

ANTI-ARSON APPLICATION MODEL BILL

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Section 1. Purpose

The purpose of this Act is to promote the public welfare by reducing the loss of life and fire damage to property caused by the crime of arson by requiring insurance companies to secure Anti-Arson Applications from applicants for new policies of property insurance containing information to control the incidence of arson fraud.

Section 2. Anti-Arson Application--Definitions, Use and Form

- A. "Anti-Arson Application" means any application for insurance covering the peril of fire that includes certain questions which shall be answered by the applicant in addition to the basic information normally supplied to an insurer by an applicant.
- B. "Insurance policy" and "contract" shall not be construed to mean an existing property insurance policy or contract that is being renewed; provided, however, that assignment of the policy or contract because of the transfer of a major financial interest in the insured real property shall require completion of an Anti-Arson Application if otherwise required under this Act.
- C. The use of the Anti-Arson Application shall be mandatory for commercial monoline fire policies, designated occupancies, and designated areas of the state, based upon a finding by the insurance commissioner, after a public hearing, that such commercial monoline fire policies, such designated occupancies, and such areas of the state have an abnormally high incidence of arson. Provided; however, that if the insurance commissioner desires to extend the application of this Act to other than commercial monoline fire policies, he or she must first find, after public hearing, that the properties insured through such other types of policies are especially prone to arson.

OR Optional Section C:

- [C. The use of the Anti-Arson Application shall be mandatory for commercial monoline fire policies in cities with a population over [insert number] persons according to the 19[] census, except that upon petition by the governing board of the local municipal government the insurance commissioner shall mandate the use of the Anti-Arson Application within specific designations contained in the petition, within a reasonable time after receiving the petition.]
- D. The insurance commissioner, in promulgating the Anti-Arson Application form, shall consider the generally recognized two-tier application forms. If the initial first-tier application elicits certain predesignated answers, then the administration of a second tier supplementary application shall be mandatory. The two-tiered application shall secure the disclosure of information including, but not limited to:

- (1) The name and address of the applicant and any mortgagees and any other parties who have an ownership interest in the property;
 - (2) The amount of insurance requested and the method of valuation used to establish the amount of insurance;
 - (3) The dates and selling prices of the property in all real estate transactions involving such property during the last three (3) years;
 - (4) The applicant's loss history over the last five (5) years with regard to any property in which he held an equity interest or a mortgage and where the loss exceeded \$1,000 in damages;
 - (5) All taxes unpaid or overdue for one or more years, and any mortgage payments overdue by three (3) months or more;
 - (6) All current violations of fire, safety, health, building or construction codes on the property to be insured; and
 - (7) The present occupancy of the structure.
- E. Designation of any area of the state under this Act shall not be deemed a valid reason for refusal to write, termination or nonrenewal of any policy or contract of insurance.

Section 3. Anti-Arson Application—Requirements

- A. No insurer may enter into a contract to insure any building, except one- to four-family owner-occupied dwellings, against the peril of fire to be issued after the effective date of this Act unless the insurer first receives an Anti-Arson Application signed and affirmed by the insured, if required by the insurance commissioner in accordance with the provisions of this Act.
- B. Any Anti-Arson Application required by this Act shall be deemed a material part of the insurance policy to which the application pertains. A material misrepresentation shall be deemed grounds to rescind the insurance policy.
- C. Policyholders shall notify their insurer of any change in the information contained in the Anti-Arson Application, within a period of time to be specified. A material failure to notify or a material misrepresentation in the notification shall be deemed grounds to rescind the insurance policy.

