

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1593

AN ACT

AMENDING SECTIONS 20-221 AND 20-224, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-238; AMENDING SECTION 20-441, ARIZONA REVISED STATUTES; RELATING TO HEALTH INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-221, Arizona Revised Statutes, is amended to
3 read:

4 20-221. Director as agent for service of process

5 A. Each authorized foreign or alien insurer, **INCLUDING FOREIGN**
6 **INSURERS THAT ISSUE POLICIES IN THIS STATE PURSUANT TO SECTION 20-238**, shall
7 appoint the director as its attorney to receive service of legal process
8 issued against it in this state. The appointment shall be irrevocable, shall
9 bind any successor in interest or to the assets or liabilities of the insurer
10 and shall remain in effect as long as there is in force in this state any
11 contract made by the insurer or obligations arising therefrom.

12 B. Service of process against a foreign or alien insurer shall be made
13 only by service of process upon the director. Service of process against a
14 domestic insurer shall be made upon the insurer corporation in the manner
15 provided by laws applying to corporations generally, or upon the insurer's
16 attorney-in-fact if a reciprocal insurer.

17 C. Each foreign or alien insurer at the time of application for a
18 certificate of authority, **OR BEFORE A FOREIGN INSURER ISSUES A POLICY IN THIS**
19 **STATE PURSUANT TO SECTION 20-238**, shall file with the director the name and
20 address of a designated person to whom process against it served upon the
21 director is to be forwarded. The insurer may change such designation by a
22 new filing.

23 D. Any authorized domestic insurer who does not have or maintain a
24 statutory agent shall appoint the director as its attorney to receive service
25 of legal process issued against it in this state.

26 Sec. 2. Section 20-224, Arizona Revised Statutes, is amended to read:

27 20-224. Premium tax

28 A. On or before March 1 of each year each authorized domestic insurer,
29 **EACH FOREIGN INSURER THAT ISSUES POLICIES IN THIS STATE PURSUANT TO SECTION**
30 **20-238**, each other insurer and each formerly authorized insurer referred to
31 in section 20-206, subsection B shall file with the director a report in a
32 form prescribed by the director showing total direct premium income including
33 policy membership and other fees and all other considerations for insurance
34 from all classes of business whether designated as a premium or otherwise
35 received by it during the preceding calendar year on account of policies and
36 contracts covering property, subjects or risks located, resident or to be
37 performed in this state, after deducting from such total direct premium
38 income applicable cancellations, returned premiums, the amount of reduction
39 in or refund of premiums allowed to industrial life policyholders for payment
40 of premiums direct to an office of the insurer and all policy dividends,
41 refunds, savings coupons and other similar returns paid or credited to
42 policyholders within this state and not reapplied as premiums for new,
43 additional or extended insurance. No deduction shall be made of the cash
44 surrender values of policies or contracts. Considerations received on
45 annuity contracts, as well as the unabsorbed portion of any premium deposit,

1 shall not be included in total direct premium income, and neither shall be
2 subject to tax. The report shall separately indicate the total direct fire
3 insurance premium income received from property located in the incorporated
4 cities and towns certified by the state fire marshal pursuant to section
5 9-951, subsection B, as procuring the services of a private fire company.

6 B. Coincident with the filing of such tax report each insurer shall
7 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
8 tax of 2.0 per cent of such net premiums, except that the tax on fire
9 insurance premiums on property located in an incorporated city or town
10 certified by the state fire marshal pursuant to section 9-951, subsection B,
11 as procuring the services of a private fire company is .66 per cent, the tax
12 on all other fire insurance premiums is 2.2 per cent and the tax on health
13 care service and disability insurance premiums is as prescribed under
14 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to
15 subsection E of this section shall be deducted from the tax payable pursuant
16 to this subsection. Each insurer shall reflect the cost savings attributable
17 to the lower tax in fire insurance premiums charged on property located in an
18 incorporated city or town certified by the state fire marshal pursuant to
19 section 9-951, subsection B, as procuring the services of a private fire
20 company. No insurer shall be liable to the state or to any other person, or
21 shall be subject to regulatory action, relating to the calculation or
22 submittal of fire insurance premium taxes based in good faith upon the state
23 fire marshal's certification.

