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Current Arson Issues

A Position Paper

Insurance Industry Recommendations for Effective Legislative and Regulatory Measures to Fight the Crime of Arson

U.S. Department of Justice
National Institute of Justice

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Introduction

For many years, the property and casualty insurance industry has been well known for its collective and individual company efforts for loss control in all areas, including arson. In recent years, however, the growth of arson has accelerated. Responding to this alarming trend, the industry early in 1978 undertook development of a new attack on this problem—a broad, long-range program to control arson.

This increased effort included nearly 40 separate recommendations for action, compiled in a document entitled *Target: Arson*. One recommendation from that report was the organization of the Insurance Committee for Arson Control. The committee formed in late 1978 is composed of the property-casualty insurance industry's major trade associations, plus unaffiliated insurance companies. The main function of the committee is to coordinate the insurance industry's efforts to combat arson. It serves as a catalyst for arson control efforts by the industry and others and as a liaison with government agencies and state and local groups.

The members of the committee include:

- Alliance of American Insurers
- American Insurance Association
- Continental Insurance Companies
- Factory Mutual System
- National Association of Independent Insurers
- National Association of Mutual Insurance Companies
- Safeco Insurance Companies
- State Farm Fire & Casualty Company

Since publication of *Target: Arson*, new arson control activities and legislation have been recommended. This position paper is a review of current proposals, and past and present activity related to each. Although recommendations are included in each section, this paper also presents new issues which are only now being explored.

This paper is a response to requests for a summary of industry recommendations of these topics and is intended to be helpful to industry representatives in working with state and local arson task forces. Since the paper focuses largely upon legislative and regulatory issues, it should also prove useful in reviewing company policies and pending legislation.

Because of the need to limit the scope of this paper, the committee has not touched upon education and training in arson control techniques, public relations and public awareness, or coordination between private and public sectors in efforts to reduce arson. The committee continues to work in these areas and believes activity in these areas has been increased. The original recommendations in *Target: Arson* extensively cover these topics and the committee refers its readers to that document which is available from the Insurance Committee for Arson Control.

The paper also does not address FAIR Plan activities in arson control since the National Committee for Property Insurance (NCPI) has recently released a complete "Anti-Arson Action Program" designed to assist the FAIR Plans in discharging the responsibilities in combatting arson. Copies may be obtained from NCPI, 55 Court Street, Boston, Massachusetts 02102.

Prosecution/Defense

Arson Reporting Immunity Laws

A key element in effecting detection and prosecution of arson is the exchange of information between insurance companies and public officials. One of the problems insurers have faced in sharing information with law enforcement authorities has been the threat of civil suit. Arson reporting immunity laws are designed to protect insurance companies from suits when they share arson-related information with law enforcement officials. By facilitating the exchange of information, such laws increase the number of fraud arson claims denied and increase the number of arrests and convictions.

Background

In 1976, the Ohio legislature enacted what is believed to be the first law granting insurance companies immunity from suit when they share arson-related information with law enforcement officials (S.B. 462). In 1977, the Alliance of American Insurers drafted model legislation entitled, "Arson Reporting-Immunity Bill" (See Appendix A). This model is supported by the National Association of Independent Insurers, the American Insurance Association, and other members of the Insurance Committee for Arson Control.

The major purpose of this model law is to increase the flow of vital investigative information between insurance companies and law enforcement agencies. The law requires insurers to inform the state fire marshal or other such persons of fires that appear to be suspicious in origin. It permits insurers and arson investigators to exchange information developed during their separate investigations.

Specifically, the Insurance Model Arson Reporting-Immunity law:

1. Allows authorized agencies (defined as state and federal fire marshals, law enforcement officers, insurance commissioners and prosecuting attorneys) to require that insurance companies release all information concerning a policyholder involved in a fire loss. This information includes history of premium payment and previous claims, as well as investigatory files.

2. Requires insurance companies to notify authorized agencies of suspicious fire losses. Such notice constitutes a request for official investigation.

3. Grants limited civil and criminal immunity to those insurance companies that provide information under the provisions of this act.

4. Provides for the exchange of information between the insurance company and the authorized agencies, and the exchange of information between authorized agencies.

5. Provides for confidentiality of released information.

Four major reasons are usually given in support of immunity legislation. In criminal investigations, it is vital that investigators have access to all information relevant to the case under investigation. While much of the information developed by insurance companies may be unsubstantiated (at least early in the investigation), it may be exactly the data needed by investigating

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authorities to develop leads and uncover other more substantive evidence. However, if insurers must first substantiate the facts to avoid being sued for libel by clients, key information may never reach the proper authorities.

This model law permits the release of information at critical stages of the investigation by protecting the insurer from legal action, harassment, or punitive damages regarding any information it provides in good faith to investigative authorities. Without this immunity law, or similar provisions, insurers are inclined to withhold all but proven facts in order to avoid vulnerability to a civil suit.

Possible risks inherent in two-way exchange provisions are outweighed by benefits. If arson schemes are to be curtailed or controlled, insurers and law enforcement officials must be legally authorized and empowered to mutually aid and assist one another. This law allows the full resources of both the private insurance industry and the law enforcement agencies to be combined in a concerted program of detection and prosecution. Without such accessibility to information from law enforcement agencies, insurers are compelled to make decisions with incomplete information. It is in this spirit that the Connecticut legislature enacted a provision which added pre-fire (underwriting) exchange of information to its reporting immunity law.

Unless immunity is statutorily provided, a climate of uncertainty will continue to exist although insurance companies have cooperated with police agencies. To date, no insurance company has been willing to serve as a "test case" regarding the release of unsubstantiated information to law enforcement agencies in cases of suspected arson. Such action might result in a libel suit by the insurance claimant. In fact, in some cases, the insurer has been more willing to settle claims in cases of suspicious fires than to run such a risk. The model law would remove this risk and end the current climate of uncertainty. Thus, insurers would be more willing to provide information to law enforcement agencies, and additional arson cases could be investigated and prosecuted.

Some insurers believe that if they are required by law to share information with public officials, they should be granted full and complete immunity. This model law grants only limited immunity to insurers—that is, an insurance company could still be held liable if the claimant can prove that the company acted with malice. Thus, the model law encourages insurers to treat information about private individuals judiciously.

The arguments most frequently raised in opposition to immunity laws relate to state and federal privacy issues. The Model Immunity Reporting Law provides public law enforcement and investigatory agencies with the power to compel disclosure of information relating to insurance company investigators. This provision may permit the disclosure of personal information to legal authorities without the traditional protection afforded by subpoenas or other court orders. Through the Right to Financial Privacy Act of 1978, Title XI of Public Law 95-630, Congress established a series of procedures by which law enforcement officers could obtain access to banking records. This law clearly intended to modify a Supreme Court ruling which permitted law enforcement agencies free access to bank records on the theory that the records belong to the bank and not to the depositors or debtors. By modifying the Court's decision, Congress established a system of procedures, rights and responsibilities with respect to such records. The system was meant to balance the important needs of society for access to such information with the privacy rights of those

who use banks and other savings institutions. While the model law makes no direct attempt to circumvent this system, it does not include any specific provisions regarding privacy. There is a need for specific provisions to protect the privacy rights of individuals similar to the system of balances established by Congress regarding banking.

Information obtained by an insurance company from law enforcement officials might be used for purposes not intended in the model law—for example, underwriting. Such information may be unsubstantiated or unproven, yet it could result in an individual being denied insurance protection. Proponents of the model law point out, however, that most states allow individuals to request that insurers provide them with an explanation if they are denied coverage. Thus, in most states, such individuals would have an opportunity to refute false information, even to the point of litigation.

A 1980 NAIC Survey indicated that of 30 respondents only one insurance commissioner had received notice of a citizen complaint regarding the sharing of information from the insured's file.

Current Activities

Forty states have passed some form of arson reporting immunity legislation. Nine of these laws reflect all of the important elements of the industry-developed model law. The trade associations are working to pass laws in the states without such laws and to bring the existing laws in conformity with the model. An important provision which needs to be added to most state laws allows authorities to exchange information with insurance companies. The provision gives the companies an important tool for combating arson. Although such information may not provide sufficient evidence for the company to deny a fraudulent claim, it does aid the proper evaluation of the validity of a claim.

Surveys conducted by the trade associations in the fall of 1979 indicated that the existence of these immunity statutes had in large part relieved their concern about liability for releasing information on suspicious losses. This is corroborated by a 1980 NAIC survey of insurance commissioners in which 27 of 30 responding commissioners also found insurance companies to be cooperative in providing claims and insurance policy data upon request. In states in which there is no immunity protection, most companies still require a subpoena prior to the release of evidence. Among the problems in dealing with the new laws cited by the responding companies, the lack of interest and follow-through by some local officials was most frequently mentioned. For this reason, officials need to establish clear procedures for the reporting and transfer of information and to adequately fund and staff the agencies responsible for the collection and use of information.

Current Issues

Several amendments to the model law have been suggested since its publication in 1977. One of those amendments, the addition of the insurance commissioner to the list of agencies authorized to receive the information, has been incorporated into the model [Section 1(b)(6)]. Steps are being taken to add the commissioner to the existing laws.

Because of the development of the New Haven Early Warning System, Connecticut law grants companies immunity for reporting to law enforcement officials information regarding "potential" or actual losses due to fires of suspicious or incendiary origin. The Connecticut law and proposals in other

states do not contain objective criteria for determining a "potential" arson. Although it is clear that an insurer is not obligated under Connecticut law to report information regarding potential losses, some insurers feel that without objective criteria or a clear definition of potential arson, the divulging of information on a pre-fire basis would still expose them to civil liability. Without such a clear definition of potential arson, a number of insurers believe the model arson reporting immunity law should not be amended to include potential arson.

The Insurance Committee for Arson Control might find acceptable requests from authorized agencies regarding "potential" fire losses provided companies were not required to trigger reports of their suspicions of "potential" fire loss, provided that "potential" was clearly defined, provided that the authorized agency had sufficient resources to use such information effectively, and provided there was adequate immunity from civil and criminal liability.

Recommendations

(1) States which have not adopted the arson reporting immunity law should adopt the model law. States which have adopted an arson reporting immunity law which does not contain all the provisions of the model should act to bring their law in conformity with the model, with special emphasis on reciprocal exchange of information, notice to a single agency, and provisions to allow authorities to testify in civil cases.

(2) In order to take full advantage of the cooperation provided for in the model law, state officials need to establish clear procedures for the reporting of information and to adequately fund and staff the agencies responsible for the collection of the information.

(3) Insurance companies should also review their internal procedures for the release of information making sure they are effective and timely. Every attempt should be made to cooperate with authorities and to use the protection provided by the laws. Claims staff particularly should become familiar with the law in their state and company procedures for reporting fires and releasing information. Since it is sometimes interpreted that agents, salespersons, brokers or producers acting on behalf of a company are covered by the immunity laws, companies should develop procedures and instruct these persons in the meaning and coverage of the laws and procedures.

Arson Penal Laws

Purpose

Research conducted by the Law Enforcement Assistance Administration has shown that higher arson arrest and conviction rates are nearly uniformly associated with lower arson rates.[1] Many public authorities, insurance industry representatives, and researchers attribute the poor record of arrests and convictions for arson to the inadequacy of existing laws on arson and have called for revisions of the penal codes to improve the prosecutors' ability to deal with arsonists. Without effective laws, neither the fire or police agencies, the prosecutors nor the insurance industry can hope to curtail or control the high and increasing rate of arson within the United States.

Cognizant of this problem and need, the Alliance of American Insurers, American Insurance Association, National Association of Independent

1. *Arson and Arson Investigation; LEAA, 1977, P. 51*

Insurers and Property Loss Research Bureau undertook the development of a new model arson law (See Appendix C); one that would be useful as a guide to legislators and other responsible organizations interested in improving arson provisions within their respective state penal codes. The four cooperating insurance organizations represent a large majority of the property-casualty insurers operating within all 50 states.