Section 4. Alternative Anti-Arson Application

- A. The insurance commissioner may not mandate the use of any applications other than the Anti-Arson Application as defined in Section 2 of this Act; provided, however, that the insurance commissioner may mandate alternative anti-arson applications pursuant to a finding after a public hearing that:
 - (1) There exists certain types of policies, certain classes of property, and certain geographic areas of the state which have an abnormally high incidence of arson; and

- (2) The Anti-Arson Application described in Section 2 was implemented as respects such types of insurance policies, such classes of property, and areas of the state pursuant to the provisions of this Act; and
 - (3) The use of the Anti-Arson Application, pursuant to this Act, failed to substantially decrease the arson problem for those types of insurance policies, classes of property and geographic areas.
- B. Alternative anti-arson applications may only be mandated for the types of insurance policies, types of occupancies, and the areas of the state which would be permissible subjects for the Anti-Arson Application authorized by this Act.

Section 5. Termination of Contracts

Despite any other provision of law which limits the time for termination of insurance policies to the contrary, an insurer may terminate any policy or contract of insurance where the Anti-Arson Application or any alternative anti-arson application (as provided for in Section 4) is required at any time within ninety (90) days from the insurer's acceptance of such applications. The notice of cancellation to the insured shall contain the specific reason or reasons for the termination of the policy, provided that the reason or reasons are not otherwise prohibited by law.

Section 6. Penalty

Any insurer willfully violating the provisions of this Act shall be subject to a fine imposed by the insurance commissioner of not more than \$[insert amount].

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1981 Proc. I 47, 51, 812, 818, 822-824 (adopted).

1983 Proc. I 6, 10, 834, 859, 879-880 (amended and reprinted).

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This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.

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KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	NO CURRENT ACTIVITY	
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas	ARK. CODE ANN. §§ 23-88-201 to 23-88-210 (1983).	
California	NO CURRENT ACTIVITY	
Colorado	NO CURRENT ACTIVITY	
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida	NO CURRENT ACTIVITY	
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	
Hawaii	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Idaho	NO CURRENT ACTIVITY	
Illinois	NO CURRENT ACTIVITY	
Indiana	NO CURRENT ACTIVITY	
Iowa	NO CURRENT ACTIVITY	
Kansas	NO CURRENT ACTIVITY	
Kentucky	NO CURRENT ACTIVITY	
Louisiana	NO CURRENT ACTIVITY	
Maine	NO CURRENT ACTIVITY	
Maryland	MD. CODE ANN., INS. §§ 19-301 to 19-309 (1982/1997).	MD. CODE REGS. 9.30.60.01 to 9.30.60.02 (1983).
Massachusetts		MASS. GEN. LAWS ch. 175, §§ 98 to 99 (1981).
Michigan	NO CURRENT ACTIVITY	
Minnesota	NO CURRENT ACTIVITY	
Mississippi	NO CURRENT ACTIVITY	
Missouri	NO CURRENT ACTIVITY	
Montana	NO CURRENT ACTIVITY	
Nebraska	NO CURRENT ACTIVITY	
Nevada	NO CURRENT ACTIVITY	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	NO CURRENT ACTIVITY	
New Mexico	NO CURRENT ACTIVITY	
New York	N.Y. INS. LAW § 3403 (1984).	N.Y. COMP. CODES R. & REGS tit. 11, § 62-4.2 (1982/1999).

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
North Carolina	NO CURRENT ACTIVITY	
North Dakota	NO CURRENT ACTIVITY	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma	NO CURRENT ACTIVITY	
Oregon	NO CURRENT ACTIVITY	
Pennsylvania	40 PA. CONS. STAT §§ 45-201 to 45-211 (1983).	
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	NO CURRENT ACTIVITY	
South Dakota	NO CURRENT ACTIVITY	
Tennessee	NO CURRENT ACTIVITY	
Texas	NO CURRENT ACTIVITY	
Utah	NO CURRENT ACTIVITY	
Vermont	NO CURRENT ACTIVITY	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	NO CURRENT ACTIVITY	
Washington	WASH. REV. CODE ANN. §§ 48.53.010 to 48.53.060 (1982).	
West Virginia	NO CURRENT ACTIVITY	
Wisconsin	NO CURRENT ACTIVITY	
Wyoming	NO CURRENT ACTIVITY	

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