

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1308
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-3714, Arizona Revised Statutes, is amended to
3 read:

4 13-3714. Aggravated or multiple violations of insurance code;
5 classification

6 A person who knowingly performs any act for which the person is
7 required to be licensed under title 20, chapter 2, article 3, 3.1, 3.2, 3.3
8 or ~~3.4~~ 3.5 to lawfully perform and the person has been previously licensed
9 pursuant to title 20, chapter 2, article 3, 3.1, 3.2, 3.3 or ~~3.4~~ 3.5, but
10 whose license was suspended or revoked at the time of the act or has been
11 convicted of violating any provision of title 20, chapter 2, article 3, 3.1,
12 3.2, 3.3 or ~~3.4~~ 3.5, and who is not licensed at the time of the act, is
13 guilty of a class 5 felony.

14 Sec. 2. Transfer

15 Title 20, chapter 2, article 3.4, Arizona Revised Statutes, is
16 transferred for placement in title 20, chapter 2, Arizona Revised Statutes,
17 as article 3.5.

18 Sec. 3. Title 20, chapter 2, Arizona Revised Statutes, is amended by
19 adding a new article 3.4, to read:

20 ARTICLE 3.4. NAVIGATORS AND CERTIFIED
21 APPLICATION COUNSELORS

22 20-336. Definitions

23 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

24 1. "CERTIFIED APPLICATION COUNSELOR" MEANS AN INDIVIDUAL WHO IS
25 LICENSED PURSUANT TO THIS ARTICLE AND WHO IS AUTHORIZED BY THE UNITED STATES
26 DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PERFORM THE ACTIVITIES AND DUTIES
27 OF A CERTIFIED APPLICATION COUNSELOR AS DESCRIBED BY 45 CODE OF FEDERAL
28 REGULATIONS SECTION 155.225.

1 2. "EXCHANGE" MEANS A HEALTH BENEFIT EXCHANGE THAT IS ESTABLISHED OR
2 OPERATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
3 SERVICES PURSUANT TO 42 UNITED STATES CODE SECTION 18031.

4 3. "HEALTH BENEFIT PLAN":

5 (a) MEANS A HOSPITAL AND MEDICAL SERVICE CORPORATION POLICY OR
6 CERTIFICATE, A HEALTH CARE SERVICES ORGANIZATION CONTRACT OR CERTIFICATE OF
7 COVERAGE, AN INDIVIDUAL OR GROUP OR BLANKET DISABILITY POLICY OR CERTIFICATE
8 OF COVERAGE, A CERTIFICATE OF INSURANCE OF A GROUP DISABILITY POLICY THAT IS
9 NOT ISSUED IN THIS STATE, A MULTIPLE EMPLOYER WELFARE ARRANGEMENT OR ANY
10 OTHER ARRANGEMENT UNDER WHICH HEALTH SERVICES OR HEALTH BENEFITS ARE PROVIDED
11 TO ONE OR MORE INDIVIDUALS.

12 (b) DOES NOT INCLUDE:

13 (i) AN INSURANCE POLICY THAT IS DESIGNED, ADVERTISED AND MARKETED TO
14 SUPPLEMENT MAJOR MEDICAL INSURANCE, WHICH INCLUDES ACCIDENT ONLY, VISION
15 ONLY, DISABILITY INCOME ONLY, FIXED OR HOSPITAL INDEMNITY, SPECIFIED DISEASE
16 INSURANCE, CREDIT INSURANCE OR TAFT-HARTLEY TRUSTS.

17 (ii) COVERAGE THAT IS ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE.

18 (iii) MEDICARE SUPPLEMENTAL INSURANCE.

19 (iv) WORKERS' COMPENSATION INSURANCE.

20 (v) AUTOMOBILE MEDICAL PAYMENT INSURANCE.

21 (vi) LONG-TERM CARE INSURANCE.

