CHAPTER 41

Arson Reporting‑Immunity Act

**SECTION 23‑41‑10.** Short title.

 This chapter may be cited as the South Carolina Arson Reporting‑Immunity Act.

HISTORY: 1984 Act No. 436, Section 1.

CROSS REFERENCES

Offense of arson, generally, see Section 16‑11‑110.

**SECTION 23‑41‑20.** Definitions.

 For the purpose of this chapter:

 (a) “Authorized agencies” means:

 (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 Chief of the State Law Enforcement Division;

 (3) the South Carolina Attorney General;

 (4) the solicitor responsible for prosecution in the county where the fire occurred; and

 (5) the United States Department of Justice and its Federal Bureau of Investigation.

 (6) the Fire Chief, Sheriff, or Chief of Police having jurisdiction over the arson investigation.

 (b) “Relevant” means 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.

 (c) Material will be “deemed important” if such material is requested by an authorized agency.

 (d) “Action” shall include affirmative acts and the failure to take action.

 (e) “Immune” means that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to this chapter unless actual malice on the part of the insurance company or authorized agency against the insured or gross negligence or reckless disregard for his rights is present.

HISTORY: 1984 Act No. 436, Section 1; 1992 Act No. 454, Section 2; 2009 Act No. 30, Section 1, eff June 2, 2009.

Effect of Amendment

The 2009 amendment added subparagraph (a)(6) relating to public safety officials authorized to receive information from an insurance company.

**SECTION 23‑41‑30.** Release of information by insurance company.

 (a) Any authorized agency may require, in writing, 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 includes:

 (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) 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, the company may notify, in writing, an authorized agency and provide it with any or all material developed from the company’s inquiry into the fire loss; however, when such information includes possible evidence of arson or other unlawful burning involving specifically named persons, the information in all cases may be furnished to the solicitor in the circuit where the fire occurred and he shall furnish the information to other properly authorized agencies if he considers such action to be appropriate. When an insurance company provides any one of the authorized agencies with notice of a fire loss, it is sufficient notice for the purpose of this chapter.

 (c) When an insurance company denies payment of a claim to an insured on grounds of arson, false swearing, material misrepresentation, fraud, or similar claim or defense such insurer shall in all cases notify in writing the Director of the Department of Insurance. The Director of the Department of Insurance may notify, after the investigation, an authorized agency if he considers the action to be appropriate.

 (d) The authorized agency provided with information pursuant to this chapter may release or provide such information to any agency asked to participate in the investigation.

 (e) Any insurance company providing information to an authorized agency pursuant to this chapter has the right to be informed, upon written request, as to the status of the case by such agency within a reasonable time, as determined by the authorized agency.

 (f) Any insurance company or authorized agency which notifies the Director of the Department of Insurance or provides or releases information, whether oral or written, and any person acting in their behalf, pursuant to this chapter is immune from any liability arising out of such notification or release.

HISTORY: 1984 Act No. 436, Section 1; 1989 Act No. 148, Section 27; 1993 Act No. 181, Sections 366, 367.

Library References

Libel and Slander 35.

Westlaw Topic No. 237.

**SECTION 23‑41‑40.** Confidentiality.

 (a) Any authorized agency or insurance company which receives any information furnished pursuant to this chapter must hold the information in confidence until such time as its release is required pursuant to a criminal or civil action or proceeding.

 (b) Any authorized agency, its agents or employees, may be required to testify in any litigation in which the insurance company at interest is named as a party until such litigation is completed.

HISTORY: 1984 Act No. 436, Section 1.

CROSS REFERENCES

Applicability to Legislative Audit Council staff members of provisions relative to confidentiality of agency records, see Section 2‑15‑62.

**SECTION 23‑41‑50.** Violations.

 (a) No person shall intentionally or knowingly refuse to release any information requested pursuant to this chapter.

 (b) No person shall fail to hold in confidence information required to be held in confidence by this chapter.

HISTORY: 1984 Act No. 436, Section 1.

**SECTION 23‑41‑60.** Penalties.

 Any person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than two years, or both.

HISTORY: 1984 Act No. 436, Section 1.