The research conducted by these organizations included a study of the variety of laws on arson enacted in each of the 50 states, the "Model Arson Law" published in 1948 by the National Board of Fire Underwriters (NBFU) and the draft of a law on arson structured by the American Law Institute (ALI) in 1960 as part of a Model Penal Code.

This model arson law combines characteristics of NBFU's old model arson law and the theory of ALI's law. This model is structured to apply to the basic varieties of intentional burning, to explosions, and to unknown future offenses not yet experienced in the criminal justice system. It provides reasonable penalties for:

- Acts that endanger both life and property
- Damage to real and personal property by either fire or explosion
- Damage to an "occupied" building
- Conspiracy to cause a fire or explosion
- Damaging or destroying the property of another person
- Destruction or damage of property to collect insurance proceeds
- Reckless or negligent use of fire or explosives
- Making false reports concerning the placement of incendiary or explosive devices or other destructive substances
- Failure to control or report a dangerous fire
- Attempting to start a fire or cause an explosion
- Causing or risking a catastrophe and failure to mitigate a catastrophe
- Possession of explosives or incendiary devices

Of concern to both citizens and law enforcement officials has been the large number of deaths and injuries attributed to arson. However, the arson laws of many states fail to penalize the offenders. This model includes provisions concerning aggravated arson and reckless burning or bombing and provides penalties for those fire-setters whose offenses cause death or injury to or threatens the lives of firefighters and other innocent victims.

An important feature of the model law is the provision for penalizing those who intentionally cause explosions (bombings). Currently such destructive acts of violence are not specifically included within the arson sections of most state penal codes.

Experience has shown that in many fraud or arson-for-profit fires the insured property owner usually aids, counsels or procures a fire-setter. However, the property owner frequently establishes an alibi. The term "aid, counsel and procure" is the theme used from the NBFU's old model arson law. This characteristic of conspiracy was intentionally woven into the model law to ease the prosecutor's task and to give him greater latitude to charge and convict the hired arsonist as well as those who employ the arsonist or who participate in a conspiracy to burn or bomb while hiding under the pretext of an alibi.

The model also includes provisions for penalties for causing or risking a catastrophe by the use of poison gas, radioactive material or other harmful or destructive force or substance for futuristic offenses not yet experienced.

However, we concur with the American Law Institute, that such provisions are needed to provide penalties for those who may cause a catastrophe by the use of nuclear and other destructive forces.

Consideration was given whether or not a provision for attempted arson should be included as a specific part of the model arson law. It was concluded that it would be advantageous to the prosecutors if attempted arson were part of the arson penal code and it was therefore included in the model.

Current Activities

Five states—California, Florida, Georgia, North Dakota, and Oklahoma—have amended their penal codes in accordance with Model Arson Penal Code provisions to make arson-for-profit a more serious crime. Massachusetts, Indiana, Maine, and New Jersey have also recently acted to strengthen their arson codes.

Because state prosecutors and law enforcement officials have the greatest expertise in evaluating criminal codes, the insurance industry through the Insurance Committee for Arson Control has contacted the American Bar Association, the National Association of District Attorneys, and state bar and prosecutions organizations asking for their assistance in securing amendments to the existing penal codes. These associations are currently reviewing the model. The industry has acknowledged their expertise and the desire for their assistance in effecting change in these statutes.

While that review is being conducted, the three trade associations have assumed responsibility for strengthening arson laws throughout the country consistent with the provisions of the model statute. The trade associations believe the reaction in the various states to the model law and any amendments which are suggested to it will provide a further test of the model and will provide valuable information for legislative activity.

Current Issues

One other issue related to penal law reform is the value of state laws modeled after the federal RICO (Racketeer Infiltrated Corrupt Organizations) Act. This law has been used on the federal level to successfully prosecute arson. The sentences of defendants in RICO cases averages three years longer than those under traditional arson statutes. Additionally, RICO allows civil suits to be filed by those damaged by RICO violations against those convicted to recover costs and triple damages.

Several states have enacted legislation patterned after federal RICO statute. Arizona, Florida, Hawaii and Pennsylvania have similar criminal and civil penalties. The Connecticut, Ohio, and Rhode Island statutes each have the civil portion of the RICO-type statutes.

Federal legislation has also recently been introduced to make the crime of arson-for-profit on "commercial" properties a federal offense. A purported benefit of such legislation could be the broader availability of federal government investigating resources to local officials pursuing the investigation of an arson; however, many insurance industry representatives believe these resources are available under existing authority and believe additional federal involvement in prosecution would dilute local enforcement of arson.[2]

2. On September 12, 1980, the Ninth Circuit Court of Appeals ruled in U.S. v. Bruce Davis that an incendiary device as used in Sec. 844 of the U.S.C. was any article capable of generating fire in combustible material thus broadens federal standing in arson cases.

They feel local and state authorities are now beginning to coordinate investigative procedures, improve training and expertise, and strengthen state laws to do the job locally.

Recommendations

(1) The Insurance Committee for Arson Control recommends that the trade associations and insurance industry continue to work for the strengthening of state arson penal codes in line with the model arson penal codes, especially in the area of making arson to defraud an insurer a separate crime.

(2) In pushing for stronger laws, the insurance industry should work closely with prosecutors, the bar association and concerned law enforcement officials.

(3) Meanwhile, local and state prosecutors should increase their enforcement efforts using existing laws to their full strength. To aid local and state enforcement, federal resources should be made available to local and state law enforcement agencies. It would be premature at this time to make arson-for-profit a federal crime.

Fraud Bureaus

Background

At least two states, California and Florida, have fraud bureaus within their State Departments of Insurance. The purpose of these fraud bureaus is to allow the State Insurance Commissioners to investigate cases of suspected insurance fraud. The fraud bureaus have the authority to administer oaths, take testimony, compel attendance at hearings and otherwise perform investigatory functions. The fraud bureaus assist and cooperate with law enforcement agencies.

Current Activities

Various insurance industry fraud units have been vigorously combating arson and other insurance fraud. The Insurance Crime Prevention Institute (ICPI) seeks criminal prosecutions of insurance fraud cases. It is funded entirely by insurance company contributions and can cross state lines and other jurisdictional boundaries in pursuit of information necessary for arson convictions.

Insurance Claim Services, Inc., has as its objective the determination of the cause and origin of fire losses to aid companies' defense of fraudulent claims. The Property Insurance Loss Register (PILR) is a computerized registry of fire loss information which can be used by a claim adjuster to obtain the loss histories of insureds to aid in resisting fraudulent claims.

Some state insurance departments have looked at the possibility of legislatively creating fraud bureaus within their operation. Prior to the 1980 legislative session, the Illinois Insurance Department gave consideration to the creation, by statute, of a fraud bureau within the Illinois Department of Insurance by statutes. This legislation was not introduced, however. At its June 1980 meeting the NAIC adopted model legislation to create a fraud unit in a state department of insurance (See Appendix D).

Current Issues

One of the principal issues involved in the establishment of a fraud bureau within an insurance department is the cost of administration. The costs of

administration of both the California and Florida fraud bureaus are borne by insurers licensed to write property and casualty insurance in those states. Insurance companies are assessed an identical amount per company to provide the total cost of each fiscal year of operation. The insurance industry believes the costs of such bureaus should be borne by general revenue funds in the same manner as other law enforcement programs.

Recommendations

(1) Insurance Department Fraud Bureaus are duplicative of activity of the insurance industry fraud units in fighting arson insofar as they are directed toward arson fraud.

(2) If an insurance department sets up a fraud unit, the cost of administration of a fraud bureau should come through the regular general revenue appropriations for the insurance department. The cost should not be borne by those prudent enough to buy insurance.

(3) Insurance companies should be given immunity protection from libel or slander for furnishing information to the fraud bureau pursuant to the requirements of any statute.

Examination Under Oath

Purpose

The right to examine under oath is an important part of the insurer's ability to successfully deny fraudulent arson claims.

Background

The Standard Fire Insurance Policy in use in most states affords insurers the right to examine the books and accounts of the insured and to examine the damaged property as often as may be reasonably required. The policy also requires the insured, as often as may be reasonably required, to submit to examinations under oath by any person designated by the company. If the insured refuses to submit to examination, the insurance claim can be denied.

These provisions have been extremely helpful in assisting insurance companies in the defense of arson cases. Information gathered by the companies from the insured is admissible as evidence in a court of law, if the policyholder sues the insurance company for proceeds under the policy. Admissions voluntarily given during the examination can also be used in criminal proceedings provided the insured's fifth amendment rights have not been waived.

Current Activities

Only two states currently do not provide for examination under oath: Massachusetts and Minnesota. Company investigators and defense attorneys in these states are severely handicapped in collecting circumstantial evidence to be used in defending an arson case because of the lack of these provisions.

Recommendation

The ICAC therefore encourages the Commonwealth of Massachusetts and the State of Minnesota to adopt the provisions of the Standard Fire Insurance Policy that give insurers the right to examine the books, accounts and damaged property of the insured as often as may be reasonably required and that require the insured to submit to examinations under oath by any person designated by the insurers. Care should be taken in the adoption of readable policies to assure that the rights to examination under oath are not abridged.

Company Procedures

Applications/Inspections

Purpose

A major concern expressed in a number of arson task force reports deals with the use of applications by insurance companies. The use of inspections has also drawn concern. Insurance companies are urged to do a more thorough job of screening risks before providing them with insurance. Such screening would serve to reduce the loss of life and property and to reduce insurance cost. It is hoped that such screening would discourage potential arsonists, deny them insurance coverage, or negate the claims of those who make fraudulent declarations.

Background

The presence of insurance is indeed a prime motivating factor behind the arson for profit phenomenon. Perspective should be maintained, however, since arson grows out of a broad legal, social, and economic environment. Proper underwriting can be a significant weapon in the battle against arson if the underwriter is able to secure reliable information and is able to act on it. However, arson is not just an insurance problem and it must be attacked with a broad range of weapons.

Underwriting has as its purpose the selection and pricing of risks which are sound from a physical, financial, moral, and operational standpoint. The underwriter also determines appropriate coverage to indemnify the insured in the event of a loss. It might justifiably be said that almost every aspect of an insurance company's underwriting procedure is directed against fraud and arson losses. Such factors as ownership, financial standing, property valuation, and occupancy come to mind quickly as typical underwriting concerns which have a bearing on the problem of arson.

The application is one of the main tools of an underwriter. Frequently, an inspection provides additional information. The nature of applications varies widely since there are many different insurance companies, marketing systems, and types of risks. This diversity is also true of inspection procedures. In the highly competitive insurance marketplace, each insurance company is generally in the best position to judge the type of applications most suited to its particular operation. Different types of business call for different inspection requirements as determined by the company's expertise and experience. The forces of the free market pull in two directions. The company which fails to ask enough questions and to inspect as necessary could suffer adverse loss ratios. These losses cannot merely be passed on to policyholders because companies which screen more thoroughly may be able to charge less premium. On the other hand, the company which asks too many questions might lose business because of the inconvenience, since the length of the application might be an important competitive element.

Current Activities

The Insurance Committee for Arson Control recognizes the value of dependable underwriting information in the prevention of arson-for-profit.

Insurance companies generally obtain applications of various types on the risks insured. Some companies have detailed arson related applications for use at the discretion of their underwriters. The ordering of inspections varies with the complexity of the risk and the type and amount of information in file. The Committee feels that current efforts in the voluntary use of applications can

be improved to better mitigate arson-for-profit. Better applications will also help companies to make better decisions as to the advisability of an inspection. AIRAC, the insurance research committee, is currently involved in a project to profile an arsonist. This survey will no doubt yield some arson prediction "flags" which will be of use to underwriters.

The Insurance Committee for Arson Control is currently compiling model application questions to screen out risks which are potentially arson prone. The questions deal with such areas as: ownership, financing, valuation, tax arrears, and loss history. These questions will be furnished to all parties interested in improving applications to meet the arson problem. These questions will seek to isolate and treat specific arson prone conditions with a two-tiered application. A short first-tier application will be designed to include certain "trigger" questions. Companies will be free to make use of these questions in designing their applications. The questions could be built into present applications or used as a special anti-arson application. The Committee will urge companies to consider requiring the insured's signature on the application to help validate the information provided. Inadequate or questionable responses will require a longer and detailed second application dealing more specifically with the arson-for-profit potential of the particular risk. The second application should also require the signature of the insured. Companies could, of course, also combine the two applications into one. It is anticipated that the model questions will become an integral part of any arson underwriting training program.

