

House Engrossed

revenue; budget reconciliation; 2020-2021

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HOUSE BILL 2901

AN ACT

AMENDING SECTIONS 20-167, 20-423, 20-466 AND 20-1098.17, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO REVENUE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-167, Arizona Revised Statutes, is amended to
3 read:

4 20-167. Fees: definition

5 A. The director shall collect in advance the following fees, ~~as~~
6 ~~adjusted pursuant to subsection E of this section,~~ which are nonrefundable
7 on payment:

	Not Less Than:	Not More Than:
9 1. For filing charter documents:		
10 (a) Original charter documents,		
11 articles of incorporation,		
12 bylaws, or record of		
13 organization of insurers,		
14 or certified copies thereof,		
15 required to be filed with		
16 the director and not also		
17 subject to filing in the		
18 office of the corporation		
19 commission	\$ 40.00	\$ 115.00
20 (b) Amended charter documents	15.00	45.00
21 (c) No charge or fee shall be		
22 required for filing with		
23 the director any of such		
24 documents also required		
25 by law to be filed in the		
26 office of the corporation		
27 commission		
28 2. Certificate of authority:		
29 (a) Issuance:		
30 Fraternal benefit societies	\$ 15.00	\$ 45.00
31 Medical or hospital service		
32 corporations, health care		
33 services organizations or		
34 prepaid dental plan		
35 organizations	40.00	115.00
36 Mechanical		
37 reimbursement reinsurers	150.00	450.00
38 All other insurers	100.00	295.00
39 (b) Renewal:		
40 Fraternal benefit societies	15.00	45.00
41 Medical or hospital service		
42 corporations, health care		
43 services organizations or		
44 prepaid dental plan		
45 organizations	40.00	115.00

1	Domestic stock life insurers,		
2	domestic stock disability		
3	insurers or domestic stock		
4	life and disability insurers	750.00	2,250.00
5	Domestic life reinsurers,		
6	domestic disability		
7	reinsurers or domestic		
8	life and disability		
9	reinsurers	2,250.00	5,500.00
10	Mechanical reimbursement		
11	reinsurers	2,250.00	5,500.00
12	All other insurers	70.00	205.00
13	3. Certificate of registration as an		
14	administrator or application for		
15	renewal under section 20-485.12	\$ 100.00	\$ 295.00
16	4. Authority to solicit applications		
17	for and issue policies by means		
18	of mechanical vending machines	\$ 30.00	\$ 90.00
19	5. Service company permit	\$ 150.00	\$ 450.00
20	6. Application for motor vehicle		
21	service contract program approval	\$ 150.00	\$ 450.00
22	7. Life care contract application		
23	or annual report	\$ 225.00	\$ 675.00
24	8. Filing annual statement	\$ 150.00	\$ 450.00
25	9. Annual statement filing for		
26	exempt insurer transacting life		
27	insurance, disability insurance		
28	or annuity business pursuant to		
29	section 20-401.05	\$ 65.00	\$ 100.00
30	10. Licenses and examinations:		
31	(a) Licenses:		
32	Surplus lines broker's license,		
33	quadrennially	\$ 600.00	\$1,000.00
34	All other licenses,		
35	quadrennially	60.00	180.00
36	(b) Examinations for license:		
37	Examination on laws and one kind		
38	of insurance	8.00	25.00
39	Examination on laws and two or		
40	more kinds of insurance	15.00	45.00

1 11. Miscellaneous:

2 Fee accompanying service of			
3 process on director	\$	8.00	\$ 25.00
4 Certificate of director,			
5 under seal		1.50	5.00
6 Copy of document filed in			
7 director's office, per page		0.50	0.75

8 B. Except as provided in section 20-1098.18, the director shall
9 deposit, pursuant to sections 35-146 and 35-147, all fees collected
10 pursuant to this section in the state general fund. A refund is not
11 allowed for any unused portion of a fee, and the director shall not
12 prorate fees.

13 C. The license fees prescribed by this section shall be payment in
14 full of all demands for all state, county, district and municipal license
15 fees, license taxes, business privilege taxes and business privilege fees
16 and charges of every kind.

17 D. The director may contract for the examination for ~~the~~ licensing
18 ~~of~~ adjusters, insurance producers, bail bond agents, risk management
19 consultants and surplus lines brokers. If the director does so, the fee
20 for examinations for licenses pursuant to this section is payable directly
21 to the contractor by the applicant for examination. The director may
22 agree to a reasonable examination fee to be charged by the contractor.
23 The fee may exceed the amounts prescribed in this section.

