

REFERENCE TITLE: **insurers; licensure; director examination**

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

# **HB 2121**

Introduced by  
Representative Lovas

**AN ACT**

**AMENDING SECTIONS 20-156, 20-285, 20-287, 20-288, 20-340.01 AND 20-2901,  
ARIZONA REVISED STATUTES; RELATING TO INSURANCE.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-156, Arizona Revised Statutes, is amended to  
3 read:

4 20-156. Examination of insurers; financial surveillance fund;  
5 definition

6 A. The director shall examine the affairs, transactions, accounts,  
7 records and assets of each authorized insurer as often as the director deems  
8 advisable. The director shall so examine each domestic insurer, ~~domestic~~  
9 ~~life and disability reinsurer as defined in section 20-1082, service company~~  
10 ~~as defined in section 20-1095 and mechanical reimbursement reinsurer as~~  
11 ~~defined in section 20-1096~~ at least once every five years. Examination of an  
12 alien insurer shall be limited to its insurance transactions in the United  
13 States. ~~THE DIRECTOR MAY EXAMINE THE BUSINESS TRANSACTIONS AND AFFAIRS OF~~  
14 ~~EACH DOMESTIC LIFE AND DISABILITY REINSURER AS DEFINED IN SECTION 20-1082,~~  
15 ~~SERVICE COMPANY AS DEFINED IN SECTION 20-1095 AND MECHANICAL REIMBURSEMENT~~  
16 ~~REINSURER AS DEFINED IN SECTION 20-1096.~~

17 B. The director shall in like manner examine each insurer applying for  
18 an initial certificate of authority to do business in this state.

19 C. In lieu of making an examination, the director may accept a full  
20 report of the last recent examination of a foreign or alien insurer,  
21 certified to by the insurance supervisory official of another state,  
22 territory, commonwealth or district of the United States.

23 D. The expenses of the examinations conducted under this section shall  
24 be paid by the insurance examiners' revolving fund as provided in section  
25 20-159. Such expenses shall be limited to preexamination selection and  
26 preparation costs, examination costs, postexamination costs and other such  
27 costs of evaluations of compliance required by law.

28 E. The financial surveillance fund is established consisting of monies  
29 collected pursuant to subsection F of this section. The fund is a special  
30 state fund pursuant to section 35-142, subsection A, paragraph 8. The  
31 department shall administer the fund. Monies in the fund are continuously  
32 appropriated and are exempt from the provisions of section 35-190 relating to  
33 lapsing of appropriations.

34 F. The director shall annually assess and collect from each domestic  
35 insurer, other than a domestic life and disability reinsurer as defined in  
36 section 20-1082, a service company as defined in section 20-1095, and a  
37 mechanical reimbursement reinsurer as defined in section 20-1096, an amount  
38 within the ranges provided in this subsection and on a uniform percentage  
39 basis among all fee categories, to pay the costs of employing financial  
40 analysts who shall assist the department in conducting financial surveillance  
41 of domestic insurers. The director shall deposit all collected monies in the  
42 financial surveillance fund. The director shall base the amount of each  
43 insurer's assessment on the total admitted assets of the insurer as shown in  
44 its annual statement for the calendar year preceding the year in which the  
45 assessment is made, according to the following schedule:

	Minimum Assessment Amount	Maximum Assessment Amount
1 Insurers with total admitted		
2 assets of greater than		
3 \$1,000,000,000	\$15,000	\$22,500
4 Insurers with total admitted		
5 assets of at least \$200,000,000		
6 but not more than \$1,000,000,000	\$ 5,000	\$ 7,500
7 Insurers with total admitted		
8 assets of at least \$100,000,000		
9 but not more than \$199,999,999	\$ 3,000	\$ 4,500
10 Insurers with total admitted assets		
11 of at least \$50,000,000 but not		
12 more than \$99,999,999	\$ 1,500	\$ 2,250
13 Insurers with total admitted assets		
14 of at least \$25,000,000 but not		
15 more than \$49,999,999	\$ 500	\$ 750
16 Insurers with total admitted		
17 assets of not more than		
18 \$24,999,999	\$ 250	\$ 375

21 G. For the purposes of this section, "insurer" includes health care  
 22 services organizations, prepaid dental plan organizations, hospital service  
 23 corporations, medical service corporations, dental service corporations and  
 24 hospital, medical, dental and optometric service corporations incorporated in  
 25 this state.

