

17:36-14 to 17:36-21

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:36-14 to 17:36-21 (Arson control--permit insurance companies to release information to law enforcement agencies)

LAWS 1981 CHAPTER 45

Bill No. A1430

Sponsor(s) Hardwick and others

Date Introduced April 21, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes ~~No~~ Assembly Committee Substitute (OCR) enacted. Amendments during passage denoted by asterisks.

Date of Passage: Assembly May 1, 1980  
Senate Oct. 6, 1980

Date of approval Feb. 19, 1981

Following statements are attached if available:

Sponsor statement	Yes	<del>No</del>
Committee Statement: Assembly	Yes	<del>No</del>
Senate	Yes	<del>No</del>
Fiscal Note	<del>Yes</del>	No
Veto Message	<del>Yes</del>	No
Message on signing	<del>Yes</del>	No

Following were printed:

Reports	Yes	<del>No</del>
Hearings	<del>Yes</del>	No

- 974.90 New Jersey. Arson Task Force.
- C929 Development of a New Jersey
- 1979a Strategy for arson control. Trenton, 1979.

(See pp.74-75 for discussion of similar bill)

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2-19-81

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[OFFICIAL COPY REPRINT]  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1430**

**STATE OF NEW JERSEY**

ADOPTED APRIL 21, 1980

Sponsored By Assemblymen HARDWICK, MAYS, BORNHEIMER,  
DORIA, COWAN and JANISZEWSKI

AN ACT concerning the release of information on fire losses  
by insurers to authorized agencies.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. For the purposes of this act:

2 a. "Authorized agency" means any law enforcement agency or  
3 agency or instrumentality of this State, county or municipality or of  
4 the Federal Government which is charged with the responsibility of  
5 investigating fires;

6 b. "Relevant information" means any information having any  
7 tendency in reason to prove any material fact;

8 c. "Insurer" means any domestic, foreign, or alien insurer or  
9 surplus lines insurer, and the New Jersey Insurance Underwriting  
10 Association created pursuant to P. L. 1968, c. 129 (C. 17:37A-1  
11 et seq.).

1 2. An authorized agency may request in writing that an insurer  
2 release to it any information which is relevant to a loss by fire of  
3 real or personal property which is under investigation by the  
4 agency. *\*The insurer shall release the information to and cooperate*  
4A *with the authorized agency requesting the information as permitted*  
4B *by this act.\** Such information may include, but not be limited to:

5 a. Pertinent insurance policy information relevant to a fire loss  
6 under investigation and any application for such a policy;

7 b. Policy premium payment records;

8 c. History of previous claims made by the insured;

9 d. Material relating to the investigation of the loss, including  
10 statements of any person, proof of loss, and any other evidence  
11 relevant to the investigation.

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

1 3. When an insurer has reason to believe that a fire loss in which  
 2 it has an interest may be of other than accidental cause, the insurer  
 3 shall, for the purpose of notification and for having such fire loss  
 4 investigated, notify the county prosecutor of the county wherein  
 5 the fire occurred and provide the county prosecutor with any or  
 6 all material developed from the company's inquiry into the fire loss.  
 7 The county prosecutor shall furnish the information requested to  
 8 the authorized agency responsible for the investigation of the fire.

1 4. An insurer, or a person acting on its behalf \*[, including, but  
 2 not limited to, agents, brokers, or adjusters,]\* shall not be held  
 3 liable in any civil \*[, or criminal]\* proceeding for any statement  
 4 made or action required by this act where actual malice on the part  
 5 of the insurer or its representative is not present.

1 \*5. Any information furnished to any authorized agency under  
 2 this act shall be held in confidence by the authorized agency and  
 3 shall be released only for use in a civil or criminal proceeding as  
 4 authorized by a court of competent jurisdiction.]\*

1 \*5. a. Any authorized agency which has obtained information  
 2 from any insurer pursuant to this act may disclose such informa-  
 3 tion to any authorized agency of this or another state, or of the  
 4 United States to the extent that such disclosure or use is relevant  
 5 to a loss by fire of real or personal property which is under investi-  
 6 gation by the agency.

7 b. The information obtained may otherwise be disclosed only for  
 8 use in a civil or criminal proceeding as ordered by the court.\*

1 6. Any insurance company providing information to an author-  
 2 ized agency or agencies pursuant to this act shall\*, with respect to  
 3 a civil action\*, have the right to request relevant information and  
 4 receive, within a reasonable time, not to exceed 30 days, the infor-  
 5 mation requested\*, provided that the information is not otherwise  
 6 privileged by law\*.