22 4. "ISSUER" MEANS A DISABILITY INSURER, GROUP DISABILITY INSURER,
23 BLANKET DISABILITY INSURER, HEALTH CARE SERVICES ORGANIZATION, HOSPITAL
24 SERVICE CORPORATION, MEDICAL SERVICE CORPORATION, DENTAL SERVICE CORPORATION,
25 PREPAID DENTAL PLAN ORGANIZATION OR HOSPITAL, MEDICAL, DENTAL AND OPTOMETRIC
26 SERVICE CORPORATION.

27 5. "NAVIGATOR" MEANS A PERSON WHO IS LICENSED PURSUANT TO THIS ARTICLE
28 AND WHO IS CERTIFIED OR COMPENSATED BY THE UNITED STATES DEPARTMENT OF HEALTH
29 AND HUMAN SERVICES TO PERFORM THE ACTIVITIES AND DUTIES DESCRIBED BY 42
30 UNITED STATES CODE SECTION 18031 AND 45 CODE OF FEDERAL REGULATIONS SECTION
31 155.215.

1 20-336.01. Scope and application of article

2 A. BEGINNING OCTOBER 1, 2014, THIS ARTICLE APPLIES TO A PERSON WHO
3 ACTS OR CLAIMS TO BE A NAVIGATOR OR CERTIFIED APPLICATION COUNSELOR.

4 B. A PERSON WHO HOLDS A LICENSE AS AN ACCIDENT AND HEALTH OR SICKNESS
5 INSURANCE PRODUCER PURSUANT TO ARTICLE 3 OF THIS CHAPTER IS EXEMPT FROM THE
6 EXAMINATION REQUIREMENTS UNDER SECTION 20-336.03, SUBSECTION B, PARAGRAPH 4.

7 20-336.02. License required

8 A PERSON MAY NOT ACT AS OR CLAIM TO BE A NAVIGATOR OR CERTIFIED
9 APPLICATION COUNSELOR UNLESS THE PERSON IS LICENSED PURSUANT TO THIS ARTICLE.

10 20-336.03. Navigators; licensing

11 A. A PERSON WHO APPLIES FOR A NAVIGATOR LICENSE SHALL APPLY TO THE
12 DIRECTOR ON A FORM PRESCRIBED BY THE DIRECTOR AND SHALL DECLARE UNDER PENALTY
13 OF LICENSE DENIAL, SUSPENSION OR REVOCATION THAT THE STATEMENTS MADE IN THE
14 APPLICATION ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF THE KNOWLEDGE AND
15 BELIEF OF THE APPLICANT OR THE APPLICANT'S DULY AUTHORIZED REPRESENTATIVE.
16 THE APPLICANT SHALL PROVIDE INFORMATION CONCERNING THE APPLICANT'S IDENTITY,
17 PERSONAL HISTORY, BUSINESS RECORD AND EXPERIENCE IN INSURANCE AND ANY OTHER
18 PERTINENT FACT THE DIRECTOR REQUIRES.

19 B. BEFORE THE DIRECTOR APPROVES AN INDIVIDUAL'S NAVIGATOR APPLICATION,
20 THE DIRECTOR SHALL FIND THAT THE INDIVIDUAL:

21 1. IS AT LEAST EIGHTEEN YEARS OF AGE.

22 2. HAS NOT COMMITTED ANY ACT THAT IS A GROUND FOR LICENSE DENIAL,
23 SUSPENSION OR REVOCATION AS PRESCRIBED IN SECTION 20-295.

24 3. HAS PAID THE FEES PRESCRIBED IN SECTION 20-167.

25 4. HAS PROVIDED EVIDENCE OF NAVIGATOR CERTIFICATION FROM THE UNITED
26 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES TO BE ELIGIBLE FOR AN
27 EXAMINATION PRESCRIBED BY THE DIRECTOR AND HAS SUCCESSFULLY PASSED THE
28 EXAMINATION.

