

## No. 1982-228

## AN ACT

## HB 2264

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

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

## Section 1. Short title.

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

## Section 2. Legislative 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 3. Definitions.

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

"Anti-arson application." 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.

"Commercial Monoline Fire Policy." An insurance policy on a commercial or industrial premise in which coverage is limited to the perils of:

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

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

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

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

“Renewal.” The issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, such renewal policy to provide types and limits of coverage at least equal to those contained in the policy being superseded, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended: Provided, however, That any policy with a policy period or term of less than 12 months or any period with no fixed expiration date shall for the purpose of this act be considered as if written for successive policy periods or terms of 12 months.

Section 4. Utilization of anti-arson applications.

(a) 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 in a location or municipality where the designated area will be, that such commercial monoline fire policies, such designated occupancies, and such areas of the State have an abnormally high incidence of arson.

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

Section 5. Form of anti-arson application.

(a) The Insurance Commissioner, in promulgating the anti-arson application form, shall consider 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.

(b) The two-tiered application shall secure the disclosure of all of the following 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 years.

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

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

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

(7) The present occupancy of the structure.

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

**Section 6. Designation not to affect insurability.**

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

**Section 7. Anti-arson application required.**

(a) No insurer may enter into a permanent 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 such 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. Each anti-arson application shall contain the following language:

I (We) certify that all information contained herein is true and correct to the best of my (our) knowledge and belief. Signed under the pains and penalties of perjury.

Nothing contained in this subsection shall prohibit the issuance of a temporary contract of insurance, known as a binder, for a period of 90 days or less, provided that the anti-arson application is provided to the insured for completion in accordance with this section.

(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 void the insurance policy.

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

**Section 8. Alternative anti-arson applications.**

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

(b) The Insurance Commissioner may mandate alternative anti-arson

applications pursuant to findings after a public hearing that:

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

(2) The anti-arson application 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.

(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.

(c) 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 9. Termination of insurance policy or contract.

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 is required at any time within 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 such reason or reasons are not otherwise prohibited by law.

Section 10. Penalty.

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

(b) Any insurer found to have violated section 7 shall be guilty of a misdemeanor of the first degree.

Section 11. Administration and advisory board.

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

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

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

(d) The advisory board established by subsection (b) shall expire and its authority shall cease five years from the effective date of this act unless its provisions are specifically reenacted by the General Assembly.

Section 12. Effective date.

This act shall take effect in 90 days.

APPROVED—The 7th day of December, A. D. 1982.

DICK THORNBURGH