bureau of Alcohol, Tobacco and Firearms; or~~

13 ~~(ii) the United States Attorney's Office when~~
14 ~~authorized or charged with investigation or prosecution~~
15 ~~of the fire in question.~~

16 ~~"Insurance company." Includes the Pennsylvania Fair Plan~~
17 ~~created pursuant to the act of July 31, 1968 (P.L.738, No.233),~~
18 ~~known as "The Pennsylvania Fair Plan Act."~~

19 ~~"Relevant." Information having any tendency to make the~~
20 ~~existence of any fact that is of consequence to the~~
21 ~~investigation or determination of the issue more probable or~~
22 ~~less probable than it would be without the evidence.~~

23 ~~Section 3. Disclosure of information.~~

24 ~~(a) Fire loss information. Any authorized agency may, in~~
25 ~~writing, require the insurance company at interest to release to~~
26 ~~the requesting agency any or all relevant information or~~
27 ~~evidence deemed important to the authorized agency which the~~
28 ~~company may have in its possession, relating to the fire loss in~~
29 ~~question. Material shall be deemed important, if within the sole~~
30 ~~discretion of the authorized agency, such material is requested~~

~~by the authorized agency. Relevant information may include,
without limitation herein:~~

~~(1) pertinent insurance policy information relevant to a
fire loss under investigation and any application for such a
policy;~~

~~(2) policy premium payment records which are available;~~

~~(3) history of previous claims made by the insured; and~~

~~(4) material relating to the investigation of the loss,
including statements of any person, proof of loss and any
other evidence relevant to the investigation.~~

~~(b) Notification for investigation.~~

~~(1) When an insurance company has reason to believe that
a fire loss in which it has an interest may be of other than
accidental cause, the company shall notify in writing an
authorized agency and provide it with any or all material
developed from the company's inquiry into the fire loss. Such
notification shall be sufficient notice for purposes of this
act.~~

~~(2) Nothing in section 3(b) shall abrogate or impair any
rights or duties created under section 3(a).~~

~~(c) Release of information. The authorized agency provided
with information pursuant to section 3(a) or 3(b) and in
furtherance of its own purposes, may release or provide such
information to any of the other authorized agencies.~~

~~(d) Furnishing of information to insurance company. Any
insurance company providing information regarding a specific
fire loss to an authorized agency or agencies pursuant to
section 3(a) or 3(b), shall have the right to receive any
relevant information on that fire loss from the authorized
agency, within a period not to exceed 30 days.~~

~~(c) Immunity. Any insurance company, or person designated to act in its behalf; or authorized agency who releases information, whether oral or written, pursuant to section 3(a) or 3(b) shall be immune from any liability arising out of a civil action and from criminal prosecution unless there be actual malice.~~

~~Section 4. Evidence.~~

~~(a) Confidential information. Any authorized agency and insurance company described in section 2 or 3 who receives any information furnished pursuant to this act, shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.~~

~~(b) Testimony. Any authorized agency or their personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party.~~

~~Section 5. Penalty.~~

~~Any person who fails or refuses to release any information required to be released under this act or who discloses information required to be held in confidence, or who otherwise violates any provision of this act shall, upon conviction thereof, be guilty of a misdemeanor of the third degree.~~

~~Section 6. Construction of act.~~

~~(a) Municipal ordinances. The provisions of this act shall not be construed to affect or repeal any ordinance of any municipality relating to fire prevention or the control of arson.~~

~~(b) Impairment of rights not intended. With the exception of section 3(c), all other provisions of this act shall not be construed to impair any existing statutory or common law rights, powers or duties.~~

1 ~~Section 7. Effective date.~~

2 ~~This act shall take effect in 60 days.~~ AND OTHER POLICE <—
3 OFFICERS CHARGED WITH THE INVESTIGATION OF FIRES AT THE PLACE
4 WHERE THE FIRE ACTUALLY TOOK PLACE;

5 (II) THE FIRE COMMISSIONER OR FIRE CHIEF OF ALL
6 FIRST, SECOND, SECOND CLASS A AND THIRD CLASS CITIES;

7 (III) THE ATTORNEY GENERAL;

8 (IV) THE PROSECUTING ATTORNEY RESPONSIBLE FOR
9 PROSECUTIONS IN THE COUNTY WHERE THE FIRE OCCURRED;

10 (V) THE FEDERAL BUREAU OF INVESTIGATION;

11 (VI) THE FEDERAL BUREAU OF ALCOHOL, TOBACCO AND
12 FIREARMS;

