

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 1846 and 1942**

STATE OF NEW JERSEY

DATED: DECEMBER 16, 1996

The Senate Judiciary Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 1846 and 1942.

This bill proposes a series of amendments to New Jersey's arson statute (N.J.S.2C:17-1).

The bill would add a new paragraph (4) to subsection a. of that statute to address the problem of property owners who burn a commercial or residential structure for the purpose of avoiding zoning regulations, wetlands restrictions or shoreline development regulations. Arson investigators have encountered situations where property owners have either completely or partially destroyed their buildings by fire in order to exempt the buildings from lot size requirements for additions, renovations and remodeling. Investigators have also encountered commercial property owners who have burned their buildings, not for the purpose of collecting insurance money, but to exempt themselves from zoning approvals they cannot obtain for expansion, renovation or remodeling.

The bill would also add a new paragraph (5) to subsection a. to provide a criminal sanction for the setting of "brush fires in forest areas." While N.J.S.2C:17-2, the crime of causing or risking widespread injury or damage, may have applicability in certain situations, its scope is limited because that statute requires that a risk of serious bodily injury be posed to a least 10 or more people or damage to 10 or more habitations or to at building which would normally contain 50 or more people for the offense to be committed. Given these requirements, N.J.S.2C:17-2 may not address the problem of brush fires in wooded areas.

In addition to the two new paragraphs, the bill makes a change to subsection d. of N.J.S.2C:17-1 which classifies aggravated arson as a crime of the first degree if the crime is committed by a person who accepts consideration for starting the fire or explosion. The change is intended to codify the ruling in State v. Chiarulli, 234 N.J.Super. 192 (App. Div. 1989) by clarifying that in a case where the arsonist is unable to collect his fee, the arsonist may nevertheless be convicted of aggravated arson under subsection d. The bill also adds clarifying language to subsection f. which defines "property of another" for

purposes of the arson statute. This language recognizes the various legal and equitable interests which other persons may have in buildings which appear to be "owned" by another. The language is intended to protect the rights of mortgage holders, joint tenants in common and lien holders. An example of the type of conduct the amendment seeks to cover is the intentional setting of a fire to a private residence by the titled owner because the home is subject to foreclosure and the owner would rather burn it down than lose it to the bank.