

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 180
SENATE BILL 1007

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 16; 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. Title 20, chapter 2, Arizona Revised Statutes, is
3 amended by adding article 16, to read:

4 ARTICLE 16. CORPORATE GOVERNANCE

5 20-492. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CORPORATE GOVERNANCE ANNUAL DISCLOSURE" OR "CGAD" MEANS A
8 CONFIDENTIAL REPORT THAT IS FILED BY THE INSURER OR INSURANCE GROUP AND
9 THAT IS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE.

10 2. "INSURANCE GROUP" MEANS THOSE INSURERS AND AFFILIATES INCLUDED
11 WITHIN AN INSURANCE HOLDING COMPANY SYSTEM AS DEFINED IN SECTION 20-481.

12 3. "INSURER":

13 (a) MEANS A DOMESTIC INSURER AS DEFINED IN SECTION 20-203.

14 (b) DOES NOT INCLUDE:

15 (i) AN AGENCY, AUTHORITY OR INSTRUMENTALITY OF THE UNITED STATES
16 AND ITS POSSESSIONS AND TERRITORIES, THE COMMONWEALTH OF PUERTO RICO OR
17 THE DISTRICT OF COLUMBIA.

18 (ii) A STATE.

19 (iii) A POLITICAL SUBDIVISION OF A STATE.

20 20-492.01. Disclosure requirements

21 A. BY JUNE 1 OF EACH CALENDAR YEAR, AN INSURER, OR THE INSURANCE
22 GROUP OF WHICH THE INSURER IS A MEMBER, SHALL SUBMIT TO THE DIRECTOR A
23 CORPORATE GOVERNANCE ANNUAL DISCLOSURE THAT CONTAINS THE INFORMATION
24 DESCRIBED IN SECTION 20-492.03. NOTWITHSTANDING ANY REQUEST FROM THE
25 DIRECTOR MADE PURSUANT TO SUBSECTION C OF THIS SECTION, IF THE INSURER IS
26 A MEMBER OF AN INSURANCE GROUP, THE INSURER SHALL SUBMIT THE REPORT
27 REQUIRED BY THIS SECTION TO THE CHIEF REGULATORY OFFICIAL OF THE LEAD
28 STATE FOR THE INSURANCE GROUP, IN ACCORDANCE WITH THE LAWS OF THE LEAD
29 STATE, AS DETERMINED BY THE PROCEDURES OUTLINED IN THE MOST RECENT
30 FINANCIAL ANALYSIS HANDBOOK THAT IS ADOPTED BY THE NATIONAL ASSOCIATION OF
31 INSURANCE COMMISSIONERS.

32 B. THE CGAD MUST INCLUDE A SIGNATURE OF THE INSURER OR INSURANCE
33 GROUP'S CHIEF EXECUTIVE OFFICER OR CORPORATE SECRETARY ATTESTING TO THE
34 BEST OF THAT INDIVIDUAL'S BELIEF AND KNOWLEDGE THAT THE INSURER HAS
35 IMPLEMENTED THE CORPORATE GOVERNANCE PRACTICES AND THAT A COPY OF THE
36 DISCLOSURE HAS BEEN PROVIDED TO THE INSURER'S BOARD OF DIRECTORS OR THE
37 APPROPRIATE COMMITTEE OF THE BOARD.

38 C. AN INSURER THAT IS NOT REQUIRED TO SUBMIT A CGAD UNDER THIS
39 SECTION SHALL DO SO ON THE DIRECTOR'S REQUEST.

40 D. FOR THE PURPOSES OF COMPLETING THE CGAD, THE INSURER OR
41 INSURANCE GROUP MAY PROVIDE INFORMATION REGARDING CORPORATE GOVERNANCE AT
42 THE ULTIMATE CONTROLLING PARENT LEVEL, AN INTERMEDIATE HOLDING COMPANY
43 LEVEL OR THE INDIVIDUAL LEGAL ENTITY LEVEL, DEPENDING ON HOW THE INSURER
44 OR INSURANCE GROUP HAS STRUCTURED ITS SYSTEM OF CORPORATE GOVERNANCE. THE
45 INSURER OR INSURANCE GROUP IS ENCOURAGED TO MAKE THE CGAD AT THE LEVEL AT