Current Issues

Several proposals are currently being made in the area of risk screening. An approach suggested in a number of state arson task force reports is legal or regulatory mandate. While the suggestions vary in detail, basically, all insurance companies would be required to secure an inspection and a mandated application signed by the insured before binding any fire coverage on any risk. Suggested application questions include valuation, ownership, beneficial ownership, tax arrears, etc. It is further suggested that the applications become part of the policy.

The Insurance Committee for Arson Control supports the objective that an underwriter be able to secure and act on reliable information. However, to require by legislation or regulation a mandatory application for all new or renewal business could create wasteful administrative delays and inconveniences for policyholders. Inspection requirements could create additional expenses exceeding the dollar cost of arson-for-profit itself. This inflexible approach must be recognized as such and adequate means developed to focus attention directly upon likely arson-prone risks rather than diluting attention by focusing on every risk. The Committee believes that current efforts toward improving voluntary risk screening will generally be more beneficial than the blanket mandation proposed by state arson task force reports. The voluntary two-tiered application gives the insurance companies who write the risks and who are in the best position to know what screening is necessary and effective, the tools to use.

For example, the insurance agent who receives a call from a homeowner who is well known to the agent and who may be closing on a new home should be able to bind coverage without an application and pre-inspection. Again "all fire coverage" includes automobile, plate glass, and other types of policies where applications and inspections are generally unnecessary. Risks located in remote areas would find coverage difficult to obtain if pre-inspection were

required. Risks with many locations could be very difficult to handle under such requirements. While pre-insurance applications and pre-inspection requirements could saddle insureds with delays and inconveniences, both pre-inspection and post-inspection requirements would greatly increase the cost of insurance. In many cases, the cost of inspections would be relatively large in relationship to the premium. Although prices vary greatly by state, an average homeowners policy might cost $250 and a simple drive-by inspection $7.50. Three percent of the premium would be spent on a report which may be totally unnecessary since the agent may thoroughly know the risk. If detailed inspections were required, they would cost $50 or more.

If such inspections were to be universely mandated, it would seem more equitable if a separate charge for the inspections were made in addition to the premium since current rates do not reflect universal inspection costs. But the company itself is generally in the best position to judge what inspections are necessary. For example, some companies have found that a financial or credit report is more valuable in determining arson prone dwelling risks than a physical inspection. In short, since mandation is a blanket approach which does not zero in on the problem, it is wasteful, expensive, and unnecessarily burdensome. The vast majority of policyholders are honest, law abiding citizens. It is unfair to make them bear the administrative cost, the delays, and the inconveniences such a procedure entails.

A second approach to mandation is the model anti-arson application bill. This approach is being considered by a task force of NAIC. The bill would allow the Commissioner, following a hearing which must endorse the action, to mandate the use of a Two-Tiered Application for new business covering real property of such types and in such places as may be enumerated at the hearing. The application would require the insured's signature and certain minimum information in addition to such questions as the insurer normally requires. Conditional binders could be employed, according to insurer judgment, to grant immediate coverage to applicants providing accurate information. One to four family owner-occupied dwellings would be exempted from the program and the content of the applications would be based on the model Two-Tiered Application now being developed.

The first stage of the Two-Tiered Application is short and to require its completion and a signature should not prove to be an unacceptable burden. More detailed applications would be directed only at apparently arson-prone risks, thus greatly increasing the cost-efficiency of this procedure. Since the procedure, minimum application content and signature would be mandated, it is felt that the usual element of competition for application information should be eliminated.

Proponents of the model bill feel it would provide the underwriter more reliable information to support efforts to mitigate the arson exposure, would permit direction of the anti-arson effort toward arson-prone risks rather than being dissipated in a wasteful and burdensome manner as would be the case with universal application mandation, and would offer help where it is most needed to stop unscrupulous persons who attempt to profit from arson.

There are several sidelight issues in the area of applications. One issue concerns making applications part of the policy. The Committee supports efforts to amend state laws which reduce the effectiveness of policy conditions calling for voidance of coverage in the event of concealment or fraud. Such a provision is included in the model anti-arson bill.

Another issue concerns "blind trusts". The Insurance Committee believes that laws which allow blind trusts in Illinois, Massachusetts, and Florida should be repealed. The Committee urges insurance companies to do a careful job of determining who they are insuring, particularly where blind trusts are involved.

Recommendations

(1) That insurance companies and their producers review their application requirements and procedures to be certain that they are doing the most effective arson prevention job possible. The companies should also be certain that the improved information secured from applications results in the procurement of inspection reports as necessary and appropriate.

(2) The Insurance Committee for Arson Control "two-tiered" model anti-arson application be seriously considered by companies in their industry review.

(3) That mandated universal anti-arson applications and inspections be opposed.

(4) That, if restricted to commercial monoline fire coverage, the model anti-arson application bill being reviewed by NAIC be considered for use in states evidencing an arson problem.

Value Determination

Purpose

Perhaps one of the most perplexing problems facing both underwriters in setting coverage limits for a risk and claim adjusters in assessing damages is value determination. Value determination is not a new task in the property insurance business; court decisions from the 1800's show that value determination has been the source of much litigation between insurers and insureds. This section will attempt to demonstrate the problems faced by insurers in setting coverage and in settling claims due to circumstances which distort the concept of indemnification and give rise to incidents of arson fraud.

Background

One aspect of this problem would appear to be the lack of a definition of value in the insurance contract. The 1943 New York standard fire insurance policy says the policy will pay ". . . to the extent of the actual cash value of the property at the time of loss." All jurisdictions do not follow one definition of actual cash value because the case law in the various states has interpreted that standard in many different ways.

Theoretically, the solution should be indemnification to the property owner for the loss sustained. However, state laws and court decisions have not always served to enforce the true meaning of indemnification, that is, to restore the insured to the same position the insured enjoyed prior to the fire loss. In too many instances these factors have contributed to windfall settlements to policyholders. Recognition of such enrichments by unscrupulous policyholders has often led, after the purchase of fire coverage, to arson fraud. This is particularly true in a situation where the fair market value of a structure (*i.e.* what a buyer would be willing to pay for a structure a moment in time prior to the fire) is substantially less than what it would cost to replace or

repair that structure. Another fact which unintentionally increases the potential for arson fraud is the desire of insurers to provide to policyholders a level of coverage sufficient to enable the policyholder to rebuild following a fire.

Valued policy laws, existing in nineteen states, tend to increase the arson problem by requiring insurers to pay the policy limits in the event of a total loss and limit experimentation with the NCPI Optional Loss Settlement Endorsement. For example, property owners who see the fair market value of their structures diminishing can, in a valued policy jurisdiction, be drawn to arson to protect their investments. Additionally, the requirement of mortgagees that fire coverage be provided for the full amount of the mortgage (*i.e.* reflecting the mortgage on the property, both structure and land) can encourage arson fraud in valued policy states when the value of the structure is negligible in comparison to the value of the land.

What is the answer? What standard for setting values can insurers use to discourage arson fraud but at the same time provide the insured with adequate coverage? There are several standards which can be used, but no one standard can be universally applied. It is, therefore, the industry's position that, instead of searching for a universal standard, each individual risk must be evaluated in light of various factors existing in relation to such risk to insure adequate coverage without encouraging arson fraud. An examination of the various standards of value determination will demonstrate the difficulty of adopting any one method as a universal standard.

Fair Market Value (FMV) vs. Actual Cash Value (ACV)

Neither of these standards can be uniformly used as a measure of valuation to guarantee indemnification since the measure of what a willing buyer would pay for a structure prior to a fire (*i.e.* FMV) and the traditional concept of ACV (replacement cost less depreciation) are in many instances unrelated to what it would cost to repair substantial damage to that structure and thereby indemnify the insured.

The application of an FMV standard in setting coverage and adjusting claims would often prevent a policyholder from making adequate repairs for a partial loss or replacing the structure in the event of a total loss if FMV is less than ACV. For example, a structure with an ACV of $100,000 but an FMV of only $25,000 could conceivably suffer a partial fire loss where the cost to repair the damage (even when employing commonly used, but functionally equivalent, materials and methods as opposed to materials of like kind and quality) greatly exceeds the coverage afforded when the FMV standard is used in setting coverage; coverage of $25,000 would clearly be inadequate in such a situation to allow the insured to rebuild. Also, while the meaning of FMV in relation to a total loss situation might be clear, there is some question as to how that standard would be applied in adjusting a partial loss. Moreover, universal application of a market value standard would distort the rating process since most rates and premiums are now developed with the understanding that the limit of liability will be replacement cost less depreciation; it would be impossible to develop relationships between replacement cost less depreciation and market value which will hold true in all cases.

If the traditional ACV standard or replacement standard is universally used, adequate coverage would be realized, but arson fraud would be encouraged where FMV is low or negligible due to a scarcity of willing buyers. The

insurance industry might find itself being called upon to finance the rebuilding of many structures which have minimal market values.

Development of Yardsticks of Valuation

The problem of selecting representative structures, assigning values to them and then using those values as guidelines in determining the value of another structure lies in the fact that no two structures are exactly alike and that, even if two or three similar structures are found, there are usually differences in the physical condition of those structures and in the amount and degree of physical improvements to those structures.

Use of the NCPI Urban Revitalization Clause (Optional Loss Settlement Endorsement)

This concept encourages the owner-occupiers of 1 to 4 family structures to rebuild their homes by offering them repair or replacement coverage up to the policy limits if they rebuild on the same site within a certain time and the smallest of the policy limits, FMV or replacement cost less depreciation if they fail to do so. This concept would be inadequate if employed as a universal standard in that (1) since this coverage is purchased at the option of the insured, it will not be purchased by an individual intending to commit arson fraud; (2) the concepts of replacement cost less depreciation and FMV must still be reckoned with; and (3) this clause could not be used as designed in states with valued policy laws because such laws mandate coverage (a) to the extent of the policy limits in the event of a total loss and (b) in the amount of the loss up to the policy limits for any partial loss. Moreover, the NCPI clause was not intended for application to the multiple-family dwelling and commercial structures where the arson problem is most serious and where value determination and reconstruction cost factors are most complex.

Broad Evidence Rules (Multiple Family Dwellings and Commercial Risks)

In determining the value of buildings at the time of loss, the broad evidence rule utilizes such criteria as (1) assessed value of improvements to the property, (2) market value of the property, (3) the three-year rental income of the property, (4) the replacement cost of the building less depreciation, and (5) obsolescence in the uses to which the building could be put. It has been suggested that the use of these criteria in setting coverage for multiple-family dwellings and commercial properties would have a positive effect on the problem of overvaluation.

It is the industry's opinion that the broad evidence rule could be used by underwriters as a discretionary alternative to traditional methods of computing insurable values. It should be noted, however, that the concepts of replacement cost less depreciation and FMV would be a part of value computation under this method of valuation. Also, the rating base used by the industry does not relate to the broad evidence rule.

It could be said that the use of this standard, due to its consideration of several relevant factors in setting maximum coverage, would help enable the insured to determine the insurable value of his structure. However, due to the volatility of values in the present real estate market, the value set under the broad evidence rule during the underwriting process might soon after be inaccurate as an indication of true value; insurers would have to review on a regular basis the criteria used to determine value under the rule in order to keep the coverage in line with the various value adjustments. The industry is concerned that the use of the broad evidence rule in the underwriting process might establish a valued policy; it is urged that legislation requiring the use of the broad evidence rule explicitly provide that its use would not establish a valued policy.