29 5. HAS SUBMITTED A FULL SET OF FINGERPRINTS TO THE DIRECTOR AND
30 SUCCESSFULLY COMPLETED A CRIMINAL HISTORY RECORDS CHECK IN A MANNER
31 PRESCRIBED BY THE DIRECTOR.

1 6. HAS IDENTIFIED THE ENTITY WITH WHICH IT IS AFFILIATED AND
2 SUPERVISED.

3 C. A BUSINESS ENTITY THAT ACTS AS A NAVIGATOR, SUPERVISES THE
4 ACTIVITIES OF INDIVIDUAL NAVIGATORS OR RECEIVES FUNDING TO PERFORM NAVIGATOR
5 ACTIVITIES SHALL OBTAIN A NAVIGATOR ENTITY LICENSE. BEFORE THE DIRECTOR
6 APPROVES A BUSINESS ENTITY'S NAVIGATOR APPLICATION, THE DIRECTOR SHALL FIND
7 THAT THE BUSINESS ENTITY:

8 1. HAS NOT COMMITTED ANY ACT THAT IS A GROUND FOR LICENSE DENIAL,
9 SUSPENSION OR REVOCATION AS PRESCRIBED IN SECTION 20-295.

10 2. HAS PAID THE FEES PRESCRIBED IN SECTION 20-167.

11 3. HAS DESIGNATED AN INDIVIDUALLY LICENSED NAVIGATOR WHO IS
12 RESPONSIBLE FOR THE BUSINESS ENTITY'S COMPLIANCE WITH THE INSURANCE LAWS OF
13 THIS STATE.

14 D. A BUSINESS ENTITY'S NAVIGATOR APPLICATION SHALL ALSO INCLUDE THE
15 NAMES OF ALL MEMBERS, OFFICERS AND DIRECTORS OF THE BUSINESS ENTITY. FOR ANY
16 INDIVIDUAL WHO IS IDENTIFIED PURSUANT TO THIS SUBSECTION, THE DIRECTOR MAY
17 REQUIRE THE APPLICANT TO PROVIDE THE INFORMATION REQUIRED FOR A LICENSE AS AN
18 INDIVIDUAL.

19 E. THE DEPARTMENT OF INSURANCE SHALL SUBMIT THE FINGERPRINTS RECEIVED
20 PURSUANT TO SUBSECTION B OF THIS SECTION TO THE DEPARTMENT OF PUBLIC SAFETY
21 FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK
22 PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544 OR TO A THIRD-PARTY VENDOR
23 FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK. THE
24 DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THE FINGERPRINT DATA IT RECEIVES
25 PURSUANT TO THIS SUBSECTION WITH THE FEDERAL BUREAU OF INVESTIGATION.

26 F. UNLESS THE PERSON IS LICENSED FOR THAT LINE OF AUTHORITY PURSUANT
27 TO THIS TITLE, A NAVIGATOR MAY NOT:

28 1. SELL, SOLICIT OR NEGOTIATE INSURANCE IN THIS STATE FOR ANY CLASS OR
29 CLASSES OF INSURANCE.

1 2. OFFER OPINIONS ABOUT THE BENEFITS, TERMS AND FEATURES OF A
2 PARTICULAR HEALTH BENEFIT PLAN OR OFFER ADVICE ABOUT WHICH HEALTH BENEFIT
3 PLAN IS BETTER OR WORSE FOR A PARTICULAR INDIVIDUAL OR EMPLOYER.

4 3. RECOMMEND OR ENDORSE A PARTICULAR HEALTH BENEFIT PLAN OR OFFER
5 OPINIONS TO CONSUMERS ABOUT WHICH HEALTH BENEFIT PLAN TO CHOOSE.

6 4. PROVIDE ANY INFORMATION OR SERVICES RELATED TO A HEALTH BENEFIT
7 PLAN OR ANOTHER PRODUCT NOT OFFERED IN THE EXCHANGE.

