

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2264

Session of  
1982

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INTRODUCED BY VROON, CAWLEY, HAYES, IRVIS, RYAN, BELARDI, SERAFINI, KUKOVICH, FARGO, LETTERMAN, CESSAR, MANDERINO, PIEVSKY, SALVATORE, JACKSON, PITTS, GALLEN, CIMINI, GRIECO, TRELLO, McVERRY, GAMBLE, WAMBACH, RITTER, MADIGAN, GEORGE, LEVI, GRUPPO, SIEMINSKI, PETRARCA, DeVERTER, MRKONIC, TELEK, BITTLE, SEVENTY, WESTON, BELFANTI, OLASZ, DeWEESE, GALLAGHER, MOWERY, SHOWERS, DeMEDIO, FEE, COLE, PICCOLA, MANMILLER, JOHNSON, E. Z. TAYLOR, DAVIES, LEHR, ANDERSON, PETERSON, DORR, REBER, DININNI, WENGER, MORRIS, MARMION, SIRIANNI, PISTELLA, PETRONE, HORGOS, MRKONIC, DAIKELER, COCHRAN, MISCEVICH, FREIND, PERZEL, J. L. WRIGHT, HONAMAN, PHILLIPS, COHEN, WOZNIAK, HEISER, BOWSER, WARGO, BOYES, FISCHER, MERRY, COSLETT, GEIST, FRAZIER, MACKOWSKI, W. W. FOSTER, VAN HORNE, D. R. WRIGHT, MICHLOVIC, LAUGHLIN, LUCYK, STEWART, WASS, PENDLETON, DEAL, COLAFELLA, DUFFY, LESCOVITZ, CLYMER, GREENWOOD, KLINGAMAN, TIGUE, SWIFT, BURNS, L. E. SMITH, STUBAN, KOWALYSHYN, RYBAK, HALUSKA, BELOFF, KOLTER, SAURMAN, HARPER, ITKIN, CUNNINGHAM, COWELL, STEIGHNER, F. E. TAYLOR, LIVENGOOD, PUCCIARELLI, RIEGER, ARMSTRONG, DIETZ, MOEHLMANN, NOYE, B. SMITH, PUNT, HAGERTY, R. C. WRIGHT AND STAIRS, FEBRUARY 23, 1982

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 28, 1982

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## AN ACT

1 Authorizing the use of anti-arson applications by the Insurance  
2 Commissioner; providing additional powers and duties for the  
3 Insurance Department and establishing a penalty.

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

11 Section 1. Short title.

12       This act shall be known and may be cited as the "Anti-arson  
13 Application Law."

14 Section 2. Legislative purpose.

15       The purpose of this act is to promote the public welfare by  
16 reducing the loss of life and fire damage to property caused by  
17 the crime of arson by requiring insurance companies to secure  
18 anti-arson applications from applicants for new policies of  
19 property insurance containing information to control the  
20 incidence of arson fraud.

21 Section 3. Definitions.

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

25       "Anti-arson application." Any ~~sworn~~ application for  
26 insurance covering the peril of fire that includes certain  
27 questions which shall be answered by the applicant in addition  
28 to the basic information normally supplied to an insurer by an  
29 applicant.

30       "Commercial Monoline Fire Policy." An insurance policy on a

1 commercial or industrial premise in which coverage is limited to  
2 the perils of:

3 (1) fire, lightning or removal as contained in the  
4 standard fire policy in section 506 of the act of May 17,  
5 1921 (P.L.682, No.284), known as "The Insurance Company Law  
6 of 1921," as amended; or

7 (2) fire, lightning or removal as appear in paragraph  
8 (1) and extended coverage (including windstorm or hail,  
9 smoke, explosion, riot or civil commotion, aircraft and  
10 vehicle, vandalism or malicious mischief).

11 Such policy shall not include any package policy or multiperil  
12 policy which provides coverage of perils other than the  
13 aforementioned, such as but not limited to coverage to bodily  
14 injury or property damage liability.