Current Activities

The industry has been responding to the value determination problem by instituting educational and training programs for underwriting, claims and loss prevention personnel to reinforce the indemnity concept and to demonstrate how the use of a particular value determination standard in specific situations can either discourage or unintentionally provide incentives for arson. More prudent underwriting techniques have been instituted throughout the industry to permit the underwriter to make an accurate assessment of what coverage limits would best protect the policyholder through indemnification. The industry is presently involved in the development of new application forms which would, among other functions, seek to determine the price paid by the applicant for the property, the uses to which the property is put, the method used by the applicant in establishing insurable value and the identity of all mortgagees and parties with an insurable interest (See "Applications"). With such data, insurers could better determine the reliability of the applicant's estimates of value and the amount of coverage which would indemnify the applicant in the event of a total loss. Such applications would indicate to the insurer the need for physical inspections of certain risks if the values of those risks were not adequately established to the insurer's satisfaction through the data provided on the completed application.

The industry is supportive of efforts to establish cancellation laws in the various states which would enable insurers to cancel policies upon five days written notice in the event certain conditions exist in relation to the structure, some of which are indicative of declining values (See "Cancellation"). Additionally, the industry has begun offering the Optional Loss Settlement Endorsement to the owner-occupiers of 1 to 4 family structures to permit them to rebuild following a loss and to discourage abandonment by limiting coverage in the event the owner chooses not to rebuild (See "Rebuilding Clause").

Insurers are making every effort to address the issue of value determination, and the industry offers the following recommendations which it believes will discourage overvaluation and the commission of arson fraud.

Recommendations

(1) The industry must continue to support educational and training programs for all insurance personnel involved in the underwriting and claims handling processes to improve their skills in determining insurable values through the indemnification concept;

(2) such programs should be expanded to agents, brokers and other parties having direct contact with the policyholder;

(3) the insurance industry, through its agents, brokers and sales people should explain value determination to applicants for insurance and claimants under existing policies.

(4) lending institutions should recognize that mortgage requirements

resulting in excessive fire insurance coverage create a moral hazard conducive to arson, and the insurance industry should make efforts to determine if, through cooperation with lending institutions, some plan for the proper evaluation of each mortgaged structure, independent of land value, can be worked out;

(5) legislators in states having valued policy laws should be urged to reevaluate the desirability of retaining such statutes in light of the potential they create for arson fraud;

(6) to the extent that an insured structure has not experienced unusual or erratic changes in market value, use or obsolescence since the time coverage limits were last established, the standard for value used in adjusting a loss should be the same standard used in establishing the amount of insurance;

(7) insurers should be free to determine the method of valuation to be used in setting coverage limits and in adjusting a loss so that the goal of indemnifying policyholders can be attained;

(8) the industry should actively pursue rating and form innovations in the area of valuation to adequately indemnify insureds seeking to repair partially damaged buildings and replace destroyed property without creating incentives for arson.

Unfair Claims Settlement Practices Regulation

Purpose

As insurance companies increase their efforts to identify and investigate arson fires, the possible impact of time limits for the payment of claims must be considered. If such regulations limit adequate investigation, these barriers should be removed.

Background

Many states have enacted unfair claims settlement practices acts or regulations which set forth time limits and other requirements for the payment of claims. Companies operating in these states are bound to pay losses at the earliest appropriate time. These acts or regulations generally provide that if an insurance company needs more time than specified by law to determine whether the first party claim should be accepted or denied, it should so notify the claimant within 15 working days after receipt of proof of loss giving the reason more time is needed.

Current Activity

The trade associations of the property and casualty insurance industry support the National Association of Insurance Commissioners Model Unfair Claims Settlement Practices Regulation (See Appendix E). Some insurers believe this model provides greater flexibility to investigate arson claims than many of the existing state regulations not based on the model. This flexibility is based on the general business practices provision which states that in order for an insurer to be in violation of the regulation it must perform the acts or practices with such frequency as to indicate a general business practice.

Current Issues

As the industry increases its attempts to deny fraudulent arson claims, an increasing number of claims people have been concerned with the "chilling effect" the rigid time and disclosure requirements of Section 8(a) and 8(c) of the model regulation have upon arson investigations.

The time deadlines for payment of claims hinder adequate investigation for possible arson, and disclosure of reasons for delay may alert arsonists and allow the concealment of evidence. Providing such reasons may even prompt the finding of a libel or bad faith suit against the insurer. Consequently, some insurers are seeking to have this Model Regulation or any other analogous regulation amended so as to provide an exemption from the time deadlines and notice of reasons provision for all first party claims involving suspected fraud.

The NAIC has amended its Model Unfair Claims Settlement Regulation to exempt claims under investigation for possible arson from the time limits of Sections 8(a) and 8(c).

Recommendations

The ICAC recommends that companies take advantage of the maximum flexibility allowed them. Insurance companies operating in states which do not prescribe time limits or other requirements for the payment should not impose undue restrictions in their own policies and procedures which might hamper their investigation of arson claims. Companies operating in states which have adopted the NAIC Model Unfair Claims Settlement Regulation should be aware of and use the flexibility provided under the general business test in arson investigations. In both cases, claims adjusters should be educated as to the latitude provided them for investigation.

The following language has been amended to Sections 8(a) and 8(c) of the NAIC Model Regulation:

> *Where there is a reasonable basis supported by specific information available for review by the insurance regulatory authority that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this subsection. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.*

It is further recommended that states which have already adopted the Model Regulation adopt this amendment and states which are considering the Model Regulation consider these amendments.

The following states have existing regulations modeled after the NAIC regulation:

Nebraska
Nevada
Pennsylvania
Virginia
Washington
South Carolina
Missouri
Rhode Island

Eight additional states have adopted either a modified version of the regulation or some other regulation relating to claim settlement practices.

Delaware
Illinois
New Hampshire
New York
North Carolina
Ohio
Texas
Wisconsin

Cancellation

Purpose

Many state laws require that the insurance company give the insured 30 days written notice prior to cancellation of insurance. This lengthy time period prevents the insurer from promptly terminating coverage even if it obtains information suggesting that a risk is arson prone. To reduce losses due to arson and allow insurers to act on information provided by arson Early Warning Systems,[3] it is necessary to allow cancellation in a shorter period of time, where the potential of arson is present.

Background

On the recommendation of NCPI, the Federal Insurance Administration adopted regulations which would allow the FAIR Plans to cancel policies on five days' notice if a high risk of arson exists. Certain conditions had to be met in order to use the shorter cancellation period. These criteria are based on those factors found to be significant indicators of arson in the Early Warning Systems, such as that in New Haven. The All-Industry Research Advisory Council is currently conducting research which will assist in verifying or amending these criteria.

Current Activity

Following the adoption of the regulation by FIA, the trade associations drafted legislation to amend state property insurance cancellation laws to authorize a five day notice for cancellation of property insurance policies where either the potential for arson exists or the property exhibits characteristics of "constructive abandonment." The purpose of the legislation is to provide companies greater flexibility in helping deter arson by enabling them to cancel coverage where a strong probability for arson fraud exists without jeopardizing the rights of honest insureds. The language is basically that of the Federal FAIR Plan Regulations. The Legislation enumerates both standards and considerations that suggest conditions for arson-for-profit are present which require cancellation.

Current Issues

One unresolved question in the shorter cancellation legislation is whether an appeals procedure should be added to the legislation. In a state in which the insured does not automatically have the right to appeal all cancellations, such a provision might be considered; however, to retain the effectiveness of the shorter cancellation provision, such an appeal should not interfere with the cancellation.

3. An arson Early Warning System is a computerized information system designed to identify potential arson targets by monitoring key variables (such as unpaid taxes or code violations) on all buildings.

Recommendations

(1) The Insurance Committee for Arson Control recommends the amendment of state property insurance cancellation laws where they exist to authorize five days notice for cancellation of both monoline and package property insurance policies where the potential for arson exists as defined in the attached criteria developed by the Federal Insurance Administration (FIA), NCPI, and the trade associations.

(2) In states in which the cancellation law currently does not provide for immunity protection or in which the reasons for a mid-term cancellation must be specified, an immunity provision should be added to the legislation to authorize a five day notice of cancellation.

(3) Legislation is unnecessary in those states which currently do not restrict or impose a minimum notice requirement on cancellations of property insurance policies. In states without such restrictions, the property insurance policy provisions could provide adequate flexibility for cancelling coverage with a minimum notice requirement. Insurance companies are urged to take full advantage of this flexibility and to examine their policies to insure their right of shorter cancellation when conditions warrant.

(4) FAIR Plans are urged to use their rights to cancel with five days notice as provided by the new FIA regulations. FAIR Plans not subject to federal regulation are also urged to adopt these provisions. Independent state FAIR Plan regulations should not restrict the cancellation rights of participating insurers.

Proposed Legislation
Five Day Notice for Property Insurance Cancellation

Policies subject to the cancellation provisions of this Act may be cancelled upon five days written notice to the named insureds if one or more of the following conditions exist:

(1) Buildings with at least 65% of the rental units in the building unoccupied.

(2) Buildings which have been damaged by a peril insured against and the insured has stated or such time has elapsed as clearly indicates that the damage will not be repaired.

(3) Buildings to which following a fire, permanent repairs following satisfactory adjustment of loss have not commenced within 60 days.

(4) Buildings which have been unoccupied 60 consecutive days except buildings which have a seasonal occupancy and buildings actually in the course of construction or repair and reconstruction which are properly secured against unauthorized entry.

(5) Buildings which are in danger of collapse because of serious structural conditions or those buildings subject to extremely hazardous conditions not contemplated in filed rating plans such as those buildings which are in a state of disrepair as to be dilapidated.

(6) Buildings on which, because of their physical condition, there is an outstanding order to vacate, an outstanding demolition order, or which have been declared unsafe in accordance with applicable law.

(7) Buildings from which fixed and salvageable items have been or are being removed and the insured can give no reasonable explanation for such removal.

(8) Buildings on which there is reasonable knowledge and belief that the property is endangered and is not reasonably protected from possible arson for the purpose of defrauding an insurer.

(9) Buildings with any of the following conditions:

(a) failure to furnish heat, water, sewer service or public lighting for 30 consecutive days or more;

(b) failure to correct conditions dangerous to life, health or safety;

(c) failure to maintain the building in accordance with applicable law;

(d) failure to pay property taxes for more than one year.

(10) Buildings which have characteristics of ownership condition, occupancy or maintenance which are violative of law or public policy.

States with Property Insurance Cancellation Law Requiring More Than Five Days Notice

State	Number of Days
Alaska	20 (10 for nonpayment)
*Arizona	30 (nonrenewal)
California	20
District of Columbia	20
Georgia	First 60 days of coverage - 10 Thereafter - commercial - 15 Thereafter - residential - 30
Idaho	20
Illinois	10 (30)**
Maine	20 (10 for nonpayment)
Maryland	45
Massachusetts	20
*Minnesota	30 (nonrenewal)
*Missouri	30 (nonrenewal)
Montana	30
Nevada	30 (10 for nonpayment)
New Hampshire	First 60 days of coverage - 10 Thereafter, 45
New Jersey	30
Pennsylvania	30
*Texas	30 (nonrenewal)
Wisconsin	First 60 days of coverage - 10 Thereafter, 30

* While these state cancellation laws limit the reasons for which companies may rely upon to cancel midterm, no specific notice requirement is present in the laws. The laws do require 30 days notice for policy nonrenewal.

** 1980 Legislation provided for a 10 day notice of cancellation when conditions of "constructive abandonment" were found to exist.

Code Violations

Purpose

Thus far, two state arson task forces (Massachusetts and Connecticut) and the United States Fire Administration have recommended that methods be developed for notifying insurers when buildings they insure incur serious housing, health, fire and safety code violations. This section will explore the practicality of implementing such a program.

Background

Research on the arson problem has revealed that many structures, which fall victim to arson fraud, are permitted to fall into general disrepair to the extent of incurring serious code violations prior to the arson. Given this profile, insurance companies would seemingly benefit if some means of communicating to them the existence of such code violations were devised. The insurer would be able to then determine if a particular risk should be cancelled or renewed. Moreover, to the extent that code violations on arson prone structures would be reported to insurers resulting in termination of coverage, arson fraud would be prevented thereby benefitting the entire community. Anti-arson groups have therefore suggested that insureds and/or municipalities be responsible for reporting to the insurer code violations as soon as they are incurred.