1 WHICH THE INSURER'S OR INSURANCE GROUP'S RISK APPETITE IS DETERMINED, THE
2 LEVEL AT WHICH THE EARNINGS, CAPITAL, LIQUIDITY, OPERATIONS AND REPUTATION
3 OF THE INSURER ARE OVERSEEN COLLECTIVELY AND AT WHICH THE SUPERVISION OF
4 THOSE FACTORS ARE COORDINATED AND EXERCISED OR THE LEVEL AT WHICH LEGAL
5 LIABILITY FOR FAILURE OF GENERAL CORPORATE GOVERNANCE DUTIES WOULD BE
6 PLACED. IF THE INSURER OR INSURANCE GROUP DETERMINES THE LEVEL OF
7 REPORTING BASED ON THESE CRITERIA, IT SHALL INDICATE WHICH OF THE THREE
8 CRITERION WAS USED TO DETERMINE THE LEVEL OF REPORTING AND EXPLAIN ANY
9 SUBSEQUENT CHANGES IN LEVEL OF REPORTING.

10 E. THE REVIEW OF THE CGAD AND ANY ADDITIONAL REQUESTS FOR
11 INFORMATION SHALL BE MADE THROUGH THE LEAD STATE AS DETERMINED BY THE
12 PROCEDURES WITHIN THE MOST RECENT FINANCIAL ANALYSIS HANDBOOK THAT IS
13 ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

14 F. INSURERS THAT PROVIDE INFORMATION THAT IS SUBSTANTIALLY SIMILAR
15 TO THE INFORMATION REQUIRED BY THIS ARTICLE IN OTHER DOCUMENTS THAT ARE
16 PROVIDED TO THE DIRECTOR, INCLUDING PROXY STATEMENTS THAT ARE FILED IN
17 CONJUNCTION WITH FORM B REQUIREMENTS, OR OTHER STATE OR FEDERAL FILINGS
18 THAT ARE PROVIDED TO THE DEPARTMENT ARE NOT REQUIRED TO DUPLICATE THAT
19 INFORMATION IN THE CGAD BUT ARE REQUIRED TO CROSS-REFERENCE THE DOCUMENT
20 IN WHICH THE INFORMATION IS INCLUDED.

21 20-492.02. Rules and orders

22 ON NOTICE AND AN OPPORTUNITY FOR ALL INTERESTED PERSONS TO BE HEARD,
23 THE DIRECTOR MAY ADOPT RULES AND ISSUE ORDERS NECESSARY TO CARRY OUT THIS
24 ARTICLE.

25 20-492.03. Contents of corporate governance annual disclosure

26 A. THE INSURER OR INSURANCE GROUP HAS DISCRETION OVER THE RESPONSES
27 TO THE CGAD INQUIRIES, IF THE CGAD CONTAINS THE MATERIAL INFORMATION
28 NECESSARY TO ALLOW THE DIRECTOR TO GAIN AN UNDERSTANDING OF THE INSURER'S
29 OR INSURANCE GROUP'S CORPORATE GOVERNANCE STRUCTURE, POLICIES AND
30 PRACTICES. THE DIRECTOR MAY REQUEST ADDITIONAL INFORMATION THAT THE
31 DIRECTOR DEEMS MATERIAL AND NECESSARY TO PROVIDE THE DIRECTOR WITH A CLEAR
32 UNDERSTANDING OF THE CORPORATE GOVERNANCE POLICIES, THE REPORTING OR
33 INFORMATION SYSTEM OR THE CONTROLS IMPLEMENTING THOSE POLICIES.

34 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE INSURER OR
35 INSURANCE GROUP SHALL PREPARE THE CGAD CONSISTENT WITH RULES ADOPTED BY
36 THE DEPARTMENT. DOCUMENTATION AND SUPPORTING INFORMATION SHALL BE
37 MAINTAINED AND MADE AVAILABLE ON EXAMINATION OR ON THE REQUEST OF THE
38 DIRECTOR.

