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House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HOUSE BILL 2547

AN ACT

AMENDING SECTION 20-1652, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 120, SECTION 1; AMENDING SECTION 20-1652, ARIZONA REVISED STATUTES; RELATING TO INSURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-1652, Arizona Revised Statutes, as amended by
3 Laws 2003, chapter 120, section 1, is amended to read:
4 20-1652. Grounds for valid notice of cancellation
5 A. After a policy has been in effect for sixty days or, if the policy
6 is a renewal, effective immediately, no notice of cancellation may be
7 effective unless it is based on the occurrence, after the effective date of
8 the policy, of one or more of the following:
9 1. Nonpayment of premium.
10 2. Conviction of the named insured of a crime arising out of acts
11 increasing the hazard insured against.
12 3. Acts or omissions by the insured or the insured's representative
13 constituting fraud or material misrepresentation in obtaining the policy,
14 continuing the policy, or presenting a claim under the policy.
15 4. Discovery of grossly negligent acts or omissions by the insured
16 substantially increasing any of the hazards insured against.
17 5. Substantial change in the risk assumed by the insurer, since the
18 policy was issued, except to the extent that the insurer should reasonably
19 have foreseen the change or contemplated the risk in writing the contract.
20 6. A determination by the director of insurance that the continuation
21 of the policy would place the insurer in violation of the insurance laws of
22 this state.
23 7. Failure of the insured to take reasonable steps to eliminate or
24 reduce any conditions in or on the insured premises that contributed to a
25 loss in the past or will increase the probability of future losses.
26 B. In the event of nonrenewal based on condition of the premises, the
27 insured shall be given thirty days' notice to remedy the identified
28 conditions. In the event that the identified conditions are remedied,
29 coverage shall be renewed. In the event that the identified conditions are
30 not satisfactorily remedied, the insured shall be given an additional thirty
31 days, upon payment of premium, to cure the defective condition. Any insured
32 who believes nonrenewal under this subsection is arbitrary or capricious may
33 utilize the appeal procedures set forth in section 20-1633.
34 C. If an insurer uses for underwriting purposes information from a
35 report provided by, or database maintained by, an insurance support
36 organization, as defined in section 20-2102, or consumer reporting agency, as
37 defined in section 20-2102, related to the premises that is the subject of
38 the application or to the person applying for insurance, the insurer shall
39 obtain that information as soon as practicable on application by a person for
40 insurance coverage and before the issuance of a binder of insurance
41 coverage. Failure of the insurer to timely obtain the information required
42 by this subsection precludes the insurer from declining insurance coverage or
43 terminating a binder of insurance coverage based on the information. This
44 subsection does not apply to a policy renewal.
45 D. This section does not affect the provisions of section 20-1120.

1 E. After thirty days from the application by an insured for insurance
2 coverage, no declination ~~or termination~~ of insurance coverage OR TERMINATION
3 OF A BINDER shall be based on information from a consumer report, including a
4 consumer report provided by, or database maintained by, an insurance support
5 organization, as defined in section 20-2102, or consumer reporting agency, as
6 defined in section 20-2102, related to the premises that is the subject of
7 the application or to the person applying for insurance. Notwithstanding any
8 other law, an insurer may decline or terminate insurance coverage based on
9 the condition of the premises as determined through a physical inspection of
10 the premises.

11 Sec. 2. Section 20-1652, Arizona Revised Statutes, as amended by
12 section 1 of this act, is amended to read:

13 20-1652. Grounds for valid notice of cancellation; inquiries;
14 definitions

15 A. After a policy has been in effect for sixty days or, if the policy
16 is a renewal, effective immediately, no notice of cancellation may be
17 effective unless it is based on the occurrence, after the effective date of
18 the policy, of one or more of the following:

19 1. Nonpayment of premium.

20 2. Conviction of the named insured of a crime arising out of acts
21 increasing the hazard insured against.

22 3. Acts or omissions by the insured or the insured's representative
23 constituting fraud or material misrepresentation in obtaining the policy,
24 continuing the policy, or presenting a claim under the policy.

25 4. Discovery of grossly negligent acts or omissions by the insured
26 substantially increasing any of the hazards insured against.