26 Sec. 2. Section 20-285, Arizona Revised Statutes, is amended to read:  
 27 20-285. Application for license

28 A. A person who applies for a resident insurance producer license  
 29 shall apply to the director on a form prescribed by the director and shall  
 30 declare under penalty of denial, suspension or revocation of the license that  
 31 the statements made in the application are true, correct and complete to the  
 32 best of the knowledge and belief of the applicant or the applicant's duly  
 33 authorized representative. The applicant shall provide information  
 34 concerning the applicant's identity, personal history, business record and  
 35 experience in insurance and any other pertinent fact the director requires.

36 B. Before the director approves the application of the individual, the  
 37 director shall find that the individual:

- 38 1. Is at least eighteen years of age.
- 39 2. Has not committed any act that is a ground for denial, suspension  
 40 or revocation prescribed in section 20-295.
- 41 3. Has paid the fees prescribed in section 20-167.
- 42 4. Has successfully passed the examinations for the lines of authority  
 43 for which the individual has applied.

44 C. Before the director approves the application of a business entity,  
 45 the director shall find that the business entity:

- 1           1. Has paid the fees prescribed in section 20-167.
- 2           2. Will be acting within the scope of its partnership agreement,  
3 articles of incorporation or other chartering documents when the business  
4 entity transacts business under the license.
- 5           3. Has designated an individually licensed insurance producer who is  
6 responsible for the business entity's compliance with the insurance laws of  
7 this state.
- 8           D. The application of a business entity shall also include the names  
9 of all members, officers and directors of the business entity. For any  
10 individual who is identified pursuant to this subsection and pursuant to  
11 subsection C, paragraph 3 of this section, the director may require the  
12 applicant to provide the information required for a license as an individual.
- 13           E. Before the director grants a license, the director may require the  
14 applicant to:
- 15           1. Provide any document that is reasonably necessary to verify the  
16 information that is contained in an application and other information  
17 including prior criminal records.
- 18           2. Submit a full set of fingerprints to the department. The  
19 department of insurance ~~shall~~ MAY submit the fingerprints to the department  
20 of public safety for the purpose of obtaining a state and federal criminal  
21 records check pursuant to section 41-1750 and Public Law 92-544 OR MAY SUBMIT  
22 THE FINGERPRINTS TO A THIRD-PARTY VENDOR FOR THE PURPOSE OF OBTAINING A  
23 FINGERPRINT CHECK. The department of public safety may exchange ~~this~~ THE  
24 fingerprint data IT RECEIVES PURSUANT TO THIS PARAGRAPH with the federal  
25 bureau of investigation.
- 26           F. A nonresident person who is licensed as an insurance producer in  
27 another state, who becomes a resident of this state and who continues to act  
28 as an insurance producer shall apply to become a resident licensee pursuant  
29 to this section within ninety days.
- 30           Sec. 3. Section 20-287, Arizona Revised Statutes, is amended to read:  
31 20-287. Nonresident licensing
- 32           A. Unless the director denies a license pursuant to section 20-295,  
33 the director shall issue a nonresident person a nonresident INSURANCE  
34 producer license if all of the following apply:
- 35           1. The person is currently licensed as a resident and in good standing  
36 in the person's home state.
- 37           2. The person has submitted the proper request for licensure and has  
38 paid the fees prescribed in section 20-167.
- 39           3. The person has submitted the application for licensure as an  
40 insurance producer that the person submitted to the person's home state or a  
41 completed uniform application on a form prescribed by the national  
42 association of insurance commissioners.
- 43           4. The person's home state issues nonresident INSURANCE producer  
44 licenses to residents of this state on the same basis.

1           B. ~~A nonresident insurance producer who moves from one state to~~  
2 ~~another state or~~ TO REMAIN CONTINUOUSLY LICENSED IN THIS STATE, a resident  
3 insurance producer who moves from this state to another state shall file,  
4 WITHIN THIRTY DAYS AFTER REQUESTING A CLEARANCE LETTER, a change of address  
5 form as prescribed in section 20-286, subsection C and ~~provide~~ APPLY FOR  
6 LICENSURE FROM THE NEW RESIDENT STATE. AFTER RECEIVING THE LICENSE FROM THE  
7 NEW RESIDENT STATE, THE INSURANCE PRODUCER SHALL IMMEDIATELY NOTIFY the  
8 director ~~with certification of licensure from the new resident state within~~  
9 ~~thirty days after receiving~~ OF the new resident license. A fee or license  
10 application is not required.