39 20-492.04. Confidentiality

40 A. DOCUMENTS, MATERIALS OR OTHER INFORMATION, INCLUDING THE CGAD,
41 THAT ARE IN THE POSSESSION OR CONTROL OF THE DEPARTMENT AND THAT ARE
42 OBTAINED BY, CREATED BY OR DISCLOSED TO THE DIRECTOR OR ANY OTHER PERSON
43 UNDER THIS ARTICLE ARE RECOGNIZED BY THIS STATE AS BEING PROPRIETARY AND
44 CONTAINING TRADE SECRETS. ALL SUCH DOCUMENTS, MATERIALS OR OTHER
45 INFORMATION ARE CONFIDENTIAL BY LAW AND PRIVILEGED, ARE NOT SUBJECT TO

1 TITLE 39, CHAPTER 1, ARTICLE 2, ARE NOT SUBJECT TO SUBPOENA AND ARE NOT
2 SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL
3 ACTION. THE DIRECTOR IS AUTHORIZED TO USE THE DOCUMENTS, MATERIALS OR
4 OTHER INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION
5 BROUGHT AS A PART OF THE DIRECTOR'S OFFICIAL DUTIES. THE DIRECTOR MAY NOT
6 OTHERWISE MAKE THE DOCUMENTS, MATERIALS OR OTHER INFORMATION PUBLIC
7 WITHOUT THE PRIOR WRITTEN CONSENT OF THE INSURER. THIS SECTION DOES NOT
8 REQUIRE WRITTEN CONSENT OF THE INSURER BEFORE THE DIRECTOR SHARES OR
9 RECEIVES CONFIDENTIAL DOCUMENTS, MATERIALS OR OTHER CGAD-RELATED
10 INFORMATION PURSUANT TO SUBSECTION C OF THIS SECTION.

11 B. THE DIRECTOR OR A PERSON WHO RECEIVES DOCUMENTS, MATERIALS OR
12 OTHER CGAD-RELATED INFORMATION, THROUGH EXAMINATION OR OTHERWISE, WHILE
13 ACTING UNDER THE AUTHORITY OF THE DIRECTOR OR WITH WHOM THE DOCUMENTS,
14 MATERIALS OR OTHER INFORMATION ARE SHARED PURSUANT TO THIS ARTICLE IS NOT
15 ALLOWED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING ANY
16 CONFIDENTIAL DOCUMENTS, MATERIALS OR INFORMATION SUBJECT TO SUBSECTION A
17 OF THIS SECTION.

18 C. IN ORDER TO ASSIST IN THE PERFORMANCE OF THE DIRECTOR'S
19 REGULATORY DUTIES, THE DIRECTOR MAY:

20 1. ON REQUEST, SHARE DOCUMENTS, MATERIALS OR OTHER CGAD-RELATED
21 INFORMATION, INCLUDING THE CONFIDENTIAL AND PRIVILEGED DOCUMENTS,
22 MATERIALS OR INFORMATION SUBJECT TO SUBSECTION A OF THIS SECTION,
23 INCLUDING PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS, WITH OTHER
24 STATE, FEDERAL AND INTERNATIONAL FINANCIAL REGULATORY AGENCIES, INCLUDING
25 MEMBERS OF A SUPERVISORY COLLEGE AS DEFINED IN SECTION 20-481, WITH THE
26 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND WITH THIRD-PARTY
27 CONSULTANTS PURSUANT TO SECTION 20-492.05, IF THE RECIPIENT AGREES IN
28 WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE
29 CGAD-RELATED DOCUMENTS, MATERIALS OR OTHER INFORMATION AND VERIFIES IN
30 WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

31 2. RECEIVE DOCUMENTS, MATERIALS OR OTHER CGAD-RELATED INFORMATION,
32 INCLUDING OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS OR
33 INFORMATION, INCLUDING PROPRIETARY AND TRADE-SECRET INFORMATION OR
34 DOCUMENTS, FROM REGULATORY OFFICIALS OF OTHER STATE, FEDERAL AND
35 INTERNATIONAL FINANCIAL REGULATORY AGENCIES, INCLUDING MEMBERS OF A
36 SUPERVISORY COLLEGE AS DEFINED IN SECTION 20-481, AND FROM THE NATIONAL
37 ASSOCIATION OF INSURANCE COMMISSIONERS AND SHALL MAINTAIN AS CONFIDENTIAL
38 OR PRIVILEGED ANY DOCUMENT, MATERIAL OR INFORMATION RECEIVED WITH NOTICE
39 OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS
40 OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL OR
41 INFORMATION.