27 5. Substantial change in the risk assumed by the insurer, since the
28 policy was issued, except to the extent that the insurer should reasonably
29 have foreseen the change or contemplated the risk in writing the contract.

30 6. A determination by the director of insurance that the continuation
31 of the policy would place the insurer in violation of the insurance laws of
32 this state.

33 7. Failure of the insured to take reasonable steps to eliminate or
34 reduce any conditions in or on the insured premises that contributed to a
35 loss in the past or will increase the probability of future losses.

36 B. In the event of nonrenewal based on condition of the premises, the
37 insured shall be given thirty days' notice to remedy the identified
38 conditions. In the event that the identified conditions are remedied,
39 coverage shall be renewed. In the event that the identified conditions are
40 not satisfactorily remedied, the insured shall be given an additional thirty
41 days, upon payment of premium, to cure the defective condition. Any insured
42 who believes nonrenewal under this subsection is arbitrary or capricious may
43 utilize the appeal procedures set forth in section 20-1633.

44 C. If an insurer uses for underwriting purposes information from a
45 report provided by, or database maintained by, an insurance support

1 organization, ~~as defined in section 20-2102~~, or consumer reporting agency, ~~as~~
2 ~~defined in section 20-2102~~, related to the premises that is the subject of
3 the application or to the person applying for insurance, the insurer shall
4 obtain that information as soon as practicable on application by a person for
5 insurance coverage and before the issuance of a binder of insurance
6 coverage. Failure of the insurer to timely obtain the information required
7 by this subsection precludes the insurer from declining insurance coverage or
8 terminating a binder of insurance coverage based on the information. This
9 subsection does not apply to a policy renewal.

10 D. This section does not affect the provisions of section 20-1120.

11 E. After thirty days from the application by an insured for insurance
12 coverage, no declination of insurance coverage or termination of a binder
13 shall be based on information from a consumer report, including a consumer
14 report provided by, or database maintained by, an insurance support
15 organization, ~~as defined in section 20-2102~~, or consumer reporting agency, ~~as~~
16 ~~defined in section 20-2102~~, related to the premises that is the subject of
17 the application or to the person applying for insurance. Notwithstanding any
18 other law, an insurer may decline or terminate insurance coverage based on
19 the condition of the premises as determined through a physical inspection of
20 the premises.

21 F. AN INSURER SHALL NOT CONSIDER AS A CLAIM ANY INQUIRY BY AN INSURED
22 INTO WHETHER A POLICY WILL COVER A LOSS OR ABOUT THE TYPE OR LEVEL OF
23 COVERAGE. AN INSURER SHALL NOT USE SUCH AN INQUIRY, REGARDLESS OF THE SOURCE
24 OF THE INFORMATION THAT AN INQUIRY WAS MADE, AS A BASIS FOR DECLINING,
25 NONRENEWING OR CANCELING INSURANCE COVERAGE OR A BINDER OF INSURANCE
26 COVERAGE. AN INSURER SHALL NOT SUBMIT TO ANY INSURANCE SUPPORT ORGANIZATION
27 OR CONSUMER REPORTING AGENCY THAT A MERE INQUIRY WAS MADE TO THE INSURER AS
28 TO THE TERMS OR COVERAGE OF A POLICY OF INSURANCE. AN INQUIRY INTO COVERAGE
29 ON A PROPERTY INSURANCE POLICY IS NOT A CLAIM ACTIVITY UNLESS AN ACTUAL CLAIM
30 IS FILED BY THE INSURED THAT RESULTS IN AN INVESTIGATION OF THE CLAIM BY THE
31 INSURER.

32 G. FOR THE PURPOSES OF THIS SECTION:

33 1. "CONSUMER REPORTING AGENCY" HAS THE SAME MEANING PRESCRIBED IN
34 SECTION 20-2102.

35 2. "INSURANCE SUPPORT ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
36 SECTION 20-2102.

37 Sec. 3. Retroactivity

38 Section 20-1652, Arizona Revised Statutes, as amended by section 1 of
39 this act, applies retroactively to from and after December 31, 2003.