1 7. Any authorized agency or its personnel may be required to  
 2 testify in any litigation in which the insurer at interest is named  
 3 as a party.

1 8. A person who knowingly:

2 a. Refuses to release information,

3 b. Fails to notify the county prosecutor of a fire loss of which  
 4 there is reason to believe that it was caused by other than accidental  
 5 means, or

6 c. Fails to hold information in confidence, as required by this act,  
 7 is liable to a penalty of not more than \$250.00, which may be col-  
 8 lected or enforced in a summary manner under "the penalty enforce-  
 9 ment law" (N. J. S. 2A:58-1 et seq.). The proceedings may be

10 brought by authorized agency which has not received information  
11 or has not been notified regarding a fire loss, or an insurer or  
12 person which has been injured by a failure to keep information  
13 confidential, or the State. If a money judgment is rendered against  
14 the defendant, it shall be paid to the plaintiff. A reasonable and  
15 good faith effort to comply with the provisions of this act shall be  
16 a defense to an alleged violation of this act.

1 9. This act shall take effect immediately.

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ASSEMBLY, No. 1430

STATE OF NEW JERSEY

INTRODUCED APRIL 14, 1980

By Assemblymen MAYS, BORNHEIMER, DORIA, COWAN  
and JANISZEWSKI

Referred to Committee on Banking and Insurance

AN ACT concerning the release of certain information by insurers  
pertaining to the loss by fire of real or personal property.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. For the purposes of this act:

2 a. "Authorized agency" means any law enforcement agency or  
3 agency or instrumentality of this State, county or municipality or  
4 of the Federal Government which is charged with the responsibility  
5 of investigating fires;

6 b. "Relevant information" means any information having any  
7 tendency in reason to prove any material fact;

8 c. "Insurer" means any domestic, foreign, or alien insurer or  
9 surplus lines insurer, and the New Jersey Insurance Underwriting  
10 Association created pursuant to P. L. 1968, c. 129 (C. 17:37A-1  
11 et seq.).

1 2. An authorized agency may request in writing that an insurer  
2 release to it any information which is relevant to a loss by fire of  
3 real or personal property which is under investigation by the  
4 agency. Such information may include, but not be limited to:

5 a. Pertinent insurance policy information relevant to a fire loss  
6 under investigation and any application for such a policy;

7 b. Policy premium payment records;

8 c. History of previous claims made by the insured;

9 d. Material relating to the investigation of the loss, including  
10 statements of any person, proof of loss, and any other evidence  
11 relevant to the investigation.

1 3. When an insurer has reason to believe that a fire loss in which  
2 it has an interest may be of other than accidental cause, the insurer  
3 shall, for the purpose of notification and for having such fire loss  
4 investigated, notify the county prosecutor of the county wherein  
5 the fire occurred and provide the county prosecutor with any or all

6 material developed from the company's inquiry into the fire loss.  
 7 The county prosecutor shall furnish the information requested to  
 8 the authorized agency responsible for the investigation of the fire.

1 4. An insurer, or a person acting on its behalf, including, but  
 2 not limited to, agents, brokers, or adjusters, shall not be held liable  
 3 in any civil or criminal proceeding for any statement made or action  
 4 required by this act where actual malice on the part of the insurer  
 5 or its representative is not present.

1 5. Any information furnished to any authorized agency under  
 2 this act shall be held in confidence by the authorized agency and  
 3 shall be released only for use in a civil or criminal proceeding as  
 4 authorized by a court of competent jurisdiction.

1 6. Any insurance company providing information to an au-  
 2 thorized agency or agencies pursuant to this act shall have the  
 3 right to request relevant information and receive, within a reason-  
 4 able time, not to exceed 30 days, the information requested.

1 7. Any authorized agency or its personnel may be required to  
 2 testify in any litigation in which the insurer at interest is named as  
 3 a party.

1 8. A person who knowingly:

2 a. Refuses to release information,

3 b. Fails to notify the county prosecutor of a fire loss of which  
 4 there is reason to believe that it was caused by other than acci-  
 5 dental means, or

6 c. Fails to hold information in confidence, as required by this  
 7 act, is liable to a penalty of not more than \$200.00, which may be  
 8 collected or enforced in a summary manner under "the penalty  
 9 enforcement law" (N. J. S. 2A:58-1 et seq.). The proceedings may  
 10 be brought by a law enforcement agency which has not received  
 11 information or has not been notified regarding a fire loss, or an  
 12 insurer or person which has been injured by a failure to keep in-  
 13 formation confidential, or the State. If a money judgment is  
 14 rendered against the defendant, it shall be paid to the plaintiff.  
 15 A reasonable and good faith effort to comply with the provisions  
 16 of this act shall be a defense to an alleged violation of this act.