42 D. THE SHARING OF INFORMATION AND DOCUMENTS BY THE DIRECTOR
43 PURSUANT TO THIS ARTICLE DOES NOT CONSTITUTE A DELEGATION OF REGULATORY
44 AUTHORITY OR RULEMAKING, AND THE DIRECTOR IS SOLELY RESPONSIBLE FOR THE
45 ADMINISTRATION, EXECUTION AND ENFORCEMENT OF THIS ARTICLE.

1 E. THE DISCLOSURE OF CGAD-RELATED INFORMATION OR DOCUMENTS TO THE
2 DIRECTOR OR AS A RESULT OF SHARING THE INFORMATION AND DOCUMENTS AS
3 AUTHORIZED IN THIS ARTICLE DOES NOT CONSTITUTE A WAIVER OF ANY APPLICABLE
4 PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN THE DOCUMENTS, PROPRIETARY AND
5 TRADE-SECRET MATERIALS OR OTHER CGAD-RELATED INFORMATION.

6 20-492.05. Third-party consultants; confidentiality standards

7 A. THE DIRECTOR MAY RETAIN, AT THE INSURER'S EXPENSE, THIRD-PARTY
8 CONSULTANTS, INCLUDING ATTORNEYS, ACTUARIES, ACCOUNTANTS AND OTHER EXPERTS
9 NOT OTHERWISE A PART OF THE DIRECTOR'S STAFF, AS MAY BE REASONABLY
10 NECESSARY TO ASSIST THE DIRECTOR IN REVIEWING THE CGAD AND RELATED
11 INFORMATION OR THE INSURER'S COMPLIANCE WITH THIS ARTICLE.

12 B. PERSONS WHO ARE RETAINED UNDER SUBSECTION A OF THIS SECTION ARE
13 UNDER THE DIRECTION AND CONTROL OF THE DIRECTOR AND SHALL ACT IN A PURELY
14 ADVISORY CAPACITY.

15 C. THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND
16 THIRD-PARTY CONSULTANTS ARE SUBJECT TO THE SAME CONFIDENTIALITY STANDARDS
17 AND REQUIREMENTS AS THE DIRECTOR.

18 D. AS PART OF THE RETENTION PROCESS, A THIRD-PARTY CONSULTANT SHALL
19 VERIFY TO THE DIRECTOR, WITH NOTICE TO THE INSURER, THAT THE THIRD-PARTY
20 CONSULTANT DOES NOT HAVE A CONFLICT OF INTEREST AND THAT THE THIRD-PARTY
21 CONSULTANT HAS INTERNAL PROCEDURES IN PLACE TO MONITOR COMPLIANCE WITH A
22 CONFLICT AND TO COMPLY WITH THE CONFIDENTIALITY STANDARDS AND REQUIREMENTS
23 OF THIS ARTICLE.

24 E. A WRITTEN AGREEMENT WITH THE NATIONAL ASSOCIATION OF INSURANCE
25 COMMISSIONERS OR A THIRD-PARTY CONSULTANT GOVERNING SHARING AND USE OF
26 INFORMATION PROVIDED PURSUANT TO THIS ARTICLE SHALL CONTAIN ALL OF THE
27 FOLLOWING PROVISIONS AND EXPRESSLY REQUIRE THE WRITTEN CONSENT OF THE
28 INSURER BEFORE MAKING PUBLIC INFORMATION PROVIDED UNDER THIS ARTICLE:

29 1. SPECIFIC PROCEDURES AND PROTOCOLS FOR MAINTAINING THE
30 CONFIDENTIALITY AND SECURITY OF CGAD-RELATED INFORMATION THAT IS SHARED
31 WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR A THIRD-PARTY
32 CONSULTANT PURSUANT TO THIS ARTICLE.

