

REFERENCE TITLE: insurance adjusters; portable electronics

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

## **HB 2048**

Introduced by  
Representative Allen

AN ACT

AMENDING SECTIONS 20-288, 20-321, 20-321.01, 20-1693.02, 20-1693.03 AND 20-1693.05, ARIZONA REVISED STATUTES; RELATING TO PORTABLE ELECTRONICS INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-288, Arizona Revised Statutes, is amended to  
3 read:

4 20-288. Exemption from examination

5 A. An individual who applies for an insurance producer license in this  
6 state and who was previously licensed for the same lines of authority in  
7 another state is not required to take an examination if either:

8 1. The applicant is currently licensed in the other state.

9 2. The application is received within ninety days after the  
10 cancellation of the applicant's previous license and the other state issues a  
11 certification that, at the time of cancellation, the applicant was in good  
12 standing in that state, or other reliable information available to the  
13 director indicates that the applicant is or was licensed in good standing for  
14 the line of authority requested.

15 B. The following applicants are not required to take an examination:

16 1. An applicant for timely renewal of a license.

17 2. An applicant for the same type of license that covers the same  
18 lines of authority for which the applicant was licensed in this state, other  
19 than under a temporary license, within the twelve months preceding the date  
20 of application.

21 3. An applicant who is a ticket selling agent or any other  
22 representative of a common carrier for a limited line license that covers the  
23 sale of travel accident ticket policies or baggage insurance.

24 4. An applicant for a license as a nonresident insurance producer who  
25 meets the requirements of section 20-287, subsection A.

26 5. An applicant for a rental car agent license that is issued pursuant  
27 to section 20-331.

28 6. An applicant for a self-service storage agent license that is  
29 issued pursuant to section 20-332.

30 7. AN APPLICANT WHO RESIDES IN A STATE THAT DOES NOT LICENSE ADJUSTERS  
31 AND WHO WILL BE ADJUSTING PORTABLE ELECTRONICS INSURANCE POLICY CLAIMS IN  
32 THIS STATE.

33 Sec. 2. Section 20-321, Arizona Revised Statutes, is amended to read:

34 20-321. Definitions

35 In this article, unless the context otherwise requires:

36 1. "Adjuster":

37 (a) Means any person who for compensation, fee or commission either:

38 (i) Adjusts, investigates or negotiates settlement of claims arising  
39 under PROPERTY AND CASUALTY insurance contracts on behalf of either the  
40 insurer or the insured.

41 (ii) Holds oneself out to perform a service listed in item (i) of this  
42 subdivision.

43 (b) Does not include:

44 (i) A licensed attorney-at-law who is qualified to practice law in  
45 this state.

1 (ii) A salaried employee of an insurer or of a managing general agent.  
2 For the purposes of this item, "salaried employee" means an employee whose  
3 compensation is not contingent on the outcome of a claim determination.

4 (iii) A licensed insurance producer who adjusts or assists in  
5 adjustment of losses arising under policies procured through the insurance  
6 producer.

7 (iv) An employee of a political subdivision who adjusts or assists in  
8 the adjustment of losses arising under policies covering the political  
9 subdivision or persons indemnified by the political subdivision.

10 (v) An independent contractor retained by a licensed adjuster or a  
11 person listed in items (i) through (iv) of this subdivision for the sole  
12 purpose of providing technical assistance in connection with a claim.  
13 Independent contractors may include photographers, estimators, engineers,  
14 private detectives or handwriting experts.

15 (vi) An individual who collects claim information from or furnishes  
16 claim information to insureds or claimants and who conducts data entry,  
17 including entering data into an automated claims adjudication system, if no  
18 more than twenty-five persons, as described in this item, are under the  
19 supervision of a single licensed adjuster or licensed producer. A licensed  
20 insurance producer who is supervising or adjusting claims pursuant to this  
21 item is not required to be licensed as an adjuster.

22 (vii) REGISTERED THIRD-PARTY ADMINISTRATORS AND THEIR EMPLOYEES WHO  
23 ARE ENGAGED IN ADMINISTERING ACCIDENT AND HEALTH OR LIFE INSURANCE CLAIMS.

24 2. "Automated claims adjudication system" means a preprogrammed  
25 computer system that is designed for the collection, data entry, calculation  
26 and final resolution of portable consumer electronic products insurance  
27 claims and that:

28 (a) May be used only by a licensed adjuster, A licensed producer or  
29 supervised individuals operating pursuant to this paragraph.

