

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 55

Short Title: Fire Investigation Law Revisions. (Public)

Sponsors: Representatives Clampitt and Loftis (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, State Government, if favorable, Rules, Calendar, and Operations of the House

February 7, 2023

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE INVESTIGATORY POWERS OF THE OFFICE OF THE STATE
FIRE MARSHAL WITH RESPECT TO CERTAIN FIRE INVESTIGATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 79 of Chapter 58 of the General Statutes reads as rewritten:

"Article 79.

"Investigation of Fires and Inspection of Premises.

"§ 58-79-1. Fires investigated; reports; records.

~~The Director of the State Bureau of Investigation, through the State Bureau of Investigation,~~
Commissioner of Insurance, through the Office of the State Fire Marshal, the State Bureau of
Investigation, and the chief of the fire department, or chief of police where there is no chief of
the fire department, in municipalities and towns, and the county fire marshal and the sheriff of
the county and the chief of the rural fire department where such fire occurs outside of a
municipality, are hereby authorized to investigate the cause, origin, and circumstances of every
fire occurring in such municipalities or counties in which property has been destroyed or
damaged, and shall specially make investigation whether the fire was the result of carelessness
or design. A preliminary investigation shall be made by the chief of fire department or chief of
police, where there is no chief of fire department in municipalities, and by the county fire marshal
and the sheriff of the county or the chief of the rural fire department where such fire occurs
outside of a municipality, and must be begun within three days, exclusive of Sunday, of the
occurrence of the fire, and either the Director of the State Bureau of Investigation, through the
State Bureau of Investigation, or the Commissioner of Insurance, through the Office of the
Fire Marshal, shall have the right to supervise and direct the investigation when ~~he the~~
Commissioner or Director deems it expedient or necessary. In a case involving death or serious
bodily injury, the Director of the State Bureau of Investigation shall have the exclusive right to
supervise and direct the investigation.

~~The officer making the investigation of fires shall forthwith notify the Director of the State~~
~~Bureau of Investigation, and must within one week of the occurrence of the fire furnish to the~~
~~Director of the State Bureau of Investigation a written statement of all facts relating to the cause~~
~~and origin of the fire, the kind, value and ownership of the property destroyed, and such other~~
~~information as is called for by the forms provided by the Director of the State Bureau of~~
~~Investigation. Departments capable of submitting the required information by the utilization of~~
~~computers and related equipment, by means of an approved format of standard punch cards,~~
~~magnetic tapes or an approved telecommunications system, may do so in lieu of the submission~~



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1 of the written statement as provided for in this section. The Director of the State Bureau of
2 Investigation shall keep in his office a record of all reports submitted pursuant to this section.
3 These reports shall at all times be open to public inspection.

4 **"§ 58-79-5. Commissioner of Insurance through the Office of the State Fire Marshal and**
5 **the Director of the State Bureau of Investigation to make examination; arrests**
6 **and prosecution.**

7 It is the duty of the Commissioner of Insurance through the Office of the State Fire Marshal
8 and the Director of the State Bureau of Investigation to examine, or cause examination to be
9 made, into the cause, circumstances, and origin of all fires occurring within the State to which
10 ~~his~~their attention has been called in accordance with the provisions of G.S. 58-79-1, or by
11 interested parties, by which property is accidentally or unlawfully burned, destroyed, or
12 damaged, whenever in ~~his~~their judgment the evidence is sufficient, and to specially examine and
13 decide whether the fire was the result of carelessness or the act of an incendiary. The
14 Commissioner of Insurance through the Office of the State Fire Marshal and the Director of the
15 State Bureau of Investigation shall, in person, by deputy or otherwise, fully investigate all
16 circumstances surrounding such fire, and, when in ~~his~~their opinion such proceedings are
17 necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant
18 of any facts or to have means of knowledge in relation to the matters as to which an examination
19 is ~~herein~~ required to be made, and shall cause the same to be reduced in writing. If the
20 Commissioner of Insurance through the Office of the State Fire Marshal or the Director of the
21 State Bureau of Investigation or any deputy appointed to conduct such ~~investigations,~~ is
22 investigations is of the opinion that there is evidence to charge any person or persons with the
23 crime of arson, or other willful burning, or fraud in connection with the crime of arson or other
24 willful burning, ~~he~~the Director may arrest with warrant or cause such person or persons to be
25 arrested, charged with such offense, and prosecuted, and shall furnish to the district attorney of
26 the district all such evidence, together with the names of witnesses and all other information
27 ~~obtained by him,~~ obtained, including a copy of all pertinent and material testimony taken in the
28 case.