24 C. Eighty-five per cent of the tax paid under this section by an
25 insurer on account of premiums received for fire insurance shall be
26 separately specified in the report and shall be apportioned in the manner
27 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so
28 allocated to a fund of a municipality or fire district that has no volunteer
29 fire fighters or pension obligations to volunteer fire fighters shall be
30 appropriated to the account of the municipality or fire district in the
31 public safety personnel retirement system and all of the tax so allocated to
32 a fund of a municipality or fire district that has both full-time paid fire
33 fighters and volunteer fire fighters or pension obligations to full-time paid
34 fire fighters or volunteer fire fighters shall be appropriated to the account
35 of the municipality or fire district in the public safety personnel
36 retirement system where it shall be reallocated by actuarial procedures
37 proportionately to the municipality or fire district for the account of the
38 full-time paid fire fighters and to the municipality or fire district for the
39 account of the volunteer fire fighters. A municipality or fire district
40 shall provide to the public safety personnel retirement system all
41 information that the system deems necessary to perform the reallocation
42 prescribed by this section. A full accounting of such reallocation shall be
43 forwarded to the municipality or fire district and their local boards.

44 D. This section shall not apply to title insurance, and such insurers
45 shall be taxed as provided in section 20-1566.

1 E. Any insurer that paid or is required to pay a tax of two thousand
2 dollars or more on net premiums received during the preceding calendar year,
3 pursuant to subsection B of this section and sections 20-224.01, 20-837,
4 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of
5 each month from March through August a report for that month, on a form
6 prescribed by the director, accompanied by a payment in an amount equal to
7 fifteen per cent of the amount paid or required to be paid during the
8 preceding calendar year pursuant to subsection B of this section and sections
9 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and
10 payable on or before the fifteenth day of each month and shall be made to the
11 director for deposit, pursuant to sections 35-146 and 35-147.

12 F. Except for the tax paid on fire insurance premiums pursuant to
13 subsections B and C of this section, an insurer may claim a premium tax
14 credit if the insurer qualifies for a credit pursuant to section 20-224.03,
15 20-224.04, 20-224.06 or 20-224.07.

16 G. On receipt of a properly documented claim, a refund shall be
17 provided to an insurer from available funds for the excess amount of any fire
18 insurance premium improperly paid by the insurer. The insurer shall reflect
19 the refund in the fire insurance premiums charged on the property that was
20 charged the excessive amount.

21 Sec. 3. Title 20, chapter 2, article 1, Arizona Revised Statutes, is
22 amended by adding section 20-238, to read:

23 20-238. Out-of-state insurers; requirements; revocation;
24 notice; rulemaking

25 A. NOTWITHSTANDING ANY OTHER LAW, INSURERS OF THE SAME TYPE AS THOSE
26 SUBJECT TO SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE
27 POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE AND THAT HOLD
28 A CERTIFICATE OF AUTHORITY IN ANOTHER STATE MAY ISSUE HEALTH OR SICKNESS
29 INSURANCE IN THIS STATE, AND A PERSON MAY PURCHASE A POLICY, CONTRACT, PLAN,
30 COVERAGE OR EVIDENCE OF COVERAGE, IF THE INSURER PROVIDES EVIDENCE TO THE
31 DIRECTOR THAT WHILE PROVIDING HEALTH OR SICKNESS INSURANCE THE INSURER IS
32 SUBJECT TO THE JURISDICTION OF ANOTHER STATE'S INSURANCE DEPARTMENT AND THAT
33 THE INSURER'S CERTIFICATE OF AUTHORITY REQUIRES THE INSURER TO MAINTAIN
34 FINANCIAL RESERVES OF NOT LESS THAN THE AMOUNT REQUIRED IN THIS STATE.