While the concept has merit, there are inherent problems in enforcing such requirements. A major problem is that few policyholders would report such violations to their carriers if such violations would adversely affect them.

If municipalities were required to report code violations to the insurers, the concept would probably be rendered ineffective because:

(a) there is no uniformity among municipalities as to what constitutes a code violation and how serious a particular violation is (*i.e.* what is a serious violation in one jurisdiction might be minor or no violation whatsoever in another jurisdiction);

(b) the effectiveness of many individual code enforcement authorities in large municipalities in inspecting for violations is questionable, and code enforcement activities in the areas outside major metropolitan areas are often lacking;

(c) the questions of the coordination and dissemination of such code violation data for each municipality have not been addressed nor is it certain that those tasks could be accomplished since (1) most major municipalities divide the responsibility for declaring code violations between the local health, building and fire departments and (2) an efficient means for identifying and notifying the proper insurer of code violations on a particular building has yet to be developed.

Current Activities

The foregoing does not suggest that the insurance industry has closed the door to the possibility of using code violation data to prevent arson fraud. To the extent that certain code violations might justify the imposition of certain condition charges added to the standard premium by the insurer, the industry is responding appropriately through the implementation of prudent underwriting standards and procedures. Additionally, the industry is making use of policy provisions and local cancellation laws to determine if the existence of a

particular violation is a justification for cancellation or nonrenewal. The industry is also encouraging the adoption by each state of 5-day cancellation laws which spell out certain grounds (some of which constitute code violations) upon which an insurer can cancel a policy upon 5-days notice to the insured.

Insofar as code violations come to the attention of the insurer, either during the underwriting process or during the term of the policy, the industry is using such knowledge in determining the insurability of individual risks. However, the industry recognizes that any attempt to mandate the reporting of various code violations to the insurer will, due to a lack of uniformity of code standards among various jurisdictions, necessitate that insurers inspect every reported violation to determine if a particular violation is serious enough to warrant cancellation of coverage. Such widespread inspections, particularly in jurisdictions with exceptionally rigid building codes, will not very often result in a determination by the insurer that a risk is arson prone, and the cost of such inspections will have to be borne by both the insurer and the insured. Moreover, insureds whose properties are located in areas with such rigid codes might find that their properties get cited for a multitude of code violations, most if not all of which are not reflective of a greater arson fraud risk. Nonetheless, such properties will be subjected to extensive if not frequent inspections while arson prone properties in areas with lax codes and/or lax enforcement of those codes will never be so subjected.

Recommendations

(1) The industry therefore does not believe that a program for the mandatory reporting of code violations to insurers can be efficiently, effectively or equitably applied. Even if a successful program could be implemented, we believe such implementation would have to come from the individual municipalities since they are the only entities in the position to cite and report building conditions which constitute violations.

(2) One approach deserving of attention is the arson early warning system which can be used to predict the susceptibility of a structure to arson-for-profit in order to enable a municipality to develop an anti-arson strategy. Such systems are predicated upon the observation that structures most susceptible to arson share certain characteristics in regard to such things as tax arrearages, depressed fair market values relative to replacement costs, frequent changes of ownership and code violations. Information regarding these areas of interest can be computerized so that the arson-prone structures can be identified permitting the municipality to select a proper arson-preventative strategy such as the reporting of code violations to insurers. The city of New Haven,Connecticut, has developed a pilot program of this nature to prevent arson occurrences; this program required a tremendous commitment from the various municipal agencies including the code enforcement authorities.

In the way of additional recommendations, we offer the following:

(a) municipalities should commit themselves to a program of regular code inspections for every building within their jurisdictions, and a clarification of the standards used by each municipality in determining the existence of such violations would be needed by each insurer;

(b) state legislatures should enact laws allowing municipalities to obtain the name of the insurer from the named insured and requiring municipalities to report code violations (such as, but not limited to, those suggested by the FIA Regulations as grounds for five-day cancellation of FAIR Plan risks). We would suggest the following statutory enabling language:

> "The owner of a residential or commercial structure shall upon the written (registered mail) request of any municipal code enforcement official, disclose in writing by registered mail (1) the name and address of the company insuring the property against loss or damage by fire, (2) the amount of insurance provided, and (3) the applicable policy number. Such request shall be made by the appropriate code enforcement authority upon the service, by such authority upon the owner of a structure, of such a code violation, and such code enforcement authority shall promptly notify the company insuring the property, by registered mail, of the nature of such violation."

State legislatures should also look into the possibility of requiring insureds to notify their insurers of such violations.

(c) such legislation should also enable insurers to have access to some code violation index mechanism to determine if a particular code violation has been cured;

(d) such legislation should contain a provision allowing the insured to appeal cancellations prompted by a code violation, provided such appeal does not interfere with the cancellation.

Arson Data

The insurance industry and public agencies are at a disadvantage in controlling arson since most companies do not have fully adequate means of tracking the arson problem. In most cases it is impossible for companies to determine exactly for any given year the total number of arson cases, the adjustment expense, legal expenses, and claims payment. There is insufficient reliable data on the cost of arson or relative percentage of arson attributable to various motives. This lack of data has made it difficult to evaluate the effectiveness of anti-arson programs and company policies and procedures. More reliable arson data would provide the insurance industry with a factual basis for assessing its own performance, would assist the industry in developing internal procedures to control arson, help regulators and legislators in revising laws and insurance regulations, and provide evidence that would be useful to public officials in creating action programs to combat arson.

Background

The Insurance Committee for Arson Control has taken two different approaches to the collection of relevant data on the arson problem. It established a committee on data collection to explore the feasibility of collecting broad-based but limited in-detail data on arson.

The All-Industry Research Advisory Council was asked to conduct short-term research to construct a "profile of the arsonist and arson prone properties." Included in this research is an initial incidence study.

The federal government has also acted to improve arson data by temporarily making arson a Part I crime in its Uniform Crime Reports. The first reports from the FBI on arson will be published this year. Unfortunately, several jurisdictions have not complied with the voluntary reporting, claiming that to do so would be wasteful until arson is permanently classified as a Part I crime. Such authorization is now pending in Congress as part of S.252 sponsored by Senator John Glenn.

Current Activities

Several companies have established procedures to track arson losses within their companies. Various procedures have been used but information captured usually includes the origin of fire, whether or not the fire was fraudulent, reserves, and payments made on the fire.

The Insurance Committee for Arson Control is reviewing methods for the collection of this information from individual companies through the catastrophe codes. The purpose of this procedure would be to identify arson involved losses for statistical information within the company and then to combine this data without individual identifying information from all involved companies to determine the national picture. The committee is currently exploring the best vehicle for collecting the data on a national basis.

While the arson fraud problem has been seriously challenged through the enactment of legislation providing for the exchange of fire loss data between insurers and fire and law enforcement officials, many fire claims involving arson fraud still go undetected due to the fact that the physical evidence of arson is often consumed during the fire. Frequently, evidence of arson can only be uncovered through a comparison of loss information submitted by different insurers, which might point to the existence of arson rings, duplicate coverage or fraudulent schemes.

The Property Claims Services staff of the American Insurance Association spent considerable time over a five year period researching arson schemes in an effort to assist member companies in devising arson defense strategies. Interviews with law enforcement and fire service personnel throughout the country pointed with surprising uniformity to a variety of fraudulent procedures used by arsonists in covering up their crimes and suggested the need for an all industry computerized loss history repository for fire and explosion losses.

Such a respository was developed by Property Claims Services of the American Insurance Association and is known as the Property Insurance Loss Register (PILR). The Property Insurance Loss Register has subsequently been separated from its parent, the Property Claims Services, and is now an independent self-sustaining all-industry subscription service. Under the PILR program adjusters of subscribing companies submit letter-sized forms containing factual, pertinent information to PILR's Rahway, New Jersey office. The information is coded and fed into a computer, triggering four basic searches. The first search is for undisclosed additional insurance. The second search is for the insured's loss history, and the third search is for the history of the loss location and loss history of the insured's previous address. The last search is for combinations of names appearing on the latest claim report in comparison with data previously stored in the computer.

The system's output is in the form of a machine printed copy of the present loss report and a copy of the report of other fires which bear similar charac-

teristics to the one just reported. Each set of reports also has an analysis page which will state the reasons that the system produced the histories. The set of reports are then sent to a designated person within the individual company for review and for implementation of further investigation if such person feels that the facts warrant it.

Basically, the reports produced by the system should be used as a tool in conjunction with the current claim information available to the adjuster to determine if further investigation is necessary. On all loss histories, the name, address and telephone number of the adjuster handling the original loss are provided for ease in verifying information contained in the report.

It is important to realize that whereas the detection of fraud is, and will be, the primary objective of the Property Insurance Loss Register, the form used by each adjuster was designed in anticipation of also being used to provide statistical data required by fire marshals and insurance commissioners.

Presently more than 484 companies representing in excess of 90% of fire premiums written country-wide subscribed to PILR. It is the industry's belief that PILR is serving to suppress arson and fire fraud by providing each subscriber with a valuable investigative tool. Moreover, it is helping prevent the payment of duplicative claims and providing law enforcement agencies, upon notice from subscribing companies, with evidence to be used against arsonists.

Recommendations

(1) The Insurance Committee for Arson Control recommends that all property and casualty insurance companies subscribe to the Property Insurance Loss Register.

(2) Arson should be permanently classified as a Part I Crime in the FBI's Uniform Crime Reports.

(3) Insurance companies should establish data control procedures to track the characteristics of arson losses. Such a program should contain information on the motive for the arson, the type of property involved, and the financial costs of the fire.

The federal government has also acted to improve arson data by temporarily making arson a Part I crime in its Uniform Crime Reports. The first reports from the FBI on arson will be published this year. Unfortunately, several jurisdictions have not complied with the voluntary reporting, claiming that to do so would be wasteful until arson is permanently classified as a Part I crime. Such authorization is now pending in Congress as part of S.252 sponsored by Senator John Glenn.

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While the arson fraud problem has been seriously challenged through the enactment of legislation providing for the exchange of fire loss data between insurers and fire and law enforcement officials, many fire claims involving arson fraud still go undetected due to the fact that the physical evidence of arson is often consumed during the fire. Frequently, evidence of arson can only be uncovered through a comparison of loss information submitted by different insurers, which might point to the existence of arson rings, duplicate coverage or fraudulent schemes.

The Property Claims Services staff of the American Insurance Association spent considerable time over a five year period researching arson schemes in an effort to assist member companies in devising arson defense strategies. Interviews with law enforcement and fire service personnel throughout the country pointed with surprising uniformity to a variety of fraudulent procedures used by arsonists in covering up their crimes and suggested the need for an all industry computerized loss history repository for fire and explosion losses.

Such a respository was developed by Property Claims Services of the American Insurance Association and is known as the Property Insurance Loss Register (PILR). The Property Insurance Loss Register has subsequently been separated from its parent, the Property Claims Services, and is now an independent self-sustaining all-industry subscription service. Under the PILR program adjusters of subscribing companies submit letter-sized forms containing factual, pertinent information to PILR's Rahway, New Jersey office. The information is coded and fed into a computer, triggering four basic searches. The first search is for undisclosed additional insurance. The second search is for the insured's loss history, and the third search is for the history of the loss location and loss history of the insured's previous address. The last search is for combinations of names appearing on the latest claim report in comparison with data previously stored in the computer.

The system's output is in the form of a machine printed copy of the present loss report and a copy of the report of other fires which bear similar characteristics to the one just reported. Each set of reports also has an analysis page which will state the reasons that the system produced the histories. The set of reports are then sent to a designated person within the individual company for review and for implementation of further investigation if such person feels that the facts warrant it.

Basically, the reports produced by the system should be used as a tool in conjunction with the current claim information available to the adjuster to determine if further investigation is necessary. On all loss histories, the name, address and telephone number of the adjuster handling the original loss are provided for ease in verifying information contained in the report.

It is important to realize that whereas the detection of fraud is, and will be, the primary objective of the Property Insurance Loss Register, the form used by each adjuster was designed in anticipation of also being used to provide statistical data required by fire marshals and insurance commissioners.