30 (b) Must comply with all claims payment requirements under this title  
31 and be certified as compliant by a licensed adjuster.

32 3. "Portable consumer electronic products" means electronic devices  
33 and related accessories that are portable in nature.

34 Sec. 3. Section 20-321.01, Arizona Revised Statutes, is amended to  
35 read:

36 20-321.01. Licensing of adjusters; qualifications; exemption

37 A. A person shall not act as or claim to be an adjuster unless the  
38 person is licensed under this article.

39 B. To obtain a license as an adjuster a person shall apply to the  
40 director for the license and use the forms prescribed and provided by the  
41 director. The director shall issue the license to qualified persons on  
42 payment of the license fee prescribed in section 20-167.

43 C. To be licensed as an adjuster the applicant shall meet all of the  
44 following qualifications:

1           1. Be a person who is at least eighteen years of age.

2           2. Be a resident of this state, or a resident of another state that  
3 allows residents of this state to act as adjusters in the other state.

4           3. Take and pass an examination that is given by or under the  
5 supervision of the director and that reasonably tests the applicant's  
6 knowledge of insurance and legal responsibilities as an adjuster and  
7 otherwise comply with section 20-321.02.

8           D. An adjuster who is licensed or permitted to act as an adjuster in  
9 the state of the adjuster's domicile is not required to be licensed pursuant  
10 to this section or meet the qualifications prescribed in this section if the  
11 adjuster is sent to this state on behalf of an insurer for the purpose of  
12 investigating or making adjustment of a particular loss under an insurance  
13 policy or a series of losses resulting from a catastrophe common to all those  
14 losses.

15           E. To determine license eligibility, the director may require  
16 fingerprints of applicants and ~~submit~~ THE SUBMISSION OF the fee and the  
17 fingerprints as required by section 20-285, subsection E, paragraph 2.

18           F. The director may contract with nongovernmental entities to perform  
19 any ministerial functions, including collection of fees and data related to  
20 licensing, that the director deems appropriate.

21           G. A resident of Canada may ~~not be licensed as a nonresident adjuster~~  
22 ~~unless~~ APPLY FOR A LICENSE THAT GRANTS THE APPLICANT THE AUTHORITY TO ADJUST  
23 PORTABLE ELECTRONICS INSURANCE CLAIMS IN THIS STATE IF the person has  
24 obtained ~~a resident~~ AN adjuster license in another state ~~and designated~~ THAT  
25 PERMITS THAT PERSON TO ADJUST PORTABLE ELECTRONICS INSURANCE CLAIMS IN that  
26 state ~~as the person's home state~~. A Canadian resident who qualifies for  
27 licensure as an adjuster under this subsection ~~need not comply with~~ IS NOT  
28 SUBJECT TO section 25-320, subsection P.

29           H. AN APPLICANT WHO RESIDES IN A STATE THAT DOES NOT ISSUE LICENSES TO  
30 ADJUSTERS AND WHO IS OTHERWISE PERMITTED TO ADJUST PORTABLE ELECTRONICS  
31 INSURANCE CLAIMS IN THE APPLICANT'S RESIDENT STATE MAY APPLY FOR A LICENSE  
32 THAT GRANTS THE APPLICANT THE AUTHORITY TO ADJUST PORTABLE ELECTRONICS  
33 INSURANCE CLAIMS IN THIS STATE.

34           Sec. 4. Section 20-1693.02, Arizona Revised Statutes, is amended to  
35 read:

36           20-1693.02. Portable electronics insurance; requirements;  
37 disclosures

38           A. At every location where portable electronics insurance is offered  
39 to customers, brochures or other written materials must be made available to  
40 a prospective customer that:

41           1. Disclose that portable electronics insurance may provide a  
42 duplication of coverage already provided by a customer's homeowner's  
43 insurance policy, renter's insurance policy or other source of coverage.



1 C. The vendor may bill and collect the charges for portable  
2 electronics insurance coverage. Any charge to the enrolled customer for  
3 coverage that is not included in the cost associated with the purchase or  
4 lease of portable electronics or related services shall be separately  
5 itemized on the enrolled customer's bill. If the portable electronics  
6 insurance coverage is included with the purchase or lease of portable  
7 electronics or related services, the vendor shall clearly and conspicuously  
8 disclose to the enrolled customer that the portable electronics insurance  
9 coverage is included with the portable electronics or related services. A  
10 vendor that bills and collects charges for insurance coverage included with  
11 the purchase or lease of portable electronics or related services is not  
12 required to maintain those monies in a segregated account if the vendor is  
13 authorized by the insurer to hold those monies in an alternative manner and  
14 remits these monies to the supervising entity within sixty days of receipt.  
15 All monies received by a vendor from an enrolled customer for the sale of  
16 portable electronics insurance shall be considered monies held in trust by  
17 the vendor in a fiduciary capacity for the benefit of the insurer.