1 9. This act shall take effect immediately.

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#### STATEMENT

This legislation would hold insurance companies harmless for information which they provide to law enforcement agencies or other agencies.

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**ASSEMBLY BANKING AND INSURANCE COMMITTEE**

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 1430**

**STATE OF NEW JERSEY**

DATED: APRIL 21, 1980

This legislation provides for the exchange of information between authorized agencies and insurance companies regarding fire losses. Authorized agencies, primarily governmental agencies, would be authorized to request information which is pertinent to a fire loss, including policy premium payment records, histories of claims made by insureds, or other material relevant to the investigation of the loss. Insurance companies could initiate the exchange of information with an investigating agency or provide information at the request of the agency and be held harmless in any civil or criminal proceeding for any statement made or action taken which is required by the act. Failure to release information or, in the case of the recipient of the information, failure to hold information in confidence would result in a fine of not more than \$200.00.

This legislation is designed to facilitate the investigation of arson by holding persons harmless who supply information to appropriate law enforcement authorities. At present, an insurance company could be held liable for information which they release, which tends to hinder investigations. The Assembly Committee Substitute raises the penalty to \$250.00.

SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 1430**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 23, 1980

This legislation provides for the exchange of information between authorized agencies and insurance companies regarding fire losses. Authorized agencies, primarily governmental agencies, would be authorized to request information which is pertinent to a fire loss, including policy premium payment records, histories of claims made by insureds, or other material relevant to the investigation of the loss. Insurance companies could initiate the exchange of information with an investigating agency or provide information at the request of the agency and be held harmless in any civil or criminal proceeding for any statement made or action taken which is required by the act. Failure to release information or, in the case of the recipient of the information, failure to hold information in confidence would result in a fine of not more than \$250.00.

This legislation is designed to facilitate the investigation of arson by holding persons harmless who supply information to appropriate law enforcement authorities. At present, an insurance company could be held liable for information which they release, which tends to hinder investigations.

In addition to technical amendments, the Senate Labor, Industry and Professions Committee amended the bill to allow any authorized agency which has obtained information from an insurer to disclose the information to other authorized agencies of this or other states, or of the United States. The information obtained could otherwise be disclosed only for use in a civil or criminal proceeding as ordered by the court.

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N. J. ARSON TASK FORCE.

DEVELOPMENT OF A NEW JERSEY STRATEGY  
FOR ARSON CONTROL.

Permanent Reclassification of Arson to Part I Offense.

We believe that arson calling arson a major crime is a step long overdue. Permanent reclassification would provide additional raw data and information that can be invaluable for additional research and study, and it would bring about a greater awareness of the crime on the part of legislators, prosecutors, judges, and the general public.

More significantly, upgrading arson to a Part I offense would encourage and perhaps even necessitate greater coordination of activities between police and fire departments, and it would also allow law enforcement agencies to rationally assess their priorities. Reclassification has been approved on a temporary basis, but legislation presently pending in Congress would permanently mandate such a change. We urge public officials in New Jersey to support this legislation through our congressional delegation.

Mandatory Reporting of Certain Fire Losses by Insurance Companies. In order to maximize the potential for obtaining meaningful and accurate information, New Jersey should require that all fire losses exceeding 5,000 be reported by the insurance company to the appropriate fire investigation agency. This would serve to: (1) notify fire officials of fires which they did not suppress; (2) facilitate discovery of duplicate claims; (3) provide more

accurate information on fire losses; and (4) discourage potential arsonists.

Assembly Bill 3180 presently requires insurance companies to report all suspicious fires to law enforcement authorities and grants them immunity from civil liability for action taken in compliance with the act. While we support this legislation, we believe it should go further to also include reports of all fire losses over \$5,000.

Development of a Meaningful Intelligence Network. We believe that meaningful Statewide Intelligence information on known arsonists, frequency of arson motives, methods of operation, etc. can be an extremely useful and effective tool for arson investigators in their efforts to target specific areas or individuals and plan proactive investigations. The Statewide Arson Network System developed by the State Police can form the basis of such a system once meaningful raw data can be compiled on a regular basis. We recommend continuation of that system and urge participation in it by the State's arson and fire investigation personnel.

Additional Study and Research. Presently, effective anti-arson programs must be broad-based and expensive because the available research does not form a sufficient base from which to carefully allocate scarce government