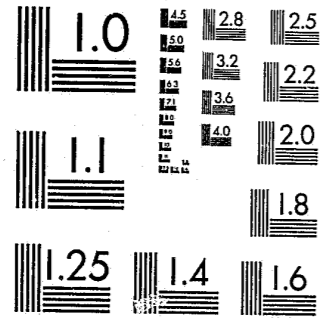


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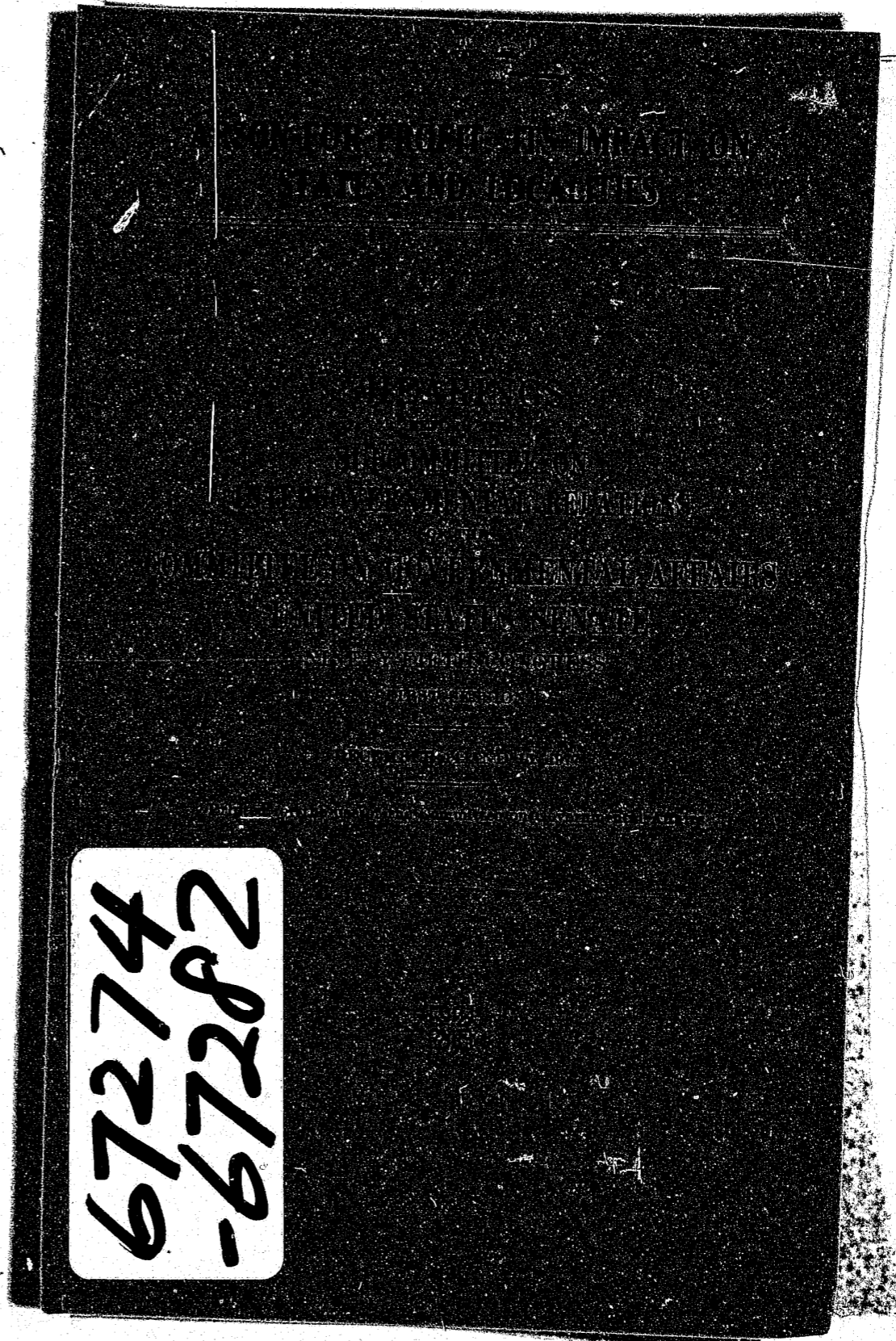
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ARSON-FOR-PROFIT: ITS IMPACT ON  
STATES AND LOCALITIES

NCJRS

APR 28 1980

HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON  
INTERGOVERNMENTAL RELATIONS  
OF THE  
COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
NINETY-FIFTH CONGRESS  
FIRST SESSION

DECEMBER 14 AND 15, 1977

Printed for the use of the Committee on Governmental Affairs



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STATEMENT OF THE  
NATIONAL ASSOCIATION OF INDEPENDENT INSURERS  
BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS  
OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS  
REGARDING S-1882

The National Association of Independent Insurers is a voluntary national trade association of more than 600 insurers.\* Our organization provides a representative cross-section of the casualty and fire insurance business in the United States. The NAII is appreciative of this opportunity to present its views on Senate Bill 1882 and the subject of arson.