35 B. ANY POLICY, CONTRACT, PLAN, COVERAGE OR EVIDENCE OF COVERAGE ISSUED
36 FOR HEALTH OR SICKNESS COVERAGE PURSUANT TO SUBSECTION A MUST SATISFY THE
37 ACTUARIAL STANDARDS ESTABLISHED BY THE NATIONAL ASSOCIATION OF INSURANCE
38 COMMISSIONERS.

39 C. THE DIRECTOR MAY REVOKE AN INSURER'S RIGHT TO ISSUE ANY POLICY,
40 CONTRACT, PLAN, COVERAGE OR EVIDENCE OF COVERAGE FOR HEALTH OR SICKNESS
41 COVERAGE PURSUANT TO SUBSECTION A IF ANY OF THE FOLLOWING OCCURS:

42 1. THE STATE THAT ISSUED THE INSURER'S CERTIFICATE OF AUTHORITY
43 CHANGES THAT STATE'S FINANCIAL RESERVE REQUIREMENTS TO LESS THAN THE AMOUNT
44 REQUIRED BY THIS STATE.

1 2. THE DIRECTOR ESTABLISHES:

2 (a) A PATTERN OF COMPLAINTS ABOUT DENIAL OR DELAYS IN APPROVING CARE
3 OR TREATMENT THAT ARE EVENTUALLY APPROVED.

4 (b) THAT THE INSURER HAS A PATTERN OF COMPLAINTS FOR FAILING TO PAY
5 PROMPTLY FOR CLAIMS.

6 (c) A PATTERN OF POOR CUSTOMER SERVICE AT A LEVEL THAT WOULD PROMPT
7 SEEKING CORRECTIVE ACTION OR REMEDIES FOR INSURERS LICENSED IN THIS STATE.

8 (d) A PATTERN OF THE INSURER USING DECEPTIVE MARKETING PRACTICES IN
9 THIS STATE.

10 (e) THAT THE INSURER HAS BEEN INVOLVED IN A PATTERN OF FRAUDULENT
11 ACTIVITIES.

12 (f) THAT THE STATE THAT ISSUED THE INSURER'S CERTIFICATE OF AUTHORITY
13 HAS IDENTIFIED AND REPEATEDLY ENFORCED PENALTIES ON THE INSURER FOR
14 VIOLATIONS RELATED TO CLAIM DENIALS, PROMPT PAYMENT, POOR CUSTOMER SERVICE,
15 DECEPTIVE MARKETING PRACTICES OR FRAUDULENT ACTIVITIES.

16 D. EACH WRITTEN APPLICATION FOR A POLICY, CONTRACT, PLAN, COVERAGE OR
17 EVIDENCE OF COVERAGE FOR HEALTH OR SICKNESS COVERAGE ISSUED UNDER THIS
18 SECTION SHALL CONTAIN THE FOLLOWING NOTICE AT THE BEGINNING OF THE DOCUMENT
19 PRINTED IN AT LEAST TWELVE-POINT BOLDFACED TYPE:

20 NOTICE: THIS POLICY IS ISSUED BY (NAME OF INSURER) AND IS
21 GOVERNED BY THE LAWS AND RULES OF THE STATE OF (STATE THAT
22 ISSUED THE INSURER'S CERTIFICATE OF AUTHORITY) AND THE POLICY
23 HAS MET THE REQUIREMENTS OF THAT STATE AS DETERMINED BY THAT
24 STATE'S DEPARTMENT OF INSURANCE. THIS POLICY MAY BE LESS
25 EXPENSIVE THAN OTHERS BECAUSE IT IS NOT SUBJECT TO ALL OF THE
26 INSURANCE LAWS AND RULES OF THE STATE OF ARIZONA, INCLUDING
27 COVERAGE OF SOME SERVICES OR BENEFITS MANDATED BY LAW IN
28 ARIZONA. ADDITIONALLY, THIS POLICY IS SUBJECT TO ALL OF THE
29 CONSUMER PROTECTION LAWS OR RESTRICTIONS ON RATE CHANGES OF THE
30 STATE OF (STATE THAT ISSUED THE INSURER'S CERTIFICATE OF
31 AUTHORITY), AND NOT THE STATE OF ARIZONA. AS WITH ALL INSURANCE
32 PRODUCTS, BEFORE PURCHASING THIS POLICY, YOU SHOULD CAREFULLY
33 REVIEW THE POLICY AND DETERMINE WHAT HEALTH CARE SERVICES THE
34 POLICY COVERS AND WHAT BENEFITS IT PROVIDES, INCLUDING ANY
35 EXCLUSIONS, LIMITATIONS OR CONDITIONS FOR SUCH SERVICES OR
36 BENEFITS.