11           C. Notwithstanding any other provision of this chapter, the director  
12 shall issue:

13           1. A nonresident surplus lines broker license pursuant to subsection A  
14 of this section to a person who is licensed as a surplus lines producer or  
15 broker in the person's home state. Except as provided in subsection A of  
16 this section, this section does not amend or supersede article 5 of this  
17 chapter.

18           2. A nonresident insurance producer license pursuant to subsection A  
19 of this section to a person who is licensed in the person's home state to  
20 transact limited lines insurance. The license shall grant the person the  
21 same scope of authority granted under the license issued by the person's home  
22 state. For the purposes of this paragraph, limited lines insurance is any  
23 authority that is granted by the home state and that restricts the authority  
24 of the license to less than the total authority prescribed in the associated  
25 major line insurance.

26           D. Except as otherwise provided in this title, a nonresident licensee  
27 is subject to this title as though the licensee were licensed as a resident.

28           Sec. 4. Section 20-288, Arizona Revised Statutes, is amended to read:  
29 20-288. Exemption from examination

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

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

34           2. The application is received within ninety days after the  
35 cancellation of the ~~applicant's previous~~ RESIDENT license THAT THE APPLICANT  
36 HELD IN ANOTHER STATE and the other state issues a certification that, at the  
37 time of cancellation, the applicant was in good standing in that state, or  
38 other reliable information available to the director indicates that the  
39 applicant is or was licensed in good standing for the line of authority  
40 requested. THIS PARAGRAPH DOES NOT APPLY TO AN APPLICANT WHO FAILS AN  
41 EXAMINATION ADMINISTERED BY THIS STATE FOR A SPECIFIC LINE OF AUTHORITY FOUR  
42 TIMES WITHIN A TWELVE-MONTH PERIOD, WHO BECOMES LICENSED AS A RESIDENT IN  
43 ANOTHER STATE FOR THE SPECIFIC LINE OF AUTHORITY AND WHO CANCELS THE LICENSE  
44 IN THE OTHER STATE AND APPLIES FOR A RESIDENT LICENSE IN THIS STATE WITHIN

1 ONE YEAR OF THE LAST EXAMINATION ADMINISTERED TO THE APPLICANT BY THIS STATE  
2 FOR THE SPECIFIC LINE OF AUTHORITY.

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

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

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

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

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

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

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

18 Sec. 5. Section 20-340.01, Arizona Revised Statutes, is amended to  
19 read:

20 20-340.01. Bail bond agents; licensure; business entities;  
21 place of business; receipt; maintenance of records

22 A. A person shall not act as a bail bond agent in this state unless  
23 the person is licensed by the director in accordance with this article. An  
24 applicant for a bail bond agent license shall submit an affidavit attesting  
25 to the applicant's residency in this state for at least one year immediately  
26 preceding the date of application.

27 B. Each applicant for A bail bond agent license shall submit a full  
28 set of fingerprints to the department of insurance for the purpose of  
29 obtaining a state and federal criminal records check pursuant to section  
30 41-1750 and Public Law 92-544. The department of public safety may exchange  
31 this fingerprint data with the federal bureau of investigation. The  
32 department of insurance shall not issue a license until it receives the state  
33 and federal criminal history records check and the applicant is qualified for  
34 licensure.

35 C. The director shall not license a resident business entity as a bail  
36 bond agent unless each owner and shareholder is individually licensed as a  
37 bail bond agent.

38 D. A person who is licensed as a bail bond agent in this state is not  
39 authorized in this state to transact civil bonds in connection with  
40 contracts, administrative proceedings or other noncriminal matters on behalf  
41 of a surety insurer unless the bail bond agent is also licensed as a ~~property~~  
42 ~~and~~ casualty producer in this state.

43 E. Each bail bond agent shall have and maintain a place of business in  
44 this state that is accessible to the public and where the bail bond agent  
45 principally conducts transactions under the agent's license.

