

LEGISLATIVE BILL 301

Approved by the Governor April 17, 1979

Introduced by Murphy, 17

AN ACT to adopt the Arson Reporting Immunity Act; to provide penalties; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Arson Reporting Immunity Act.

Sec. 2. For purposes of this act, unless the context otherwise requires, the definitions found in sections 3 to 6 of this act shall be used.

Sec. 3. Authorized agency shall mean:

(1) The State Fire Marshal or any local fire department investigation division when authorized or charged with the investigation of fires or explosions at the place where the fire or explosion actually took place;

(2) The colonel of the Nebraska State Patrol;

(3) The county attorney responsible for prosecutions in the county where the fire or explosion occurred; and

(4) A local law enforcement agency in the county where the fire or explosion occurred.

Sec. 4. Relevant shall mean 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.

Sec. 5. Action shall include nonaction or the failure to take action.

Sec. 6. Immune shall mean that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to this act when actual malice on the part of an insurance company or authorized agency against the insured is not present.

Sec. 7. 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 or explosion loss in question. Authorized agency for the purpose of this section shall mean, in addition to agencies included under section 3 of this act, the Federal Bureau of Investigation, any other federal agency, and the United States Attorney's office when authorized or charged with investigation or prosecution of a fire or explosion.

Sec. 8. The request for information under section 7 of this act may include, but shall not be limited to:

(1) Pertinent insurance policy information relevant to a fire loss or explosion 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; and

(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.

Sec. 9. When an insurance company has reason to believe that a fire loss or explosion loss in which it has an interest may be of other than accidental cause, the company shall, in writing, notify the State Fire Marshal or any local fire department investigation division and request an investigation. The company shall provide the State Fire Marshal or any local fire department investigation division with any or all material developed from the company's inquiry into the fire loss or explosion loss. If an insurance company provides the State Fire Marshal or any local fire department investigation division with notice of a fire loss or explosion loss, such notice shall be sufficient for the purpose of this act.

Sec. 10. The authorized agency provided with information pursuant to section 7 or 9 of this act and in furtherance of its own purposes may release or provide such information to any of the other authorized agencies.

Sec. 11. Any insurance company providing information to an authorized agency or agencies pursuant to section 7 or 9 of this act shall have the right to request relevant information and receive, within a reasonable time not to exceed thirty days, the

information requested.

Sec. 12. Any insurance company, a person acting in its behalf, or an authorized agency releasing information, whether oral or written, pursuant to section 7 or 9 of this act shall be immune from any liability arising out of a civil action or penalty resulting from a criminal prosecution.

Sec. 13. (1) Any authorized agency or insurance company which receives any information, furnished pursuant to this act, shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

(2) Any authorized agency or its personnel may be required to testify in any litigation in which the insurance company at interest is named as a party.

Sec. 14. No person or agency shall intentionally or knowingly refuse to release any information requested pursuant to section 7 or 10 of this act.

Sec. 15. No person shall intentionally or knowingly refuse to provide authorized agencies relevant information pursuant to section 9 of this act.

Sec. 16. No person shall fail to hold in confidence information required to be held in confidence by section 13 of this act.

Sec. 17. Any person violating sections 14 to 16 of this act shall be guilty of a Class IV misdemeanor.

Sec. 18. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.