33 2. PROCEDURES AND PROTOCOLS FOR SHARING BY THE NATIONAL ASSOCIATION
34 OF INSURANCE COMMISSIONERS ONLY WITH OTHER STATE REGULATORS FROM STATES IN
35 WHICH THE INSURANCE GROUP HAS DOMICILED INSURERS. THE AGREEMENT SHALL
36 PROVIDE THAT THE RECIPIENT AGREE IN WRITING TO MAINTAIN THE
37 CONFIDENTIALITY AND PRIVILEGED STATUS OF THE CGAD-RELATED DOCUMENTS,
38 MATERIALS OR OTHER INFORMATION AND VERIFY IN WRITING THE LEGAL AUTHORITY
39 TO MAINTAIN CONFIDENTIALITY.

40 3. A PROVISION THAT SPECIFIES THAT OWNERSHIP OF THE CGAD-RELATED
41 INFORMATION THAT IS SHARED WITH THE NATIONAL ASSOCIATION OF INSURANCE
42 COMMISSIONERS OR A THIRD-PARTY CONSULTANT REMAIN WITH THE DEPARTMENT AND
43 THAT THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' OR THIRD-PARTY
44 CONSULTANT'S USE OF THE INFORMATION IS SUBJECT TO THE DIRECTION OF THE
45 DIRECTOR.

1 4. A PROVISION THAT PROHIBITS THE NATIONAL ASSOCIATION OF INSURANCE
2 COMMISSIONERS OR A THIRD-PARTY CONSULTANT FROM STORING THE INFORMATION
3 SHARED PURSUANT TO THIS ARTICLE IN A PERMANENT DATABASE AFTER THE
4 UNDERLYING ANALYSIS IS COMPLETED.

5 5. A PROVISION THAT REQUIRES THE NATIONAL ASSOCIATION OF INSURANCE
6 COMMISSIONERS OR A THIRD-PARTY CONSULTANT TO PROVIDE PROMPT NOTICE TO THE
7 DIRECTOR AND TO THE INSURER OR INSURANCE GROUP REGARDING A SUBPOENA,
8 REQUEST FOR DISCLOSURE OR REQUEST FOR PRODUCTION OF THE INSURER'S
9 CGAD-RELATED INFORMATION.

10 6. A REQUIREMENT THAT THE NATIONAL ASSOCIATION OF INSURANCE
11 COMMISSIONERS OR A THIRD-PARTY CONSULTANT CONSENT TO INTERVENTION BY AN
12 INSURER IN ANY JUDICIAL OR ADMINISTRATIVE ACTION IN WHICH THE NATIONAL
13 ASSOCIATION OF INSURANCE COMMISSIONERS OR A THIRD-PARTY CONSULTANT MAY BE
14 REQUIRED TO DISCLOSE CONFIDENTIAL INFORMATION ABOUT THE INSURER SHARED
15 WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR A THIRD-PARTY
16 CONSULTANT PURSUANT TO THIS ARTICLE.

17 20-492.06. Civil penalties

18 IF AN INSURER FAILS WITHOUT JUST CAUSE TO TIMELY FILE THE CGAD AS
19 REQUIRED IN THIS ARTICLE, AFTER NOTICE AND A HEARING, THE DIRECTOR MAY
20 IMPOSE A CIVIL PENALTY OF \$20 FOR EACH DAY'S DELAY NOT TO EXCEED \$2,500.
21 THE DIRECTOR SHALL COLLECT THE CIVIL PENALTY AND DEPOSIT THE MONIES IN THE
22 STATE GENERAL FUND. THE DIRECTOR MAY REDUCE THE PENALTY IF THE INSURER
23 DEMONSTRATES TO THE DIRECTOR THAT THE IMPOSITION OF THE PENALTY WOULD
24 CONSTITUTE A FINANCIAL HARDSHIP TO THE INSURER.

25 Sec. 2. Exemption from rulemaking requirements

26 For the purposes of this act, the department of insurance is exempt
27 from the rulemaking requirements of title 41, chapter 6, Arizona Revised
28 Statutes, for one year after the effective date of this act.

29 Sec. 3. Nonseverability

30 If section 20-492.04, Arizona Revised Statutes, as added by this
31 act, is finally adjudicated as invalid, the entire act is void.

APPROVED BY THE GOVERNOR MAY 7, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2019.