13 (VII) THE UNITED STATES ATTORNEY WHEN AUTHORIZED OR
14 CHARGED WITH INVESTIGATION OR PROSECUTION OF THE FIRE IN
15 QUESTION;

16 (VIII) DEPARTMENT OF ENVIRONMENTAL RESOURCES BUREAU
17 OF FORESTRY;

18 (2) SOLELY FOR THE PURPOSES OF SECTION 3(B), AN
19 APPROPRIATE AUTHORIZED AGENCY IS:

20 (I) THE STATE POLICE COMMISSIONER OR HIS AUTHORIZED
21 REPRESENTATIVE; OR

22 (II) THE FIRE COMMISSIONER OR FIRE CHIEF OF ALL
23 FIRST, SECOND, SECOND CLASS A AND THIRD CLASS CITIES AND
24 THE FIRE CHIEF OF ANY OTHER MUNICIPALITY WITH A PAID FIRE
25 DEPARTMENT WHEN THAT MUNICIPALITY IS NOT SERVICED BY THE
26 STATE POLICE COMMISSIONER OR HIS AUTHORIZED
27 REPRESENTATIVE FOR THE PURPOSE OF INVESTIGATING FIRES.

28 "INSURANCE COMPANY." ANY INSURANCE COMPANY AUTHORIZED TO
29 TRANSACT THE BUSINESS OF INSURANCE IN THIS COMMONWEALTH AND
30 EMPOWERED TO ISSUE POLICIES OF INSURANCE AGAINST LOSS BY THE

1 PERILS OF FIRE OR EXPLOSION, INCLUDING THE PENNSYLVANIA FAIR
2 PLAN CREATED PURSUANT TO THE ACT OF JULY 31, 1968 (P.L.738,
3 NO.233), KNOWN AS "THE PENNSYLVANIA FAIR PLAN ACT."

4 "FIRE LOSS." SHALL INCLUDE LOSS BY EXPLOSION.

5 "RELEVANT." ANY INFORMATION HAVING A TENDENCY TO MAKE THE
6 EXISTENCE OF ANY FACT THAT IS OF CONSEQUENCE TO THE
7 INVESTIGATION OR DETERMINATION OF THE ISSUE MORE OR LESS
8 PROBABLE THAN IT WOULD BE WITHOUT THE INFORMATION.

9 SECTION 3. DISCLOSURE OF INFORMATION.

10 (A) FIRE LOSS INFORMATION.--ANY AUTHORIZED AGENCY MAY, IN
11 WRITING, REQUIRE ANY INSURANCE COMPANY AT INTEREST TO RELEASE TO
12 THE REQUESTING AUTHORIZED AGENCY ANY OR ALL RELEVANT INFORMATION
13 OR EVIDENCE DEEMED IMPORTANT TO THE AUTHORIZED AGENCY WHICH THE
14 INSURANCE COMPANY MAY HAVE IN ITS POSSESSION RELATING TO A FIRE
15 LOSS UNDER INVESTIGATION BY THE AUTHORIZED AGENCY. RELEVANT
16 INFORMATION MAY INCLUDE, WITHOUT LIMITATION HEREIN:

17 (1) PERTINENT POLICY INFORMATION RELEVANT TO A FIRE LOSS
18 UNDER INVESTIGATION, INCLUDING ANY APPLICATION FOR SUCH A
19 POLICY;

20 (2) UNDERWRITING INFORMATION OR RISK INSPECTION REPORTS;

21 (3) POLICY PREMIUM PAYMENT RECORDS WHICH ARE AVAILABLE;

22 (4) HISTORY OF PREVIOUS CLAIMS MADE BY THE INSURED; AND

23 (5) MATERIAL RELATING TO THE INVESTIGATION OF THE LOSS,
24 INCLUDING STATEMENTS OF ANY PERSON, PROOF OF LOSS, AND ANY
25 OTHER INFORMATION RELEVANT TO THE INVESTIGATION BY THE
26 AUTHORIZED AGENCY.

27 (B) NOTIFICATION FOR INVESTIGATION.--

28 (1) WHEN AN INSURANCE COMPANY HAS REASON TO BELIEVE THAT
29 A FIRE LOSS IN WHICH IT HAS AN INTEREST MAY BE OF OTHER THAN
30 A FORTUITOUS NATURE, THE COMPANY SHALL NOTIFY, IN WRITING,

1 THE APPROPRIATE AUTHORIZED AGENCY AND UPON THE REQUEST OF ANY
2 AUTHORIZED AGENCY, SHALL PROVIDE THE REQUESTING AUTHORIZED
3 AGENCY WITH SUCH FIRE LOSS INFORMATION DEVELOPED FROM THE
4 COMPANY'S INQUIRY INTO THE FIRE LOSS AS MAY BE REQUESTED BY
5 THE AUTHORIZED AGENCY;

6 (2) NOTHING IN THIS SUBSECTION SHALL ABROGATE OR IMPAIR
7 ANY RIGHTS OR DUTIES CREATED UNDER SUBSECTION (A).

