

[(b)](2) If the damage to the property is less than \$1,000, a person who violates the provisions of this [section] SUBSECTION is guilty of [a] THE misdemeanor OF MALICIOUS BURNING IN THE SECOND DEGREE [and may be fined up to \$500 or sentenced to a term of incarceration] AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT for not more than 18 months or both.

[(c)](3) If the damage to the property is \$1,000 or more, a person who violates the provisions of this [section] SUBSECTION is guilty of [a] THE felony OF MALICIOUS BURNING IN THE FIRST DEGREE [and may be sentenced to a term of incarceration of not more than 5 years or fined up to \$5,000] AND ON CONVICTION IS SUBJECT TO A FINE OR NOT MORE THAN \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS or both.

(B) (1) A PERSON MAY NOT SET FIRE TO OR BURN PROPERTY OF ANY KIND, WITH INTENT TO DEFRAUD.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT IN THE PENITENTIARY FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$5,000 OR BOTH.

(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OFFENSE BASED ON THE ACT OR ACTS ESTABLISHING THE OFFENSE.

COMMITTEE NOTE: The changes in new subsection (a) dealing with burning of personal property are stylistic and classify the offense of malicious burning into degrees based on the standard in current law of the amount of damage to the property.

Subsection (b) is new, creating the offense of burning any property with intent to defraud. The provision in current law in § 9 of burning with intent to defraud an insurer is being repealed in favor of this broader provision. Subsection (b)(2) makes this offense a penitentiary misdemeanor. This was done in order that there be no statute of limitations on this offense due to the difficulty of proving and the sometimes lengthy time lapses in uncovering fraud. Subsection (b)(3) expresses the intent that this offense may be punished in addition to any underlying offense in order to avoid any merger, double jeopardy, or rule of lenity issues. It is based on a similar provision found in Article 27, § 35A.

[7A.] 9.

(a) A person may not threaten either verbally or in writing to:

(1) Set fire to [any building, structure, or property described under § 6 or § 7 of this subheading] OR BURN A STRUCTURE; or

(2) Explode a destructive explosive device as defined under § 139B of this article in, on, or under [any building, structure, or property described under § 6 or § 7 of this subheading] A STRUCTURE.