Presently more than 484 companies representing in excess of 90% of fire premiums written country-wide subscribed to PILR. It is the industry's belief that PILR is serving to suppress arson and fire fraud by providing each subscriber with a valuable investigative tool. Moreover, it is helping prevent the payment of duplicative claims and providing law enforcement agencies, upon notice from subscribing companies, with evidence to be used against arsonists.

Recommendations

(1) The Insurance Committee for Arson Control recommends that all property and casualty insurance companies subscribe to the Property Insurance Loss Register.

(2) Arson should be permanently classified as a Part I Crime in the FBI's Uniform Crime Reports.

(3) Insurance companies should establish data control procedures to track the characteristics of arson losses. Such a program should contain information on the motive for the arson, the type of property involved, and the financial costs of the fire.

Public Policy Issues

Municipal Liens

Purpose

At this writing, eight states (Connecticut, Illinois, Kentucky, Massachusetts, Missouri, New Jersey, New York and Ohio) have enacted laws to authorize municipal liens against fire insurance proceeds. The purpose of this section is to report the implementation problems found with many of the municipal lien laws and to make recommendations as to how such a law should be structured if enacted by a state legislature.

Background

Recent interest in anti-arson legislation has generated discussion about the enactment of municipal lien laws. The theory behind such legislation is that the existence of a municipal lien will be a deterrent to the crime of arson. The property owner who has not paid his property taxes, it is argued, is disinclined to commit arson if his fire insurance proceeds are reduced by the amount of taxes in arrears prior to payment of those proceeds. Similarly, it is argued that the property owner is less likely to pocket his fire insurance proceeds without rebuilding if the municipality can perfect a lien against the fire insurance proceeds for the amount of any demolition cost incurred after the fire loss. Unfortunately, many of the state municipal lien laws enacted to date require difficult or unclear claims adjustment procedures. The municipal lien laws usually impose unnecessary burdens on insureds, delayed claim payment and create ill will against insurers.

Current Issues

Several state legislatures are considering bills to authorize municipal liens against fire insurance proceeds. In addition, the NAIC has recommended a model municipal lien bill (See Appendix F). Many of the proposals being considered impose unnecessary burdens on insureds, municipalities, and insurers. The principal problems arising from the legislation related to the issues of *threshold, certification, demolition expenses, and exclusions* of certain properties from the municipal lien law. Some insurers feel tax lien laws should be opposed as they are not effective anti-arson tools since the amount of the lien is often insignificant in relation to the value of the property.

Recommendations

If a lien law is to be enacted, the following recommendations are made:

(1) A statutory threshold should be included in any municipal lien law such that no lien shall arise from a fire insurance policy unless the amount recoverable for loss to the building structure from the peril of fire exceeds $10,000. Relatively small losses should not be subject to a municipal lien law. A fire loss which could otherwise be settled very quickly with little cost and burdens imposed upon the insured would be unduly delayed if subject to the lien law. Unless small losses are exempt from the lien law, fire insurance claimants are unnecessarily aggravated and the cost of loss settlements are unduly inflated.

(2) One approach to certification would be to require the insurance company to notify the municipality of a fire loss in excess of the stated threshold and demand a statement from the municipality indicating the amount of any municipal lien. Upon failure of the municipal official to notify the insurance company of the existence of any such lien within a specified number of days, the right of the municipality to a lien should

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be dissolved. If the certification requirement is imposed upon the insured, the certification method of the NAIC model should be followed. Many of the state laws have created complex and burdensome requirements on both insurance company and insureds in searching tax records to obtain certification from tax district officials as to the existence or non-existence of a lien. In some cases, insureds have been required to pay as much as $100 for a certification from the tax district office. The certification recommendation made here would relieve these burdens for the insured.

(3) Liens for post-fire demolition costs incurred by a municipality should not be made a part of a state law. Unlike tax liens, an argument cannot be made that the perfection of a demolition lien for the cost of removal following a fire loss is truly a disincentive to the crime of arson. Demolition liens are often burdensome on both insurance policyholders and companies. They complicate and delay insurance claim payments unnecessarily, often causing numerous and innocent claimants undue aggravation.

(4) One and two family, and possibly one to four, residential dwellings should be exempted from the requirements of a municipal lien law. The amount of any tax arrearage for a one or two family residential structure is likely to be disproportionately small in comparison to any insurance proceeds which would be subject to a municipal lien. The often burdensome implementation procedures required for one or two family residential dwellings would more than offset any benefit that would be accrued from making the structure subject to a lien law.

(5) Any municipal lien law should be limited to a lien arising out of a loss due to the *peril of fire*. Some of the existing laws refer to liens generally on fire insurance proceeds, not losses arising from the peril of fire. These laws should be limited to the peril of fire, if the argument is legitimately made that the laws are designed to provide an "anti-arson" disincentive to destroying buildings by fire for insurance proceeds. Also, requiring that liens be imposed on all fire insurance proceeds places undue burden on fire insurance policy claimants. If not limited to the peril of fire, liens can be perfected on a loss caused by any of the fire insurance policy perils, *e.g.*, windstorm, aircraft damage, vehicle damage, and hail. If there were a catastrophe windstorm disaster, for example, insurance companies might be prohibited from making "spot payment" on the catastrophe site, if the law was strictly enforced. Because windstorm is a peril under the typical fire and extended coverage insurance policy, the amount of any municipal lien would have to be determined before a claim payment could be made, therefore, thwarting a very valuable insurance industry service—the catastrophe claim unit.

(6) Any municipal lien law should state clearly that no company would be liable for any amount in excess of the proceeds payable under its fire insurance policy; nor should a company be liable for any civil or criminal liability for compliance with such a law. Also, a lien law should specify that an insurance company making payment of proceeds under that law should be entitled to the full benefit of such payment, including subrogation rights and other rights of assignment.

(7) Where priority is given a mortgagee over a municipality for any fire insurance proceeds, only state and federally regulated banks and savings and loans should be allowed such priority.

Rebuilding Clause

Purpose

Symptomatic of urban decline across the nation is the increased incidence of property abandonment. Often resulting from such phenomena as declining property values, physical deterioration of surrounding areas and middle-class flight, this problem has resulted in the decimation of entire neighborhoods, the widespread loss of sound housing units and all too often an increase in vandalism and, specifically, incendiarism. This section will examine industry efforts to discourage abandonment in residential areas through the development of coverages which encourage policyholders to rebuild their fire-damaged structures and the merits of such coverages in addressing the arson fraud problem.

Background

The insurance industry recognizes that healthy residential neighborhoods are not the breeding grounds for arson fraud. It is only after the residential character of the community is lost or threatened through abandonment that the environmental factors conducive to arson become apparent. Consequently, the preservation of residential property, particularly in urban areas, depends to a large extent on the existence of incentives for the property owners to repair, maintain and improve their dwellings. If a structure is damaged by a peril which is insured against, the owner will not rebuild, except in rare instances, unless the amount of insurance proceeds available are sufficient to cover restoration costs. Insurance companies, on the other hand, are usually unwilling to offer coverage sufficient to cover such costs if the fair market value (FMV) of the structure is depressed to the extent that a partial loss would result in a recovery exceeding FMV; the existence of such a condition would create an incentive for arson fraud.

Facing these realities in the residual market, the National Committee on Property Insurance (NCPI) was requested by the National Association of Insurance (NAIC) to develop a loss endorsement which would discourage urban abandonment while minimizing the arson fraud potential that might be created through the offering of such an anti-abandonment endorsement. Interest in such a project resulted from an NCPI study in 1978 which revealed that a significant number of loss payments on residual market risks were not being used to repair the fire-damaged structures; instead, more than one-half of the cases studied, limited to losses where settlement payments exceeded $10,000, revealed that the damaged structures were abandoned rather than repaired.

The NCPI subsequently developed the Urban Revitalization Clause, now known as the Optional Loss Settlement Endorsement. The NCPI designed the clause to be offered to 1 to 4 family owner-occupied structures in both the voluntary and residual markets. Such restriction arose from the industry-wide belief that the validity of the concept would first have to be tested particularly from the standpoint of whether arson for profit was effectively controlled through its use. Pricing for other than owner occupied buildings is also a major obstacle.

This endorsement states that, in the event of loss or damage by a peril insured against, the insured would receive the smaller of the limits of liability applicable to the structure or the amount expended in repairing or replacing damage to the structure employing commonly used construction materials and methods (where functionally equivalent to and less costly than obsolete, antique or custom construction materials and methods); this provision would

apply only in the event the insured restores the structure for the same occupancy and use on the same site within 180 days of the date of loss or damage. Otherwise, the insured would receive the smallest of:

(a) the limits of liability applicable to the structure; or,

(b) FMV of the structure at the time of loss; or,

(c) the amount it would cost to repair or replace the damage with material of like kind and quality less allowance for physical deterioration and depreciation (*i.e.* actual cash value).

Under this NCPI clause, the policy limit in most instances will be larger than the structure's FMV in order to provide necessary coverage to enable an insured to repair substantial partial losses in this era of rapidly escalating building costs.

Current Activities

The Optional Loss Settlement Endorsement

While the insurance industry believes that this clause could be effectively used to halt the spread of urban abandonment, the industry wishes to point out that the use of this anti-abandonment concept will not decrease the incidence of most arson fraud cases for the following reasons:

(1) as an endorsement, this clause is available to the insured at the insured's option; it is highly unlikely that one who obtains insurance with the intent of committing arson would purchase such an endorsement which penalizes abandonment, and its use can only deter arson fraud when the insured does not have the option to obtain coverage on the basis of replacement cost or replacement cost less depreciation;

(2) in the absence of statutory approval, the recovery restrictions of the clause would prevent the industry from offering it in valued policy law states;

(3) the rebuilding or repair cost feature could encourage arson particularly where fmv of the structure is depressed and the owner could collect the policy limits (probably in excess of FMV) to modernize as the result of a partial loss (*e.g.* kitchen fire);

(4) the NCPI clause was not intended for application to the multiple-family dwelling and commercial structure where the arson problem is most serious and where value determination and reconstruction cost factors are most complex.

Insofar as rebuilding clauses are proved to discourage abandonment and contribute to the health of a neighborhood, the insurance industry would support them and encourage their use in relation to 1 to 4 family owner-occupied structures. However, the industry feels that, until such time as it has had sufficient opportunity to study substantial loss data in relation to the use of these rebuilding clauses in the 1 to 4 family market and adequate chance to assess the effect of the rebuilding coverage feature on the incidence of arson, it would not advocate extension of the use of such clause to multiple family and commercial risks.

A Mandatory Loss Endorsement (*e.g.* IL SB 1563)

The industry has begun to offer optional replacement coverage because it supports the concept of urban preservation. It is the industry's belief that such coverage should be offered at the insurer's option and accepted at the insured's option. Mandatory replacement cost coverage might interfere with existing local building codes which prohibit rebuilding if the structure is deemed to be damaged in excess of a certain percentage of its ascertained value. Moreover, some municipalities require, through their codes, that repairs be made with materials and methods of superior quality to those contained in the original construction. Also to be considered is whether forcing an insured to rebuild on the original site, as a prerequisite to the receipt of any loss proceeds for a fire loss, violates the constitutional rights of the insured. For example, Illinois Senate Bill 1563 proposes, in regard to FAIR Plan risks, that all policies of basic property insurance "shall require that, in the event of loss, any rebuilding must occur on the site where the loss occurred." This proposal if enacted would force affected policyholders to repair or replace their structures on the same site in order to receive any loss proceeds. Since most losses do not involve arson, the Illinois and similar proposals seem rather harsh insofar as the policyholder would be prevented from choosing to move to a new location. The industry believes that incentives to prevent abandonment are important, but it perceives rebuilding requirements of this nature to be of questionable constitutionality. Statutes preventing an insured from collecting on such a policy unless he rebuilds on the same site may unfairly penalize those who sustain a loss.