8 (C) NOTIFICATION TO POLICYHOLDER.--WHEN INFORMATION IS
9 REQUESTED OF ANY INSURANCE COMPANY BY AN AUTHORIZED AGENCY
10 PURSUANT TO SUBSECTION (A) OR (B):

11 (1) THE INSURANCE COMPANY SHALL SEND WRITTEN NOTICE TO
12 THE POLICYHOLDER OR POLICYHOLDERS ABOUT WHOM THE INFORMATION
13 PERTAINS, EXCEPT IF THE INSURANCE COMPANY RECEIVES NOTICE
14 THAT THE AUTHORIZED AGENCY FINDS, BASED ON SPECIFIC FACTS,
15 THAT THERE IS REASON TO BELIEVE THAT SUCH INFORMATION WILL
16 RESULT IN:

17 (I) ENDANGERMENT TO THE LIFE OR PHYSICAL SAFETY OF
18 ANY PERSON.

19 (II) FLIGHT FROM PROSECUTION.

20 (III) DESTRUCTION OF OR TAMPERING WITH EVIDENCE.

21 (IV) INTIMIDATION OF ANY POTENTIAL WITNESS OR
22 WITNESSES.

23 (V) OBSTRUCTION OF OR SERIOUSLY JEOPARDIZING AN
24 INVESTIGATION.

25 (2) THE INSURANCE COMPANY SHALL SEND WRITTEN NOTICE NOT
26 SOONER THAN 45 NOR MORE THAN 60 DAYS FROM THE TIME THE
27 INFORMATION IS FURNISHED TO AN AUTHORIZED AGENCY EXCEPT WHEN
28 THE AUTHORIZED AGENCY SPECIFIES THAT A NOTICE SHOULD NOT BE
29 SENT IN ACCORDANCE WITH THE EXCEPTIONS ENUMERATED UNDER
30 PARAGRAPH (1) IN WHICH EVENT THE INSURANCE COMPANY SHALL SEND

1 WRITTEN NOTICE TO THE POLICYHOLDER NOT SOONER THAN 180 DAYS
2 NOR MORE THAN 190 DAYS FOLLOWING THE DATE SUCH INFORMATION IS
3 FURNISHED TO AN AUTHORIZED AGENCY.

4 (3) EVERY INSURANCE COMPANY OR AUTHORIZED AGENCY AND ANY
5 PERSON ACTING ON BEHALF OF AN INSURANCE COMPANY OR AUTHORIZED
6 AGENCY COMPLYING WITH OR ATTEMPTING IN GOOD FAITH TO COMPLY
7 WITH PARAGRAPHS (1) AND (2) SHALL BE ABSOLUTELY IMMUNE FROM
8 ANY CIVIL LIABILITY ARISING OUT OF ANY ACTS OR OMISSIONS IN
9 SO DOING.

10 (4) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
11 CREATE ANY RIGHTS TO PRIVACY OR CAUSES OF ACTION ON BEHALF OF
12 POLICYHOLDERS WHICH ARE NOT IN EXISTENCE AS OF THE EFFECTIVE
13 DATE OF THIS ACT.

14 (D) RELEASE OF INFORMATION.--AN AUTHORIZED AGENCY THAT IS
15 PROVIDED WITH INFORMATION PURSUANT TO SUBSECTION (A) OR (B) MAY,
16 AT ITS DISCRETION, IN GOOD FAITH, RELEASE OR PROVIDE ORALLY OR
17 IN WRITING SUCH INFORMATION THAT IT MAY POSSESS IN WHOLE OR IN
18 PART TO ANY OTHER AUTHORIZED AGENCY OR INSURANCE COMPANY IN
19 FURTHERANCE OF THE AUTHORIZED AGENCY'S OWN INVESTIGATIVE
20 PURPOSES.

21 SECTION 4. IMMUNITY.

22 ANY INSURANCE COMPANY, OR PERSON DESIGNATED TO ACT IN ITS
23 BEHALF; OR ANY AUTHORIZED AGENCY OR PERSON AUTHORIZED TO ACT ON
24 ITS BEHALF, WHO SHALL RELEASE INFORMATION, WHETHER ORAL OR
25 WRITTEN, PURSUANT TO SECTION 3(A), (B) OR (D) SHALL BE IMMUNE
26 FROM LIABILITY ARISING OUT OF A CIVIL ACTION AND FROM CRIMINAL
27 PROSECUTION WITH RESPECT TO THE RELEASE OF SUCH INFORMATION,
28 UNLESS THERE BE ACTUAL MALICE.