8 5. ENGAGE IN ANY UNFAIR METHOD OF COMPETITION OR ANY FRAUDULENT,
9 DECEPTIVE OR DISHONEST ACT OR PRACTICE.

10 G. THE EXPIRATION DATE FOR A NAVIGATOR LICENSE ISSUED TO A PERSON WHO
11 ALSO HOLDS A LICENSE PURSUANT TO THIS TITLE IS THE SAME AS THE EXPIRATION
12 DATE FOR THE INSURANCE PRODUCER LICENSE.

13 20-336.04. Certified application counselors; licensing

14 A. AN INDIVIDUAL WHO APPLIES FOR A CERTIFIED APPLICATION COUNSELOR
15 LICENSE SHALL APPLY TO THE DIRECTOR ON A FORM PRESCRIBED BY THE DIRECTOR AND
16 SHALL DECLARE UNDER PENALTY OF LICENSE DENIAL, SUSPENSION OR REVOCATION THAT
17 THE STATEMENTS MADE IN THE APPLICATION ARE TRUE, CORRECT AND COMPLETE TO THE
18 BEST OF THE KNOWLEDGE AND BELIEF OF THE APPLICANT OR THE APPLICANT'S DULY
19 AUTHORIZED REPRESENTATIVE. THE APPLICANT SHALL PROVIDE INFORMATION CONCERNING
20 THE APPLICANT'S IDENTITY, PERSONAL HISTORY, BUSINESS RECORD AND EXPERIENCE IN
21 INSURANCE AND ANY OTHER PERTINENT FACT THE DIRECTOR REQUIRES.

22 B. BEFORE THE DIRECTOR APPROVES AN INDIVIDUAL'S CERTIFIED APPLICATION
23 COUNSELOR APPLICATION, THE DIRECTOR SHALL FIND THAT THE INDIVIDUAL:

24 1. IS AT LEAST EIGHTEEN YEARS OF AGE.

25 2. HAS NOT COMMITTED ANY ACT THAT IS A GROUND FOR LICENSE DENIAL,
26 SUSPENSION OR REVOCATION AS PRESCRIBED IN SECTION 20-295.

27 3. HAS PAID THE FEES PRESCRIBED IN SECTION 20-167.

28 4. HAS MET THE STANDARDS AND PROVIDED EVIDENCE OF CERTIFICATION AS
29 PRESCRIBED BY 45 CODE OF FEDERAL REGULATIONS SECTION 155.225.

30 5. HAS SUBMITTED A FULL SET OF FINGERPRINTS TO THE DIRECTOR AND
31 SUCCESSFULLY COMPLETED A CRIMINAL HISTORY RECORDS CHECK IN A MANNER
32 PRESCRIBED BY THE DIRECTOR.

1 6. HAS IDENTIFIED THE ENTITY WITH WHICH THE INDIVIDUAL IS AFFILIATED
2 AND SUPERVISED.

3 C. THE DEPARTMENT OF INSURANCE SHALL SUBMIT THE FINGERPRINTS RECEIVED
4 PURSUANT TO SUBSECTION B OF THIS SECTION TO THE DEPARTMENT OF PUBLIC SAFETY
5 FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK
6 PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544 OR A THIRD-PARTY VENDOR FOR
7 THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK. THE
8 DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THE FINGERPRINT DATA IT RECEIVES
9 PURSUANT TO THIS SUBSECTION WITH THE FEDERAL BUREAU OF INVESTIGATION.

10 D. UNLESS THE PERSON IS LICENSED FOR THAT LINE OF AUTHORITY PURSUANT
11 TO THIS TITLE, A CERTIFIED APPLICATION COUNSELOR MAY NOT:

12 1. SELL, SOLICIT OR NEGOTIATE INSURANCE IN THIS STATE FOR ANY CLASS OR
13 CLASSES OF INSURANCE.