The NAII strongly supports enactment of S-1882, which would re-classify arson from a Part II to a Part I crime in the Uniform Crime Report System (UCR) and provide grants to local governments to assist in the development of programs to prevent and detect arson.

This Subcommittee has heard testimony from several witnesses -- all citing statistics on the growing arson problem. Figures on the actual growth of this crime can vary as much as the persons or organizations reporting on those figures. We hear comments about the "spreading cancer of arson" or arson has reached "epidemic proportions". We also hear about the multi-billion dollar losses directly attributable to arson and the double digit percentage increase each year in arson related fires. No one knows for sure the number of lives lost each year because of arson, which of course is the most tragic loss of all.

\* 421 members and 214 subscribers.

We could give this Subcommittee more statistics on this problem and they may or may not agree with reports from earlier witnesses, but we think you have heard ample evidence to be convinced, as we are, that arson is a major problem of national scope which is growing at an unprecedented rate. There must be a national awareness of the problem and a national effort to put an end to this vicious destruction of property and lives. It is our belief that an important step in that direction.

S-1882 will help produce sorely needed credible statistics on the crime of arson. It will also provide additional impetus for state and local governments to reinforce their efforts in the prevention and detection of arson. The fact that arson causes substantial economic loss and destruction should be sufficient to justify it as a serious offense (i. e., Part I crime), but also considering arson is an acknowledged killer, in our opinion, mandates it as a Part I crime.

Although we consider the enactment of S-1882 an important step in controlling this problem, we do not feel it is the only thing that can and should be done. Soon after the law was passed in Ohio back in 1976 requiring insurers to report "suspicious" fires to local fire officials and to cooperate fully in the investigation of any fire, our Association went to work and through the efforts of our Property and Claims Committees we developed legislation modeled after the Ohio law which we have supported and will continue to support in other states. If an arsonist is to be brought to justice, we feel it is of crucial importance that fire, police and insurance investigators be given the authority and encouragement to work closely together in investigating incendiary fires. From the

insurance industry standpoint, the billion dollar losses from arson provide the encouragement and this legislation gives us the authority.

State criminal statutes in the arson area are in desperate need of a substantial overhaul. Law enforcement officials and government prosecutors should be given the necessary tools to apprehend and punish those persons intentionally destroying property. The NAII has assisted and supported the work of the other segments of the industry in developing a model arson penal law. It is our understanding that this model law is now in final draft form and we intend to give it our full support in the upcoming 1978 legislative sessions.

While NAII fully supports efforts to catch and punish arsonists, the primary opportunity for reducing the current epidemic of such cases lies in various measures which would remove the profit from acts of arson before they are committed.

There are three areas of concern which are immediately apparent. First, building codes should be enforced and those property owners who ignore requirements that life-saving structural improvements be made should not be protected by guarantees of insurance - often at bargain rates - through the government controlled FAIR Plans. Federal-state combined requirements actually provide this disincentive to make improvements which would be necessary to qualify for coverage with private insurance companies.

Second, insurance companies simply should not write insurance in amounts which exceed what a building is worth. Mortgagees, especially those with federal roots, require amounts of insurance equal to the amount of the outstanding loan balance. Insurance companies are put in a take it or leave it situation which, should they take it, creates an opportunity for arson for profit. In one instance, a dwelling was located on rather valuable acreage and the loan covered both. When the building burned, the insurer paid for both. As neighborhoods grow older, the replacement cost of buildings grows with inflation while market value often drops. Insurers find it impossible to continue writing amounts of insurance that relate to replacement cost because arson for profit opportunity would be created.

The basis of a property insurance contract is the insuring clause which states that the property is insured to the extent of the actual cash value, not to exceed the cost to repair or replace. In Illinois, the term "actual cash value" is defined by statute to mean replacement cost of the building, less depreciation. A building may cost \$200,000 to replace, be 50% depreciated and insured for its "actual cash value" of \$100,000. However, it may be worth far less than that because of obsolescence, use of the building, area in which it is located, or, it may be slated for demolition. To insure such a building for the Illinois version of actual cash value in this example, rather than its market value, too often creates an arson for profit opportunity. To avoid this, the so called "Broad Evidence Rule" must be made available to determine the maximum amount of insurance which can be made available to properly indemnify the property owners. Factors other than depreciation must be considered in order that the true maximum insurable interest can be established and over-insurance avoided.

Third, not many insureds burn their buildings in overt acts of arson. In the suburbs, they just are careless and fail to unplug the iron before going shopping. In many central city areas, owners can just fail to protect their buildings from vandals who will burn it for them. Many of these losses are insured in the state FAIR Plans and could be avoided if "Constructive Abandonment" guidelines could be worked out between the Federal Insurance Administration, state authorities and FAIR Plan managements. State cancellation statutes and FAIR Plan procedures must be amended to permit Plans to terminate liability in specified situations, subject to specific approval by the State Regulator in each instance, where property is, for all practical effects, abandoned to outside arsonsists and vandals.

The NAII fully supports the efforts of this Subcommittee to reduce arson in the United States. We are pleased to have been asked to submit a statement and trust it will be of value to the Subcommittee.

TWJ:sls

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**END**