18 D. Vendors may receive compensation for billing and collection  
19 services.

20 Sec. 6. Section 20-1693.05, Arizona Revised Statutes, is amended to  
21 read:

22 20-1693.05. Termination of portable electronics insurance;  
23 notice

24 A. Notwithstanding any other law:

25 1. An insurer may terminate or otherwise change the terms and  
26 conditions of a portable electronics insurance policy only on providing the  
27 policyholder and enrolled customers with at least thirty days' notice.

28 2. If the insurer changes the terms and conditions of a policy, the  
29 insurer shall provide the vendor policyholder with a revised policy or  
30 endorsement and each enrolled customer with a revised certificate,  
31 endorsement, updated brochure or other evidence indicating that a change in  
32 the terms and conditions has occurred and that includes a summary of the  
33 material changes.

34 B. Notwithstanding subsection A, paragraph 1 of this section:

35 1. An insurer may terminate a customer's enrollment under a portable  
36 electronics insurance policy with fifteen days' notice for discovery of fraud  
37 or material misrepresentation in obtaining coverage or in the presentation of  
38 a claim.

39 2. An insurer may immediately terminate a customer's enrollment under  
40 a portable electronics insurance policy for any of the following reasons:

41 (a) Nonpayment of premium.

42 (b) If the enrolled customer ceases to have an active service with the  
43 vendor.

44 (c) If an enrolled customer exhausts the aggregate limit of liability,  
45 if any, under the terms of the portable electronics insurance policy and the

1 insurer sends notice of termination to the enrolled customer within thirty  
2 calendar days after exhaustion of the limit. If notice is not timely sent,  
3 enrollment shall continue notwithstanding the aggregate limit of liability  
4 until the insurer sends notice of termination to the enrolled customer.

5 C. If a vendor terminates a portable electronics insurance policy, the  
6 vendor shall mail or deliver written notice to each enrolled customer  
7 advising the enrolled customer of the termination of the policy and the  
8 effective date of termination. The written notice shall be mailed or  
9 delivered to the enrolled customer at least thirty days before the  
10 termination.

11 D. If notice or correspondence with respect to a policy of portable  
12 electronics insurance is required pursuant to this section or is otherwise  
13 required by law, it shall be in writing and sent within the notice period, if  
14 any, specified in the statute or rule requiring the notice or correspondence.  
15 Notwithstanding any other law, notices and correspondence may be sent either  
16 by mail or by electronic means. If the notice or correspondence is mailed,  
17 it shall be sent to the vendor at the vendor's mailing address specified for  
18 such purpose and to its affected enrolled customers' last known mailing  
19 addresses on file with the insurer. The insurer or vendor shall maintain  
20 proof of mailing in a form authorized or accepted by the United States postal  
21 service or other commercial mail delivery service. If the notice or  
22 correspondence is sent by electronic means, it shall be sent to the vendor at  
23 the vendor's electronic mail address specified for such purpose and to its  
24 affected enrolled customers' last known electronic mail addresses as provided  
25 by each enrolled customer to the insurer or vendor, as applicable. For the  
26 purposes of this section, an enrolled customer's provision of an electronic  
27 mail address to the insurer or vendor is deemed to constitute consent to  
28 receive notices and correspondence by electronic means. The insurer or  
29 vendor, as applicable, shall maintain proof that the notice or correspondence  
30 was sent.

31 E. The supervising entity appointed by the insurer may send notice or  
32 correspondence that is required by this section, or that is otherwise  
33 required by law, on behalf of an insurer or vendor.

34 F. AN ENROLLED CUSTOMER MAY CANCEL ENROLLMENT FOR COVERAGE UNDER A  
35 PORTABLE ELECTRONICS INSURANCE POLICY AT ANY TIME AND THE PERSON PAYING THE  
36 PREMIUM SHALL RECEIVE A PRO RATA REFUND OR CREDIT OF ANY APPLICABLE UNEARNED  
37 PREMIUM WITHIN SIXTY DAYS AFTER THE INSURER OR VENDOR RECEIVES THE NOTICE OF  
38 CANCELLATION FROM THE ENROLLED CUSTOMER.