29 **"§ 58-79-10. Powers of Commissioner of Insurance and Director of the State Bureau of**
30 **Investigation in investigations.**

31 The Commissioner of Insurance through the Office of the State Fire Marshal and the Director
32 of the State Bureau of Investigation, or ~~his deputy~~their deputies appointed to conduct such
33 examination, ~~has~~have the powers of a trial justice for the purpose of summoning and compelling
34 the attendance of witnesses to testify in relation to any matter which is by provisions of this
35 Article a subject of inquiry and investigation, and may administer oaths and affirmations to
36 persons appearing as witnesses before them. False swearing in any such matter or proceeding is
37 perjury and shall be punished as such. The Commissioner of Insurance through the Office of the
38 State Fire Marshal and the Director of the State Bureau of Investigation or ~~his deputy~~has their
39 deputies have authority at all times of the day or night, in performance of the duties imposed by
40 the provisions of this Article, to enter upon and examine any building or premises where any fire
41 has occurred, and other buildings and premises adjoining or near the same. All investigations
42 held by or under the direction of the Office of the State Fire Marshal or the Director of the State
43 Bureau of Investigation or ~~his deputy~~their deputies may, in their discretion, be private, and
44 persons other than those required to be present by the provisions of this Article may be excluded
45 from the place where the investigation is held, and witnesses may be kept apart from each other
46 and not allowed to communicate with each other until they have been examined.

47 **"§ 58-79-15. Failure to comply with summons or subpoena.**

48 The failure of a person to comply with a summons or subpoena of the Commissioner of
49 Insurance through the Office of the State Fire Marshal or the Director of the State Bureau of
50 Investigation or ~~his deputy~~their deputies under G.S. 58-79-10 shall be brought before a court of

1 record and punished as for contempt in the same manner as if ~~he~~the person had failed to appear
2 and testify before said court of record.

3 ...

4 "**§ 58-79-40. Insurance company to furnish information.**

5 (a) The chief of any municipal fire or police department, county fire marshal or sheriff,
6 or special agent of the State Bureau of Investigation or the Office of the State Fire Marshal may
7 request any insurance company investigating a fire loss of real or personal property to release
8 any information in its possession relative to that loss. The company shall release the information
9 and cooperate with any official authorized to request such information pursuant to this section.
10 The information shall include, but is not limited to:

- 11 (1) Any insurance policy relevant to a fire loss under investigation and any
12 application for such a policy;
13 (2) Policy premium payment records;
14 (3) History of previous claims made by the insured for fire loss;
15 (4) Material relating to the investigation of the loss, including statements of any
16 person, proof of loss, and any other relevant evidence.

17 (b) If an insurance company (or insurance agency) has reason to suspect that a fire loss
18 to its insured's real or personal property was caused by incendiary means, the company shall
19 furnish the State Bureau of Investigation or the Office of the State Fire Marshal with all relevant
20 material acquired during its investigation of the fire loss, cooperate with and take such action as
21 may be requested of it by any law-enforcement agency, and permit any person ordered by a court
22 to inspect any of its records pertaining to the policy and the loss.

23 (c) In the absence of fraud or malice, no insurance company (or insurance agency), or
24 person who furnishes information on its behalf, shall be liable for damages in a civil action or
25 subject to criminal prosecution for any oral or written statement made or any other action that is
26 necessary to supply information required pursuant to this section.

27 (d) The officials and departmental and agency personnel receiving any information
28 furnished pursuant to this section shall hold the information in confidence until such time as its
29 release is required pursuant to a criminal or civil proceeding.

30 (e) Any official referred to in subsection (a) of this section may be required to testify as
31 to any information in his possession regarding the fire loss of real or personal property in any
32 civil action in which any person seeks recovery under a policy against an insurance company for
33 the fire loss.

34"

35 **SECTION 2.** This act becomes effective October 1, 2023.