IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

Count \_\_ of the indictment charges the defendant with Burning or Attempting to Burn Insured Property.

Burning or Attempting to Burn Insured Property occurs when a person willfully and with intent to injure or defraud an insurer sets fire to or burns, or attempts to do so, or causes to be burned, or aids, counsels, procures, persuades, incites, entices, or solicits another person to burn a building, structure, or personal property of any class or character, whether the property of himself or herself or of another, which shall at the time be insured or which is believed by the person committing the prohibited act to be insured by any person against loss or damage by fire.

It is the State’s burden to prove the defendant’s guilt beyond a reasonable doubt; the defendant is not required to prove [himself] [herself] innocent—the law presumes the defendant is innocent of this charge and this presumption remains with the defendant throughout this trial. To prove the defendant guilty of Burning or Attempting Insured Property, the State must overcome the presumption that the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant

2. on or about the \_\_ day of [insert month], [insert year],

3. in [insert county] County, West Virginia,

4. willfully, and

5. with intent to injure or defraud an insurer, [set fire to or burned attempted to set fire to or burn] [caused to be burned] [aided, counseled, procured, persuaded, incited, enticed, or solicited another person to burn],

6. a building, structure, or personal property which shall at the time be insured, or which the defendant believes to be insured, against loss or damage by fire.

If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged in Count \_\_ of the indictment. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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JUDGE