

REFERENCE TITLE: insurance; fees; insurance producers

State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

## **HB 2279**

Introduced by  
Representative Livingston

AN ACT

AMENDING SECTIONS 20-265, 20-381 AND 20-465, ARIZONA REVISED STATUTES;  
RELATING TO THE TRANSACTION OF INSURANCE BUSINESS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-265, Arizona Revised Statutes, is amended to  
3 read:

4 20-265. Motor vehicle insurance: premium and fee comparisons  
5 and complaint ratios

6 The department of insurance shall compile **premium** comparisons **OF**  
7 **PREMIUM AND FEES CHARGED AT POLICY INCEPTION** and complaint ratios for  
8 motor vehicle insurance policies that insure six or fewer motor  
9 vehicles. The **premium** comparisons shall reflect premiums **AND FEES**  
10 **ASSOCIATED WITH THE INCEPTION OF A POLICY** for not fewer than five  
11 hypothetical insureds for urban areas and five hypothetical insureds for  
12 rural areas. The department of insurance shall forward copies of the  
13 **premium** comparisons **OF PREMIUM AND FEES CHARGED AT POLICY INCEPTION** and  
14 complaint ratios to the department of transportation. The director of the  
15 department of transportation in consultation with the director of the  
16 department of insurance shall make the copies available to the public.  
17 The department of insurance may include in the premium comparison  
18 information consumer information that describes the nature of bodily  
19 injury coverage, property damage coverage, collision coverage,  
20 comprehensive coverage, medical payment coverage, uninsured motorist  
21 coverage and underinsured motorist coverage.

22 Sec. 2. Section 20-381, Arizona Revised Statutes, is amended to  
23 read:

24 20-381. Definitions

25 In this article, unless the context otherwise requires:

26 1. "Advisory organization" means any person other than a single  
27 insurer who assists insurers or rate service organizations in the making  
28 of rates by compiling and furnishing loss or expense statistics or other  
29 statistical information and data, or by the submission of recommendations  
30 as to rates, forms or supplementary rate information. Advisory  
31 organization does not include a joint underwriting association, any  
32 actuarial or legal consultant, any employee of an insurer or insurers  
33 under common control or management or their employees or manager.

34 2. "Loss cost adjustment" means that portion of a rate filed by an  
35 insurer with the director that includes the insurer's general expenses,  
36 total product expenses, taxes, licenses and fee expenses and underwriting  
37 profit and contingencies. Loss cost adjustment does not include loss  
38 adjustment expenses or prospective loss costs.

39 3. "Loss cost modification factor" means that rating factor filed  
40 by an insurer with the director for the purpose of modifying the rate  
41 service organization's prospective loss cost filing.

42 4. "Prospective loss costs" means the historical aggregate losses  
43 and loss adjustment expenses filed by a rate service organization with the  
44 director on which a portion of a rate is based, adjusted through actuarial  
45 trending to a future point in time and developed to their ultimate values.

1           5. "Rate" means that cost of insurance per exposure unit whether  
2 expressed as a single number or as a prospective loss cost with an  
3 adjustment to account for the treatment of expenses, profit and individual  
4 insurer variation in loss experience before any application of individual  
5 risk variations based on loss or expense considerations. Rate does not  
6 include the minimum premium.

7           6. "Rate service organization" means any person other than a single  
8 insurer who assists insurers by compiling and furnishing loss or expense  
9 statistics and recommending, making or filing rates, forms or  
10 supplementary rate information. Rate service organization does not  
11 include a joint underwriting association, any actuarial or legal  
12 consultant, any employee of an insurer or insurers under common control or  
13 management, or their employees or manager.

14           7. "Supplementary rate information" means any manual or plan of  
15 rates, statistical plan, classification, rating schedule, minimum premium,  
16 ~~policy fee~~ SCHEDULE OF FEES, INCLUDING MEMBERSHIP FEES CHARGED BY A  
17 RECIPROCAL OR MUTUAL INSURER, rating rule, rate related underwriting rule  
18 and any other information used by an insurer in making rates.  
19 Supplementary rate information does not include the final rate pages that  
20 combine the prospective loss costs with the loss cost adjustments.