37 E. ANY DISPUTE RESOLUTION MECHANISM OR PROVISION FOR NOTICE AND
38 HEARING UNDER THIS TITLE APPLIES TO INSURERS ISSUING AND DELIVERING POLICIES,
39 CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE FOR HEALTH OR SICKNESS
40 COVERAGE UNDER THIS SECTION.

41 F. RESIDENTS OF THIS STATE WHO OBTAIN A POLICY FROM A COMPANY WHOSE
42 PRIMARY STATE IS NOT THIS STATE HAVE THE RIGHT TO AN INDEPENDENT EXTERNAL
43 REVIEW IN THIS STATE, AND THE DECISION BY THE INDEPENDENT EXTERNAL REVIEW
44 BOARD TO AUTHORIZE THE TREATMENT OR CARE IS BINDING ON THE INSURER.

1 G. EACH INSURER THAT ISSUES ANY POLICY, CONTRACT, PLAN, COVERAGE OR
2 EVIDENCE OF COVERAGE FOR HEALTH OR SICKNESS COVERAGE PURSUANT TO SUBSECTION A
3 OF THIS SECTION SHALL ON OR BEFORE MARCH 1 OF EACH YEAR FILE WITH THE
4 DIRECTOR A REPORT OF ITS FINANCIAL CONDITION, TRANSACTIONS AND AFFAIRS AS OF
5 THE PRECEDING DECEMBER 31 FOR TRANSACTIONS IN THIS STATE.

6 H. THE DIRECTOR SHALL ADOPT RULES TO IMPLEMENT THIS SECTION, INCLUDING
7 STANDARD FORMS FOR THE DISCLOSURE OF BENEFITS.

8 Sec. 4. Section 20-441, Arizona Revised Statutes, is amended to read:

9 20-441. Purpose of article; definition

10 A. Among the purposes of this article is the regulation of trade
11 practices in the business of insurance in accordance with the intent of
12 Congress as expressed in the act of Congress of March 9, 1945, 59 Stat. 33,
13 by defining, or providing for the determination of, all such practices in
14 this state that constitute unfair methods of competition or unfair or
15 deceptive acts or practices and by prohibiting the trade practices so defined
16 or determined.

17 B. For the purposes of this article, "insurance company" or "insurer"
18 means any:

- 19 1. Stock, mutual, reciprocal or title insurer.
- 20 2. Fraternal benefit society.
- 21 3. Health care services organization.
- 22 4. Hospital, medical, dental and optometric service corporation.
- 23 5. Prepaid dental plan organization.
- 24 6. Mechanical reimbursement reinsurer.
- 25 7. Prepaid legal plan.
- 26 8. Lloyd's association.
- 27 9. Service company as defined in this title.

28 10. FOREIGN INSURERS THAT ISSUE POLICIES IN THIS STATE PURSUANT TO
29 SECTION 20-238.

30 ~~10-~~ 11. Any Other entity licensed under this title.

31 Sec. 5. Severability

32 If a provision of this act or its application to any person or
33 circumstance is held invalid, the invalidity does not affect other provisions
34 or applications of the act that can be given effect without the invalid
35 provision or application, and to this end the provisions of this act are
36 severable.