29 SECTION 5. EVIDENCE.

30 EXCEPT AS PROVIDED IN SECTION 3(D), ANY AUTHORIZED AGENCY OR

1 INSURANCE COMPANY DEFINED IN SECTION 2 WHO RECEIVES ANY
2 INFORMATION FURNISHED PURSUANT TO THIS ACT, SHALL HOLD THE
3 INFORMATION IN STRICT CONFIDENCE UNTIL SUCH TIME AS ITS RELEASE
4 IS REQUIRED PURSUANT TO A CRIMINAL OR CIVIL PROCEEDING.

5 SECTION 6. PENALTY.

6 (A) DISCLOSURE OF INFORMATION.--ANY PERSON WHO SHALL FAIL OR
7 REFUSE TO RELEASE ANY INFORMATION REQUIRED TO BE RELEASED UNDER
8 THIS ACT OR WHO DISCLOSES INFORMATION REQUIRED TO BE HELD IN
9 CONFIDENCE, OR WHO OTHERWISE VIOLATES ANY PROVISION OF THIS ACT
10 (EXCEPT SECTION 3(C)(1) AND (2)) SHALL, UPON CONVICTION THEREOF,
11 BE GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE.

12 (B) IMMUNITY FROM LIABILITY.--ANY PERSON WHO SHALL RELEASE
13 OR DISCLOSE INFORMATION REQUIRED TO BE HELD IN CONFIDENCE
14 PURSUANT TO SECTION 5 (OTHER THAN AS PROVIDED UNDER SECTION
15 3(A), (B) OR (D)) SHALL NOT BE AFFORDED THE PROTECTION OF
16 IMMUNITY FROM LIABILITY ARISING OUT OF A CIVIL ACTION OR
17 CRIMINAL PROSECUTION AS PROVIDED IN SECTION 4.

18 SECTION 7. CONSTRUCTION OF ACT.

19 (A) MUNICIPAL ORDINANCES.--THE PROVISIONS OF THIS ACT SHALL
20 NOT BE CONSTRUED TO AFFECT OR REPEAL ANY ORDINANCES OF ANY
21 MUNICIPALITY RELATING TO FIRE PREVENTION OR THE CONTROL OF
22 ARSON.

23 (B) IMPAIRMENT OF RIGHTS NOT INTENDED.--WITH THE EXCEPTION
24 OF SECTION 4, ALL OTHER PROVISIONS OF THIS ACT SHALL NOT BE
25 CONSTRUED TO IMPAIR ANY EXISTING STATUTORY OR COMMON LAW RIGHTS,
26 POWERS OR DUTIES.

27 SECTION 8. REGULATIONS.

28 (A) STATE POLICE COMMISSIONER.--THE STATE POLICE
29 COMMISSIONER MAY ADOPT SUCH RULES AND PUBLISH REGULATIONS
30 CONCERNING THE IMPLEMENTATION OF SECTION 3(D), AS HE MAY DEEM

1 NECESSARY.

2 (B) INSURANCE COMMISSIONER.--THE INSURANCE COMMISSIONER MAY
3 ADOPT SUCH RULES AND PUBLISH REGULATIONS CONCERNING THE
4 IMPLEMENTATION OF THIS ACT EXCEPT FOR SECTION 3(D).

5 SECTION 9. REPORT TO GENERAL ASSEMBLY.

6 NOT LATER THAN 18 MONTHS AFTER THE EFFECTIVE DATE OF THIS
7 ACT, THE STATE POLICE COMMISSIONER SHALL REPORT TO THE GENERAL
8 ASSEMBLY ON THE LEGALITY, FEASIBILITY, ADVISABILITY, AND THE
9 MANNER, IF ANY, OF PROVIDING INVESTIGATORY MATERIAL TO INSURANCE
10 COMPANIES. SUCH REPORT SHALL BE SUBMITTED ONLY AFTER
11 CONSULTATION WITH THE DEPARTMENT OF JUSTICE, REPRESENTATIVES OF
12 THE INSURANCE INDUSTRY, OTHER AUTHORIZED AGENCIES AND ANY OTHER
13 ORGANIZATIONS OR INDIVIDUALS AT INTEREST AS DETERMINED BY THE
14 COMMISSIONER.

15 SECTION 10. EFFECTIVE DATE.

16 THIS ACT SHALL TAKE EFFECT IN 120 DAYS.