21           Sec. 3. Section 20-465, Arizona Revised Statutes, is amended to  
22 read:

23           20-465. Fees; insurance producers; definition

24           A. An ~~insurer and~~ insurance producer shall not charge or receive  
25 any fee or service charge in addition to the premium ~~charged for services~~  
26 ~~customarily provided~~ in CONNECTION WITH the transaction of insurance for  
27 ~~motor vehicle insurance policies that insure six or fewer motor vehicles.~~

28           ~~B. An insurer and insurance producer may charge and receive a fee~~  
29 ~~for services not customarily provided in the transaction of insurance if~~  
30 ~~the fee is filed with the director and the following conditions exist:~~

31           ~~1. The services performed by the insurer or insurance producer are~~  
32 ~~in excess of those normally performed for insureds.~~ SUBJECT TO ARTICLE 4.1  
33 OF THIS CHAPTER, UNLESS:

34           1. THE FEE OR SERVICE CHARGE AND INFORMATION IN SUPPORT OF THE FEE  
35 OR SERVICE CHARGE ARE FILED WITH THE DIRECTOR NOT LESS THAN THIRTY DAYS  
36 BEFORE THE FEE OR SERVICE CHARGE BECOMES EFFECTIVE, ON A FORM PRESCRIBED  
37 BY THE DIRECTOR.

38           2. The FEE OR service charge and the specific services for which  
39 ~~the charge is made~~ IT IS CHARGED are disclosed and agreed to in writing by  
40 the insured ~~on a form that is approved by the director.~~

41           3. The amount of the FEE OR service charge is reasonably related to  
42 the cost of the service ~~performed~~ RENDERED AND DOES NOT DUPLICATE OR  
43 INCREASE ANY FEE OR SERVICE CHARGE INCLUDED IN THE INSURER'S RATE FILING  
44 PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER.

1 B. THE DIRECTOR MAY DISAPPROVE ANY FEE OR SERVICE CHARGE FILED  
2 PURSUANT TO THIS SECTION BY ISSUING AN ORDER SPECIFYING IN WHAT RESPECTS  
3 THE FEE OR SERVICE CHARGE FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS  
4 SECTION. IF THE FEE OR SERVICE CHARGE HAS BECOME EFFECTIVE, THE ORDER  
5 SHALL SPECIFY THE DATE ON WHICH THE FEE OR SERVICE CHARGE IS NO LONGER  
6 EFFECTIVE. SUBJECT TO SUBSECTION C OF THIS SECTION, THE ORDER MAY NOT  
7 AFFECT ANY FEE OR SERVICE CHARGE RECEIVED OR PAYABLE BEFORE THE EFFECTIVE  
8 DATE OF THE ORDER.

9 ~~C. After notice and a hearing, the director shall prescribe the~~  
10 ~~services that are customarily provided in the transaction of insurance.~~

11 ~~D.~~ C. If after an examination and a hearing the director  
12 determines that an ~~insurer or~~ insurance producer has ~~violated subsection A~~  
13 ~~of~~ FAILED TO COMPLY WITH this section, the director may order the ~~insurer~~  
14 ~~or~~ insurance producer to refund ~~the fee or that part of the fee that the~~  
15 ~~director determines was excessive~~ ALL OR PART OF THE FEE OR SERVICE CHARGE  
16 and may impose civil penalties as set forth in section ~~20-456~~ 20-295. The  
17 ~~insurer or~~ insurance producer shall pay the costs of the examination from  
18 monies deposited with the director pursuant to section 20-159 regardless  
19 of the findings of the examination.

20 D. THIS SECTION DOES NOT RESTRICT OR PROHIBIT INSURANCE PRODUCERS  
21 FROM CHARGING AND COLLECTING FEES INCLUDED IN THE INSURER'S RATE FILING  
22 PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER.

23 E. This section does not prohibit ~~fees, including membership fees~~  
24 ~~charged by a reciprocal or mutual insurer, if the fees are filed with the~~  
25 ~~director and are included by an insurer in supplemental rate information~~  
26 INSURANCE PRODUCERS FROM IMPOSING FEES OR SERVICE CHARGES IN CONJUNCTION  
27 WITH THE SALE OF COMMERCIAL INSURANCE.

28 ~~F. This section does not apply to insurers and insurance producers~~  
29 ~~transacting commercial insurance.~~ For the purposes of this ~~subsection~~  
30 SECTION, "commercial insurance" means insurance that insures against the  
31 risks ~~resulting from the responsibilities or activities of one or more~~  
32 ~~businesses, including motor vehicle insurance policies insuring seven or~~  
33 ~~more motor vehicles~~ ARISING FROM BUSINESS AND COMMERCIAL ACTIVITY OTHER  
34 THAN INSURANCE MAINTAINED BY A TRANSPORTATION NETWORK COMPANY DRIVER UNDER  
35 A PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICY.

36 Sec. 4. Intent

37 It is the intent of the legislature that the only limitations on the  
38 ability of insurance producers to charge or receive compensation for  
39 additional services provided to insureds, whether referred to as fees or  
40 any other name, are set forth in section 20-465, Arizona Revised Statutes,  
41 as amended by this act. The legislature further intends that the  
42 limitations set forth in section 20-465, Arizona Revised Statutes, as  
43 amended by this act, apply only to insurance producers and is not  
44 applicable to fees or service charges charged by insurers pursuant to the  
45 applicable law.