1 F. As a minimum requirement for permanent office records, each bail  
2 bond agent and general lines agent who is engaged in the bail bond business  
3 shall maintain a daily bond register that is the original and permanent  
4 record of all bonds or undertakings executed by the licensee and that states  
5 the:

- 6 1. Number of the power of attorney form.
- 7 2. Date the bond was executed.
- 8 3. Name of the principal.
- 9 4. Amount of the bond.
- 10 5. Premium charged.
- 11 6. Premium reported to the surety company.
- 12 7. Security or collateral received.
- 13 8. Date the security or collateral was received and the date released.
- 14 9. Indemnity agreements.
- 15 10. Disposition of the bond.
- 16 11. Date of disposition.

17 G. Each bail bond agent and general lines agent who is engaged in the  
18 bail bond business and who accepts monies or any other consideration for any  
19 bail bond undertaking shall for each payment received give to the person  
20 paying the monies or giving the consideration a prenumbered receipt as  
21 evidence of payment. The receipt must state the date, the name of the  
22 principal, a description of the consideration or amount of monies received  
23 and the purpose for which received, the number of the power of attorney form  
24 attached to the bond, the penal sum of the bond, the name of the person  
25 making the payment or giving the consideration and the terms under which the  
26 monies or other consideration shall be released. Each bail bond agent shall  
27 retain a duplicate copy of each receipt issued as part of the agent's  
28 records.

29 H. The bail bond agent shall keep at the agent's place of business the  
30 usual and customary records pertaining to transactions made under the  
31 license. The licensee shall keep all the records as to any particular  
32 transaction available and open to the inspection of the director at any  
33 business time during the three years immediately after the date of completion  
34 of the transaction.

35 I. The director may examine the business practices, books and records  
36 of any bail bond agent as often as the director deems appropriate. The bail  
37 bond agent shall pay the costs incurred for the examination.

38 Sec. 6. Section 20-2901, Arizona Revised Statutes, is amended to read:  
39 20-2901. Definitions

40 In this article, unless the context otherwise requires:

- 41 1. "Applicant" means a provider organization that submits an  
42 application to the contractor to provide continuing education courses.
- 43 2. "Approved continuing education course" means any course that has  
44 been approved by at least five other states or that is approved by a  
45 contractor or automatically approved pursuant to section 20-2904.

1           3. "Approved provider" means an organization or individual that offers  
2 an approved continuing education course and that is authorized by the  
3 contractor to offer the course to a licensee for credit toward the licensee's  
4 continuing education requirements.

5           4. "Continuing education review committee" means the committee  
6 appointed by the director pursuant to section 20-2905 to establish minimum  
7 standards that apply to approved providers and approved continuing education  
8 courses and minimum performance standards that apply to contractors.

9           5. "Continuously licensed" means that a licensee's license has not  
10 terminated for any reason. ~~Continuously licensed does not include an expired~~  
11 ~~license~~ FOR THE PURPOSES OF THIS PARAGRAPH, A LICENSE THAT EXPIRES under  
12 section 20-289, subsection E IS NOT CONSIDERED TO HAVE TERMINATED if the late  
13 fee is timely paid and the license is renewed or the license is placed on  
14 inactive status pursuant to section 20-289.01.

15           6. "Contractor" means the person who has a contract with the  
16 department of insurance to approve continuing education providers and courses  
17 and to administer the continuing education program and who is paid through  
18 fees collected from approved providers when the approved providers apply for  
19 continuing education course approval.

20           7. "Credit hour" means the value assigned to an hour of instruction in  
21 an approved continuing education course.

22           8. "Ethics training" means continuing education course content  
23 regarding the ethical responsibilities insurance producers owe to insurers,  
24 applicants, policyholders, regulators, insurance professionals and the  
25 public.

26           9. "License period" means the period between the date an Arizona  
27 insurance license is issued or last renewed and the expiration date of the  
28 Arizona insurance license.

29           10. "Licensee" means an individual insurance producer licensed for  
30 major line insurance as defined in section 20-281. Licensee does not include  
31 any business entity.

32           11. "Nonresident licensee" means a licensee who is applying to renew a  
33 nonresident license in this state.

34           12. "Provider organization" means a person that provides continuing  
35 education courses but that has not yet been accepted as an approved provider  
36 pursuant to section 20-2904.

37           Sec. 7. Retroactivity

38           Section 20-2901, Arizona Revised Statutes, as amended by this act,  
39 applies retroactively to from and after September 12, 2013.