14 2. OFFER OPINIONS ABOUT THE BENEFITS, TERMS AND FEATURES OF A
15 PARTICULAR HEALTH BENEFIT PLAN OR OFFER ADVICE ABOUT WHICH HEALTH BENEFIT
16 PLAN IS BETTER OR WORSE FOR A PARTICULAR INDIVIDUAL OR EMPLOYER.

17 3. RECOMMEND OR ENDORSE A PARTICULAR HEALTH BENEFIT PLAN OR OFFER
18 OPINIONS TO CONSUMERS ABOUT WHICH HEALTH BENEFIT PLAN TO CHOOSE.

19 4. PROVIDE ANY INFORMATION OR SERVICES RELATED TO A HEALTH BENEFIT
20 PLAN OR ANOTHER PRODUCT NOT OFFERED IN THE EXCHANGE.

21 5. ENGAGE IN ANY UNFAIR METHOD OF COMPETITION OR ANY FRAUDULENT,
22 DECEPTIVE OR DISHONEST ACT OR PRACTICE.

23 E. THE EXPIRATION DATE FOR A CERTIFIED APPLICATION COUNSELOR LICENSE
24 ISSUED TO A PERSON WHO ALSO HOLDS A LICENSE PURSUANT TO THIS TITLE IS THE
25 SAME AS THE EXPIRATION DATE FOR THE INSURANCE PRODUCER LICENSE.

26 20-336.05. Enforcement: rules

27 A. THE DIRECTOR MAY EXAMINE AND INVESTIGATE THE BUSINESS AFFAIRS AND
28 RECORDS OF ANY NAVIGATOR OR CERTIFIED APPLICATION COUNSELOR TO DETERMINE
29 WHETHER THE INDIVIDUAL OR ENTITY HAS ENGAGED OR IS ENGAGING IN ANY VIOLATION
30 OF THIS TITLE.

31 B. THE DIRECTOR MAY ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO
32 CARRY OUT THIS ARTICLE.

1 20-336.06. Application of other laws

2 TO THE EXTENT PERMITTED BY THIS ARTICLE, SECTIONS 20-281 AND 20-284,
3 SECTION 20-286, SUBSECTIONS B, C AND D, SECTIONS 20-289, 20-289.01, 20-292,
4 20-295, 20-296, 20-297, 20-299, 20-301, 20-302, 20-452, 20-489 AND 20-490,
5 ARTICLE 6 OF THIS CHAPTER AND CHAPTER 11, ARTICLE 1 OF THIS TITLE APPLY TO
6 NAVIGATORS AND CERTIFIED APPLICATION COUNSELORS.

7 Sec. 4. Section 32-1004, Arizona Revised Statutes, is amended to read:

8 32-1004. Exemptions

9 A. The following persons are exempt from the provisions of this
10 chapter when engaged in the regular course of their respective businesses but
11 shall comply with the requirements of section 32-1051, paragraphs 2 through 7
12 and section 32-1055, subsection C and subsection D, paragraphs 1, 2, 3 and 5:

13 1. Attorneys-at-law.

14 2. A person regularly employed on a regular wage or salary in the
15 capacity of credit person or a similar capacity, except as an independent
16 contractor.

17 3. Banks, including trust departments of a bank, fiduciaries and
18 financing and lending institutions.

19 4. Common carriers.

20 5. Title insurers, title insurance agents and abstract companies while
21 doing an escrow business.

22 6. Licensed real estate brokers.

23 7. Employees of licensees under this chapter.

24 8. Substation payment offices employed by or serving as independent
25 contractors or public utilities.

26 9. A person licensed pursuant to title 6, chapter 7.

27 10. A person licensed pursuant to title 6, chapter 9.

28 11. A person licensed pursuant to title 6, chapter 14, article 1.

29 12. A participant in a finance transaction in which a lender receives
30 the right to collect commercial claims due the borrower by assignment, by
31 purchase or by the taking of a security interest in those commercial claims.