15 "Insurance policy" or "contract of insurance". Any written  
16 evidence of new insurance providing coverage from the peril of  
17 fire written or entered into on or after the effective date of  
18 this act or any assignment of an existing insurance policy or  
19 contract which occurs because of the transfer of a major  
20 financial interest in the insured real property. Except for  
21 certain assignments, the term shall not include any existing  
22 property insurance policy or contract of insurance that is being  
23 renewed.

24 "Renewal." The issuance and delivery by an insurer of a  
25 policy superseding at the end of the policy period a policy  
26 previously issued and delivered by the same insurer, such  
27 renewal policy to provide types and limits of coverage at least  
28 equal to those contained in the policy being superseded, or the  
29 issuance and delivery of a certificate or notice extending the  
30 term of a policy beyond its policy period or term with types and

1 limits of coverage at least equal to those contained in the  
2 policy being extended: Provided, however, That any policy with a  
3 policy period or term of less than 12 months or any period with  
4 no fixed expiration date shall for the purpose of this act be  
5 considered as if written for successive policy periods or terms  
6 of 12 months.

7 Section 4. Utilization of anti-arson applications.

8 (a) The use of the anti-arson application shall be mandatory  
9 for commercial monoline fire policies, designated occupancies  
10 and designated areas of the State, based upon a finding by the  
11 Insurance Commissioner, after a public hearing in a location or  
12 municipality where the designated area will be, that such  
13 commercial monoline fire policies, such designated occupancies,  
14 and such areas of the State have an abnormally high incidence of  
15 arson.

16 (b) Hearings pursuant to this section shall conform to the  
17 provisions of the act of July 19, 1974 (P.L.486, No.175),  
18 referred to as the Public Agency Open Meeting Law, as amended.

19 Section 5. Form of anti-arson application.

20 (a) The Insurance Commissioner, in promulgating the anti-  
21 arson application form, shall consider generally recognized two-  
22 tier application forms. If the initial first-tier application  
23 elicits certain predesignated answers, then the administration  
24 of a second-tier supplementary application shall be mandatory.

25 (b) The two-tiered application shall secure the disclosure  
26 of all of the following information including, but not limited  
27 to:

28 (1) The name and address of the applicant and any  
29 mortgagees and any other parties who have an ownership  
30 interest in the property.

1           (2) The amount of insurance requested and the method of  
2 valuation used to establish the amount of insurance.

3           (3) The dates and selling prices of the property in all  
4 real estate transactions involving such property during the  
5 last three years.

6           (4) The applicant's loss history over the last five  
7 years with regard to any property in which he held an equity  
8 interest or a mortgage and where any such loss exceeded  
9 \$1,000 in damages.

10          (5) All taxes unpaid or overdue for one or more years  
11 and any mortgage payments overdue by three months or more.

12          (6) All known current violations of fire, safety,  
13 health, building or construction codes on the property to be  
14 insured.

15          (7) The present occupancy of the structure.

16          (c) In the event that a commercial, designated occupancy or  
17 designated area property subject to this act is insured in a  
18 contract of insurance which includes other properties which are  
19 not subject to section 4, the information required in this  
20 section shall only be the information applicable to the  
21 commercial, designated occupancy or designated area property  
22 subject to this act.

23 Section 6. Designation not to affect insurability.

24          Designation of any area of the State pursuant to section 4,  
25 shall not be deemed a valid reason for refusal to write,  
26 termination or nonrenewal of any policy or contract of  
27 insurance.

28 Section 7. Anti-arson application required.

29          (a) No insurer may enter into a permanent contract to insure  
30 any building, except one to four family owner-occupied

1 dwellings, against the peril of fire to be issued after the  
2 effective date of this act unless such insurer first receives an  
3 anti-arson application signed and affirmed by the insured, if  
4 required by the Insurance Commissioner in accordance with the  
5 provisions of this act. EACH ANTI-ARSON APPLICATION SHALL  
6 CONTAIN THE FOLLOWING LANGUAGE:

<—

7 I (WE) CERTIFY THAT ALL INFORMATION CONTAINED HEREIN IS  
8 TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE AND  
9 BELIEF. SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.  
10 Nothing contained in this subsection shall prohibit the  
11 issuance of a temporary contract of insurance, known as a  
12 binder, for a period of 90 days or less, provided that the  
13 anti-arson application is provided to the insured for  
14 completion in accordance with this section.