Recommendations

(1) ICAC supports experimentation with the NCPI Optional Loss Settlement Endorsement in both the voluntary and residual markets for 1 to 4 family owner-occupied structures only;

(2) The industry must subsequently undertake a statistical evaluation of loss experience data for risks insured under the Optional Loss Settlement Endorsement to determine if the use of the clause (1) discourages abandonment and (2) does not encourage arson fraud;

(3) Legislatures should refrain from mandating the use by insurers of rebuilding clauses and requiring insureds to rebuild on the same site as a condition of payment, at least until such time as information from the statistical study mentioned above becomes available and questions of constitutionality are clarified.

Related Issues

Automobile Arson

Purpose

Automobile arson is a growing part of the arson problem and must be addressed. Because of the uniqueness of the problem, the focal point of the industry's response is the National Automobile Theft Bureau (NATB).

Current Activities

The National Automobile Theft Bureau is a non-profit service organization supported by more than 500 insurance companies. NATB has over 100 full-time field investigators trained to investigate auto fires. In addition, NATB assists law enforcement agencies by helping to train police officers in the field of auto arson investigation.

Currently, NATB has prepared a *Manual for Investigating Auto Fires*, available for insurance adjusters and law enforcement officers. Also, NATB has a slide training program on automobile fires. NATB's training materials can be made available to public agencies.

NATB also operates the North American Theft Information System, a computerized index of auto thefts.

Current Issues

Following the adoption of arson reporting immunity legislation in 40 states, some insurance and law enforcement officials have recommended that the immunity laws be expanded to include protection for reporting information about auto thefts and other insurance fraud. This recommendation is currently being reviewed by the insurance industry trade associations and the NATB. There is some feeling that auto theft reporting immunity should be handled through a separate law since often the statutory location of the arson immunity statute and the specific authorized agents cited do not lend the law to broadening.

Recommendation

That law enforcement officials and insurance companies interested in developing an auto arson program contact:

National Automobile Theft Bureau
10330 South Roberts Road
Palos Hills, IL 60482
(312) 430-2430

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Model Arson Reporting Immunity Bill

To enact section________of the revised code, providing for certain authorized agencies to request and receive from insurance companies information relating to fire losses; providing for insurance companies to notify authorized agencies of suspicious fire losses such notice to be indicative of a request for an official investigation; providing for immunity to those insurance companies that provide information under the provisions of this act; providing for the exchange of information between the insurance companies and the authorized agencies and the exchange of information between authorized agencies; providing for confidentiality of released information; providing for testimony in matters under litigation and, providing for penalties for violation of the provisions of this act.

Section 1. Definitions

(a) This act shall be known as the Arson Reporting-Immunity Statute.

(b) "Authorized Agencies" shall mean:

(1) The State Fire Marshal when authorized or charged with the investigation of fires at the place where the fire actually took place.

(2) The Director of the State Department of Law Enforcement or similar State Director;

(3) The Prosecuting Attorney responsible for prosecutions in the county where the fire occurred;

(4) The District Attorney responsible for prosecution in the county where the fire occurred;

(5) The State's Attorney responsible for the prosecution in the county where the fire occurred;

(6) The State Insurance Supervisory Official;

and, solely for the purpose of Section 2(a):

(7) The Federal Bureau of Investigation or any other Federal agency;

(8) The United States Attorney's Office when authorized or charged with investigation or prosecution of the fire in question.

(c) "Relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence. (See F.R. Evid Rule 401)

(d) Material will be "deemed important," if within the sole discretion of the "authorized agency," such material is requested by that "authorized agency."

(e) "Action," as used in this statute, shall include non-action or the failure to take action.

(f) "Immune," as used in Section 2(e) of this act, shall mean that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to Section 2, 3 or 4 of this act where actual malice on the part of the insurance company or authorized agency against the insured is not present.

(g) As used in this Section, "insurance company" shall include the________FAIR Plan.

Section 2. Disclosure of Information

(a) Any authorized agency may, in writing, require the insurance company at interest to release to the requesting agency any or all relevant information or evidence deemed important to the authorized agency which the company may have in its possession, relating to the fire loss in question. 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;

(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) (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, then, for the purpose of notification and for having such fire loss investigated, the company shall, in writing, notify an authorized agency and provide it with

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any or all material developed from the company's inquiry into the fire loss.

(2) When an insurance company provides any one of the authorized agencies with notice of a fire loss, it shall be sufficient notice for the purpose of this act.

(3) Nothing in Section 2(b) of this act shall abrogate or impair the rights or powers created under Section 2(a) of this act.

(c) The authorized agency provided with information pursuant to Section 2(a) or 2(b) of this act and in furtherance of its own purposes, may release or provide such information to any of the other authorized agencies.

(d) Any insurance company providing information to an authorized agency or agencies pursuant to Section 2(a) or 2(b) of this act shall have the right to request relevant information and receive, within a reasonable time, not to exceed 30 days, the information requested.

(e) Any insurance company, or person acting in its behalf; or authorized agency who releases information, whether oral or written, pursuant to Section 2(a) or 2(b) of this act shall be immune from any liability arising out of a civil action, or penalty resulting from a criminal prosecution.

Section 3. Evidence.

(a) Any authorized agency and insurance company described in Section 1 or 2 of this act who receives any information furnished pursuant to this act, shall hold the information in confidence and not release the information, except to another authorized agency, until such time as its release is required pursuant to a criminal or civil proceeding.

(b) Any authorized agency referred to in Section 1. of this act, or their personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party.

(NOTE: Sections 4(a), (b) and (c) are optional and not required.)

Section 4. Enforcement.

(a) No person or agency shall intentionally or knowingly refuse to release any information requested pursuant to Section 2(a) or 2(c) of this act.

(b) No person shall intentionally or knowingly refuse to provide authorized agencies relevant information pursuant to Section 2(b) of this act.

(c) No person shall fail to hold in confidence information required to be held in confidence by Section 3. of this act.

(d) Whoever violates Section 4(a), 4(b), or 4(c) of this act is guilty of a ________ misdemeanor, and upon conviction, shall be punished by a fine not to exceed $________.

Section 5. Home Rule and Common Law

(a) 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, but the jurisdiction of the State Fire Marshal and the Director of the State Department of Law Enforcement (or other similar State Police Director) in such municipality is to be concurrent with that of the municipal and county authorities.

(b) With the exception of Section 1.(f), all other provisions of this act shall not be construed to impair any existing statutory or common law rights or powers.

Appendix B

Arson Reporting-Immunity Laws

State	Year	Bill	1 Civil Immunity	2 Criminal Immunity	3 Agencies Get Information	4 Companies Initiate Contact	5 Companies Get Information	6 Notice to One Agency	7 Authorities Testify	8 Agencies Share Information
ALABAMA	1979	SB359	X	X	X	X	—	X	X	—
ALASKA	1980	SB303	X	X	X	X	X	X	—	X
ARIZONA	1979	HB2014	X	X	X	X	—	X	X	X
ARKANSAS	—									
CALIFORNIA	1978	SB1386	X	X	X	X	—	X	—	X
COLORADO	1979	SB30	X*		X	X	—	X	X	X
CONNECTICUT	1977,9	SB385	X	X	X	X	X	—	X	—
DELAWARE	1980	SB251	X	X	X	X	X	X	X	X
FLORIDA	1978	SB754	X	X	X	X	—	X	X	X
GEORGIA	1977	HB257	X	X	X	X	—	X	X	X
HAWAII	1979	HB988	X	X	X	X	X	X	X	—
IDAHO	—									
ILLINOIS	1980 1977	SB1994 HB2220	X	X	X	X	3*	—	X	—
INDIANA	1979	HB1940	X	X	X	X	X	X	—	X
IOWA	1979	SF339	X	X	X	X	X	—	X	X
KANSAS	1979	HB2134	X	—	X	X	X	X	X	X
KENTUCKY	1980	HB106	X	X	X	X	X	X	X	X
LOUISIANA	1978	SB419	X	X	X	X	—	X	X	—
MAINE	1977	HB959	X	X	—	—	—	—	—	—
MARYLAND	1978	HB370	X	X	X	X	—	—	—	—
MASSACHUSETTS	1978	HB5914	X	X	X	X	X	X	X	X
MICHIGAN	1976	SB1264	X	X	X	X	—	X	X	—
MINNESOTA	1979	HF1324	X	X	X	X	—	X	—	X
MISSISSIPPI	—									
MISSOURI	—									
MONTANA	1979	SB148	X	—	X	X	—	X	X	X
NEBRASKA	1979	LB301	X	X	X	X	X	X	X	X
NEVADA	—									
NEW HAMPSHIRE	1979	HB742	X	X	X	X	X	X	X	—
NEW JERSEY	—									
NEW MEXICO	1979	SB216	X	X	X	X	X	X	—	X
NEW YORK	1980 1977	AB10319 SB4383	X	X	X	X	3*	X	X	—
NORTH CAROLINA	1977	SB408	X	X	X	X	—	X	X	—
NORTH DAKOTA	1979	HB1500	X	X	X	2*	X	X	—	—
OHIO	1980 1976	SB198 SB462	X	X	X	X	X	X	X	—
OKLAHOMA	1979	HB1031	X	X	X	X	3*	X	X	X
OREGON	—									
PENNSYLVANIA	1980	HB1106 HB7445	X	X	X	X	X	X	—	X
RHODE ISLAND	1978,9	HB6208	X	X	X	X	X	X	X	X
SOUTH CAROLINA	—									
SOUTH DAKOTA	1979	HB1104	X	X	X	X	X	X	X	X
TENNESSEE	1979	SB43	X	X	X	X	—	—	X	—
TEXAS	1977	SB1260	X	X	X	—	—	—	X	—
UTAH	1979	HB260	X	X	X	X	—	X	—	—
VERMONT	—									
VIRGINIA	1979	HB1243	X	X	X	X	X	X	—	X
WASHINGTON	1979	SB2727	X	X	X	X	X	X	X	X
WEST VIRGINIA	1978	SB365	X*		X	X	—	X	X	—
WISCONSIN	1978	SB317	X	X	X	2*	X	—	—	—
WYOMING										

* *grants limited immunity, but does not use the terms criminal or civil*
2* *does not require insurance companies to report suspicious claims but states that they "may report"*
3* *provides that insurance companies may ask agencies for information but does not specifically state that release of the information by the agencies is mandatory.*

This chart was developed by the All Industry Research Advisory Council (AIRAC) to aid in tracking the status of arson reporting immunity legislation.

Key:

1)provides insurance companies with limited civil immunity against civil action

2)provides insurance companies with limited immunity against criminal prosecution

Immunity from civil and criminal liability is an element necessary for the success of the Model Reporting Immunity Statute. Unless companies are allowed to release information to authorities without fear of liability, the statute's stated purpose can never be achieved. The immunity provision removes the "climate of uncertainty" which has hampered cooperation in states without an immunity law.

3)authorized agencies can have information from insurance files without subpoena

Time is of the essence in an arson investigation. Removing the road block of a required court order hastens the flow of information between the companies and authorized investigating agencies.

4)insurance companies must notify authorized agency of any fire that appears to be "other than accidental"

The mandatory requirement that companies notify agencies is twofold in purpose. First, it removes the element of discretion on the part of the company to ensure that authorized agencies are notified of a company's suspicions. Second, and perhaps most important, this requirement provides the company with added protection. Because notification is statutorily mandated, it may be considered a qualified, privileged communication. Thus, it provides an extra blanket of security from an action for libel or slander. It should be emphasized, however, that a mandated notice does not provide adequate incentives to the release of information if it stands alone—without concurrent immunity protection.

Tennessee had a mandatory reporting requirement without immunity protection, but found that it was not working as hoped. Consequently, the Tennessee Legislature wrapped the model statute's immunity features around its existing mandatory reporting law.

5)insurance companies may get information on suspicious fires from authorized agencies

This element gives a company an extremely important tool for combating arson. In many cases a company has only a suspicion and perhaps some circumstantial evidence that arson has occurred. If the company does not have the ability to request information from an agency that has also investigated the fire, the company's suspicions of arson may not be confirmed. The investigating agency may provide sufficient evidence for the company to deny the fraudulent claim, or delay payment to allow for further investigation.