1 13. An accounting, bookkeeping or billing service provider that
2 complies with all of the following:

3 (a) Does not accept accounts that are contractually past due at the
4 time of receipt.

5 (b) Does not initiate any contact with individual debtors except for
6 the initial written notice of the amount owing and one written follow-up
7 notice.

8 (c) Does not give or send to any debtor a written communication that
9 requests or demands payment.

10 (d) Does not receive or have access to monies paid by debtors or their
11 insurers.

12 (e) All communications with the debtors are done in the name of the
13 creditor.

14 14. A person collecting claims owed, due or asserted to be owed or due
15 to a financial institution the deposits of which are insured by an agency of
16 the federal government, or any affiliate of the financial institution, if the
17 person is related by common ownership or affiliated by corporate control with
18 the financial institution and collects the claims only for the financial
19 institution or any affiliate of the financial institution.

20 15. A person who is licensed pursuant to title 20, chapter 2, article
21 3, 3.1, 3.2, 3.3 or ~~3.4~~ 3.5 and who is authorized to collect premiums under
22 an insurance policy financed by a premium finance agreement as defined in
23 section 6-1401.

24 B. For the purposes of subsection A, paragraph 12 of this section:

25 1. A transaction shall not be deemed a finance transaction if the
26 primary purpose is to facilitate the collection of claims.

27 2. ~~"Commercial claim"~~ does not include an account arising from the
28 purchase of a service or product intended for personal, family or household
29 use.

1 3. "Solicitation" means all documents whether attached or incorporated
2 by reference ~~which~~ THAT are utilized for soliciting bids or proposals.

3 B. Only a contractor or persons who have performed actual services for
4 a contractor in connection with a bid shall be eligible to receive directly
5 or indirectly any commissions.

6 C. A contractor may pay commissions directly or indirectly only to
7 persons who have performed actual services for the contractor in connection
8 with the solicitation.

9 D. Any contractor who pays commissions in violation of subsection C of
10 this section or any person who receives commissions in violation of
11 subsection B of this section shall be subject to the following penalties:

12 1. The contractor or the person who receives commissions, or both,
13 shall be guilty of a class 2 misdemeanor.

14 2. The contractor or the person who receives the commissions, or both,
15 shall be liable under section 20-295 for suspension, revocation or denial of
16 renewal of any licenses issued under title 20, chapter 2, article 3, 3.1,
17 3.2, 3.3 or ~~3.4~~ 3.5.

18 3. The contractor and the person who receives commissions shall be
19 jointly and severally liable to the state for the amount of the commissions
20 paid in violation of subsection B or C of this section.

21 4. The contractor and the person who receives the commissions shall be
22 jointly and severally liable to competing bidders or offerors under the same
23 solicitation for the amount of the commissions paid in violation of
24 subsection B or C of this section as well as for reasonable ~~attorney's~~
25 ATTORNEY fees of the competing bidders or offerors in recovering the
26 penalty. Where there is more than one competing bidder or offeror, the
27 contractor and the person who receives commissions shall be subject only to
28 one liability under this subsection and the competitors who have joined in or
29 intervened before judgment in the first action under this subsection to
30 proceed to final judgment shall be entitled to equal shares in the penalty
31 recovered.

1 Sec. 6. Conditional repeal: notice

2 A. Title 20, chapter 2, article 3.4, Arizona Revised Statutes, as
3 added by this act, is repealed if, on or before January 1, 2024, 42 United
4 States Code section 18031 relating to health benefit exchanges is declared
5 unconstitutional by the United State supreme court or is repealed by the
6 United States congress.

7 B. The director of the department of insurance shall notify in writing
8 the director of the Arizona legislative council of the date on which the
9 condition is met or if the condition is not met."

10 Amend title to conform

NANCY BARTO

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02/13/2014
1:26 PM
C: mjh