15 (b) Any anti-arson application required by this act shall be  
16 deemed a material part of the insurance policy to which the  
17 application pertains. A material misrepresentation shall be  
18 deemed grounds to void the insurance policy.

19 (c) Policyholders shall notify their insurer in writing of  
20 any change in the information contained in the anti-arson  
21 application, within a period of time to be specified by the  
22 Insurance Commissioner. A material failure to notify or a  
23 material misrepresentation in such notification shall be deemed  
24 grounds to void the insurance policy.

25 Section 8. Alternative anti-arson applications.

26 (a) The Insurance Commissioner may not mandate the use of  
27 any applications other than the anti-arson application.

28 (b) The Insurance Commissioner may mandate alternative anti-  
29 arson applications pursuant to findings after a public hearing  
30 that:

1           (1) There exist certain types of policies, certain  
2       classes of property and certain geographic areas of the State  
3       which have an abnormally high incidence of arson.

4           (2) The anti-arson application was implemented as  
5       respects such types of insurance policies, such classes of  
6       property and areas of the State pursuant to the provisions of  
7       this act.

8           (3) The use of the anti-arson application, pursuant to  
9       this act, failed to substantially decrease the arson problem  
10      for those types of insurance policies, classes of property  
11      and geographic areas.

12      (c) Alternative anti-arson applications may only be mandated  
13      for the types of insurance policies, types of occupancies and  
14      the areas of the State which would be permissible subjects for  
15      the anti-arson application authorized by this act.

16      Section 9. Termination of insurance policy or contract.

17      Despite any other provision of law which limits the time for  
18      termination of insurance policies to the contrary, an insurer  
19      may terminate any policy or contract of insurance where the  
20      anti-arson application or any alternative anti-arson application  
21      is required at any time within 90 days from the insurer's  
22      acceptance of such applications. The notice of cancellation to  
23      the insured shall contain the specific reason or reasons for the  
24      termination of the policy, provided that such reason or reasons  
25      are not otherwise prohibited by law.

26      Section 10. Penalty.

27      (A) Any insurer willfully violating the provisions of this       <—  
28      act shall be subject to a civil penalty imposed by the Insurance  
29      Commissioner of not more than \$10,000.

30      (B) ANY INSURER FOUND TO HAVE VIOLATED SECTION 7 OF THIS       <—

1 ACT, SHALL BE GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE.

2 Section 11. Administration and advisory board.

3 (a) The Insurance Commissioner is authorized to promulgate  
4 such rules and regulations as are necessary or desirable to  
5 implement this act.

6 (b) The Insurance Commissioner may establish an advisory  
7 board of public and private representatives, which shall consist  
8 of the commissioner as chairman and two lay people, two members  
9 of the insurance industry, two municipal or city officials and  
10 two members of the General Assembly, one of which is appointed  
11 by the Speaker of the House of Representatives and one of which  
12 is appointed by the President pro tempore of the Senate, to  
13 assist him in administering this act and in studying and  
14 implementing any other measures to prevent arson.

15 (c) Each member of the advisory board shall receive \$40 per  
16 diem for each day actually engaged in attendance at meetings of  
17 the board. The members shall also receive the amount of actual  
18 travelling, hotel and other necessary expenses incurred in the  
19 performance of their duties.

20 ~~(d) The advisory board established by subsection (c) shall~~ <—  
21 ~~expire and its authority shall cease unless its provisions are~~  
22 ~~specifically reenacted by the General Assembly prior to five~~  
23 ~~years from the effective date of this act.~~

24 (D) THE ADVISORY BOARD ESTABLISHED BY SUBSECTION (C) SHALL <—  
25 EXPIRE AND ITS AUTHORITY SHALL CEASE FIVE YEARS FROM THE  
26 EFFECTIVE DATE OF THIS ACT UNLESS ITS PROVISIONS ARE  
27 SPECIFICALLY REENACTED BY THE GENERAL ASSEMBLY.

28 Section 12. Effective date.

29 This act shall take effect in 90 days.