6)notification of a single authorized agency is sufficient

A requirement that companies notify every authorized agency designated in Model Reporting Immunity Statute would be another roadblock to the free flow of information about arson. This statute, if it is to succeed properly, must provide incentives to insurance companies to release information. If a company fears a possible technical violation of the statute because it did not notify every agency, it might be reluctant to provide notice to any agency. This is especially true for the marginal case where cooperation between company and investigating agency experts might have developed sufficient evidence to support the indictment and conviction of an arsonist. Without the cooperation, the necessary evidence may never be uncovered.

7)authorities must testify in civil actions

This is a critical element of the law. Too often, if the criminal conviction is not pursued or fails, the civil action also fails for lack of ready access to the evidence and testimony available through the investigators from authorized agencies.

Through this provision in immunity legislation, the states are showing their determination to help keep the arsonist from profiting, even when they are not able to make a criminal case. This is not unlike the attitude of enforcement people who will try to jail lawbreakers on income tax evasion if they can't make a case on the primary crime.

8)authorized agencies may share insurance information with other authorized agencies

The free and rapid sharing of insurance company information among investigating agencies is as equally important as the authorization for companies to share their information. Their requirement is particularly important in states where notice by a company to only a single agency is necessary.

Appendix C

Alliance of American Insurers
American Insurance Association
National Association of Independent Insurers

Model Arson Penal Law
Offenses Against Property
Article 100
Arson, Criminal Mischief and Other Property Destruction

§100.1 Arson and Related Offenses

(1) Aggravated Arson. A person is guilty of aggravated arson, a felony of the first degree, if he starts a fire or causes an explosion, or if he aids, counsels or procures a fire or explosion, with the purpose of:

(a) destroying or damaging an inhabited building or occupied structure of another; or

(b) causing, either directly or indirectly, death or bodily injury to any other person.

(2) Arson. A person is guilty of arson, a felony of the second degree, if he starts a fire or causes an explosion, or if he aids, counsels or procures the setting of a fire or causing of an explosion, with the purpose of:

(a) destroying or damaging a building or unoccupied structure of another; or

(b) destroying or damaging any real or any personal property, whether his own or another's, to collect insurance for such loss.

(3) Reckless Burning or Exploding. A person commits a felony of the third degree if he purposely starts a fire or causes an explosion, or if he aids, counsels or procures a fire or explosion, whether on his own property or another's, and thereby recklessly:

(a) places another person in danger of death or bodily injury; or

(b) places a building or structure of another, whether occupied or not, in danger of damage or destruction; or

(c) places any personal property of another having a value of $________ or more in danger of damage or destruction.

(4) Failure to Control or Report Dangerous Fire. A person who knows that a fire is endangering life or property of another and fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give a prompt fire alarm, commits a misdemeanor if:

(a) he knows that he is under an official, contractual or other legal duty to control or combat the fire; or

(b) the fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

(5) Definitions. "Occupied Structure" means any structure, vehicle or place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.

"Property of Another" means a building or other property, whether real or personal, in which a person other than the offender has an interest which the offender has no authority to defeat or impair, even though the offender may also have an interest in the building or property.

If a building or structure is divided into separately occupied units, any unit not occupied by the offender is an occupied structure of another.

§100.2 Causing or Risking Catastrophe

(1) Causing Catastrophe. A person who causes a

catastrophe by explosion, fire, flood, avalanche, collapse of building, release of poison gas, radioactive material or other harmful or destructive force or substance, or by any other means of causing potentially widespread injury or damage, commits a felony of the second degree if he does so purposely or knowingly, or a felony of the third degree if he does so recklessly.

(2) Risking Catastrophe. A person is guilty of a misdemeanor if he recklessly creates a risk of catastrophe in the employment of fire, explosives or other dangerous means listed in Subsection (1).

(3) Failure to Prevent Catastrophe. A person who knowingly or recklessly fails to take reasonable measures to mitigate a catastrophe commits a misdemeanor if:

(a) he knows that he is under an official, contractual or other legal duty to take such measures; or

(b) he did or assented to the act causing or threatening the catastrophe.

§100.3 Criminal Mischief

(1) Offense Defined. A person is guilty of criminal mischief if he:

(a) damages or alters any tangible real or personal property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means listed in Section 100.2(1); or

(b) purposely or recklessly tampers with tangible property of another so as to endanger person(s) or property; or

(c) purposely or recklessly causes another to suffer pecuniary loss by deception or threat.

(2) Grading. Criminal mischief is a felony of the third degree if the actor purposely causes pecuniary loss in excess of $________, or a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service. It is a misdemeanor if the actor purposely causes pecuniary loss in excess of $________ or a petty misdemeanor if he purposely or recklessly causes pecuniary loss in excess of $________.

§100.4 Possession of Explosive or Incendiary Materials or Devices

A person is guilty of a felony of the third degree when he shall possess, manufacture or transport any incendiary or explosive device or material with the intent to use or to provide such device or material to commit any offense described in 100.1 (1) (2) and (3).

§100.5 Attempted Arson

A person is guilty of attempted arson, a felony of the third degree, if he places or distributes any flammable or combustible material, or any gas, radioactive material, or other harmful or destructive material or substance, in an arrangement or preparation with the intent to eventually start a fire or cause an explosion, or to procure the start of a fire or explosion, with the purpose of willfully and maliciously:

(a) destroying or damaging any building or structure of another whether occupied or not; or

(b) destroying or damaging any personal property of another having a value of $________ or more; or

(c) placing any person in danger of life or bodily harm.

§100.6 False Reports

A person is guilty of a misdemeanor if he knowingly conveys or causes to be conveyed to any person false information concerning the placement of any incendiary or explosive device or any other destructive substance in any place where persons or property could be endangered.

Appendix D

NAIC Model Legislation

Creating a Fraud Unit in a State Department of Insurance

(1) There is created within the Department of Insurance a Division of Insurance Fraud. The Division, if, by its own inquiries or as a result of complaints, has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates the Insurance Fraud Statute or any other provision of the Insurance Code, may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses, and collect evidence.

(2) If matter that the Division seeks to obtain by request is located outside the state, the person so requested may make it available to the Division or its representative to examine the matter at the place where it is located. The Division may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

(3) The Division's papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long as the division deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public interest. Further, such papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to subpoena until opened for public inspection by the Division, unless the Division consents, or until after notice to the Division and a hearing, the court determines the division would not be unnecessarily hindered by such subpoena. Division investigators shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the Division.

(4) Any company which believes that a fraudulent claim is being made shall, within 60 days of the receipt of such notice, send to the division of insurance fraud, on a form prescribed by the division, the information requested and such additional information relative to the claim and the parties claiming loss or damages because of the accident as the division may require. The Division of insurance fraud shall review such reports and select such claims as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such claim to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission of the claim. The Division of Insurance Fraud shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and prosecutive authority having jurisdiction with respect to any such violation.

(5) No insurer, employees or agents of any insurer, or any other person acting without malice, shall be subject to civil liability for libel or otherwise by virtue of the filing of reports or furnishing other information required by this section or required by the Division of Insurance Fraud as a result of the authority herein granted.

(6) All costs of administration and operation of said division of insurance fraud shall be borne by the general revenue fund of the state, and any monies, or other property which is awarded to the division as costs of investigation, or as a fine, shall be credited to the general revenue fund.

(7) Division investigators shall have the power to make arrests for criminal violations established as a result of their investigations. The general laws applicable to arrests by peace officers of this state shall also be applicable to such investigators. Such investigators shall have the power to execute arrest warrants and search warrants for the same criminal violations, serve subpoenas issued for the

examination, investigation, and trial of all offenses determined by their investigations, and arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws.

(8) It is unlawful for any person to resist an arrest authorized by this section or in any manner to interfere, either by abetting or assisting such resistance or otherwise interfering, with division investigators in the duties imposed upon them by law or department regulation.

Model Insurance Fraud Statute

(1) Any person who, with the intent to injure, defraud, or deceive any insurance company:

(a) presents or causes to be presented to any insurer, any written or oral statement including computer-generated documents as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim; or

(b) assists, abets, solicits, or conspires with another to prepare or make any written or oral statement that is intended to be presented to any insurance company in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim;

is guilty of a felony and shall be subject to a term of imprisonment not to exceed five (5) years, or a fine not to exceed $5,000, or both, on each count.

(2) All claims forms shall contain a statement that clearly states in substance the following: "Any person who knowingly, and with intent to injure, defraud, or deceive any insurance company, files a statement of claim containing any false, incomplete, or misleading informaion is guilty of a felony." The lack of such a statement shall not constitute a defense against prosecution under this section.

(3) For the purposes of this section, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-rays, test result, or other evidence of loss, injury, or expense.

Appendix E

Amendment to

NAIC Unfair Claims Settlement Practices Model Regulation

Section 8. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers

(a) Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

Where there is a reasonable basis supported by specific information available for review by the insurance regulatory authority that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this subsection. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

(c) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.

Where there is a reasonable basis supported by specific information available for review by the insurance regulatory authority for suspecting that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this subsection. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

Note: The language in italics is new.

Appendix F

NAIC Tax Lien Model Bill

Section 1. There is hereby created a lien in favor of any taxing jurisdiction in this state in the proceeds of any insurance policy based upon a claim made for damage or loss to a building or other structure, caused by or arising out of any fire or explosion. The lien arises upon any unpaid tax, special ad valorum levy, special assessment, or other charge imposed upon real property by or on behalf of the state, a county, a municipal corporation, or a special district which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, incurred demolition expense, or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 2. No insurance company shall pay any claim for more than $10,000 as *may be* adjusted yearly for inflation by the Insurance Department, for damages arising out of a claim under an insurance policy caused by fire or explosion, without having first obtained from the insured a certificate that (a) no lien, as defined in Section 1, in favor of the taxing jurisdiction exists, or (b) the amount of any such lien. The certificate shall be in the form and from the taxing jurisdiction official, as approved and designated by the Insurance Commissioner pursuant to regulations promulgated under this act.

Section 3. Upon certification by the designated taxing jurisdiction official that a lien has arisen or upon the failure of the insured to obtain a certificate within 30 days of the filing of the insured's proof of loss, the loss proceeds of the policy equal to the amount of the lien or the entire loss proceeds of the policy, if the insured has not submitted the certificate pursuant to Section 2, shall be placed in an interest-bearing escrow account, and the taxing jurisdiction and the insurer shall be so notified. Provided, however, that if the insured demonstrates that he has requested by certified mail a certificate and the designated taxing jurisdiction official has not provided such certificate within 15 days of such request, all proceeds shall, if otherwise appropriate, be released to the insured, as soon as practicable.

Section 4. All policies issued in this state after __________ shall include a provision setting forth a summary of this law, such provision to be approved by the Insurance Commissioner prior to its inclusion in any policy in the Commonwealth. By entering into a contract of insurance with such a provision, the insured and the insurer shall be deemed to have agreed to all lawful procedures pursuant to this act.

Section 5. Any taxing authority is authorized to certify that, in lieu of payment of all or part of the lien arising under this act, it has obtained satisfactory proof that the insured has or will repair or rebuild at the situs of the loss. Such certification should be deemed adequate to permit payment of insurance proceeds to the insured.

Section 6. This law shall apply to claims arising on all property except owner-occupied one or two family dwellings (and three and four family dwellings), including residential, commercial, or industrial buildings or structures, regardless of occupancy status at the time of the fire or explosion loss.

Section 7. This law does not make any taxing jurisdiction a party to any insurance contract nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Section 8. Any lien arising under this act is superior to all liens, and interest of any other party, including any insured owner, mortgagee, or assignee, except *bona fide* mortgages.

Section 9. Insurers complying with this law, or attempting in good faith to comply with this law, shall be immune from civil and criminal liability and such actions shall not be deemed in violation of the Unfair Claims Practices Act, including withholding payment of any insurance proceeds pursuant to this law, or releasing or disclosing any information pursuant to this law.

Section 10. The Insurance Commissioner is authorized to issue such regulations as are necessary or desirable to implement this act, including but not limited to the name, address, and telephone number of a designated official for each taxing jurisdiction from whom certifications may be obtained.

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