24 ~~E. Each December 1, if the revenue collected from fees during the~~
25 ~~prior fiscal year is less than ninety-five percent or more than one~~
26 ~~hundred ten percent of the appropriated budget for the current fiscal~~
27 ~~year, the director shall revise all fees within the limits prescribed by~~
28 ~~subsection A of this section on a uniform percentage basis among all fee~~
29 ~~categories. The director shall revise the fees in such a manner that the~~
30 ~~revenue derived from the fees during the subsequent fiscal year equals at~~
31 ~~least ninety-five percent but not more than one hundred ten percent of the~~
32 ~~appropriated budget for the current fiscal year. The revised fee schedule~~
33 ~~is effective July 1 of the subsequent fiscal year. For the purposes of~~
34 ~~this subsection, appropriated budget does not include any appropriation~~
35 ~~for the operation of the captive insurance program established under~~
36 ~~chapter 4, article 14 of this title. Any fees collected from captive~~
37 ~~insurers pursuant to subsection G of this section shall not be counted for~~
38 ~~the purpose of meeting the requirement of this subsection to recover at~~
39 ~~least ninety-five but not more than one hundred ten percent of the~~
40 ~~department's appropriated budget.~~

41 ~~F.~~ E. The director may contract with a voluntary domestic
42 organization of surplus lines brokers to perform any transaction
43 prescribed in chapter 2, article 5 of this title, including the acceptance
44 or maintenance of the reports required by section 20-408. The director
45 may allow the contractor to charge a stamping fee. The surplus lines

1 broker shall pay the stamping fee established pursuant to this section
2 directly to the contractor.

3 ~~F.~~ F. Captive insurers shall pay certificate of authority issuance
4 and renewal fees as prescribed by the director.

5 ~~H.~~ G. For the purposes of ~~subsection F of~~ this section, "stamping
6 fee" means a reasonable filing fee charged by a contractor for any
7 transaction prescribed in chapter 2, article 5 of this title, including
8 the acceptance or maintenance of the reports required by section 20-408.

9 Sec. 2. Section 20-423, Arizona Revised Statutes, is amended to
10 read:

11 20-423. Voluntary domestic organization of surplus lines
12 brokers; membership; stamping fee collection;
13 meetings; definition

14 A. A voluntary domestic organization of surplus lines brokers that
15 contracts with the director pursuant to section 20-167, subsection ~~E~~
16 shall be incorporated in this state as a nonprofit corporation. A surplus
17 lines broker who is licensed and in good standing in this state may be a
18 member in the organization if the broker pays any required membership fee
19 and dues required to be paid by all members.

20 B. The organization may collect stamping fees pursuant to section
21 20-167 from any of the following:

22 1. A member of the organization.

23 2. A licensed surplus lines broker who is not a member of the
24 organization.

25 3. A person who is no longer a licensed surplus lines broker if the
26 stamping fee is paid in connection with transactions that the person
27 effectuated while licensed as a surplus lines broker.

28 C. The organization shall hold an annual meeting of its members and
29 may hold special meetings of its members. Members may participate in
30 annual and special member meetings through the use of any means of
31 communication if the communication allows all members participating in the
32 meeting to simultaneously hear each other during the meeting and the
33 organization provides a meeting notice that specifies how members can
34 participate. Any member participating by this alternate means of
35 communication is deemed to be present in person at the meeting for
36 purposes of determining a quorum and voting and for any other purpose
37 authorized or required by law.

38 D. Two percent of the total membership of the organization present
39 in person or by proxy and entitled to vote at a meeting constitutes a
40 quorum for the transaction of business at the meeting.

41 E. For the purposes of this section, "stamping fee" has the same
42 meaning prescribed in section 20-167.

1 Sec. 3. Section 20-466, Arizona Revised Statutes, is amended to
2 read:

3 20-466. Fraud unit; peace officer status; powers; information
4 sharing duty of insurers

5 A. ~~THE~~ THE fraud unit is established in the department of insurance
6 AND FINANCIAL INSTITUTIONS.

7 B. The fraud unit shall work in conjunction with the department of
8 public safety.

9 C. The director may investigate any act or practice of fraud
10 prohibited by section 20-466.01 and any other act or practice of fraud
11 against an insurer or entity licensed under this title. The director
12 shall administer the fraud unit.

13 D. The director may employ investigators for the fraud unit. A
14 fraud unit investigator has and shall exercise the law enforcement powers
15 of a peace officer of this state but only while acting in the course and
16 scope of employment for the department OF INSURANCE AND FINANCIAL
17 INSTITUTIONS. The director shall adopt guidelines for the conduct of
18 investigations that are substantially similar to the investigative policy
19 and procedural guidelines of the department of public safety for peace
20 officers. Fraud unit investigators shall not preempt the authority and
21 jurisdiction of other law enforcement agencies of this state or its
22 political subdivisions. Fraud unit investigators:

23 1. Shall have at least the qualifications prescribed by the Arizona
24 peace officer standards and training board pursuant to section 41-1822.

25 2. Are not eligible to participate in the public safety personnel
26 retirement system established by title 38, chapter 5, article 4 due solely
27 to employment as fraud unit investigators.

28 E. The director may request the submission of papers, documents,
29 reports or other evidence relating to an investigation under this section.
30 The director may issue subpoenas and take other actions pursuant to
31 section 20-160. The materials are privileged and confidential until the
32 director completes the investigation. Any documents, materials or other
33 information that is provided to the director pursuant to this section is
34 not subject to discovery or subpoena until opened for public inspection by
35 the director or, after notice and a hearing, a court determines that the
36 director would not be unduly burdened by compliance with the subpoena.
37 The director shall keep the identity of an informant confidential,
38 including any information that might identify the informant, unless the
39 request for information is made by a law enforcement agency, the attorney
40 general or a county attorney for purposes of a criminal investigation or
41 prosecution. The director may use the documents, materials or other
42 information in the furtherance of any regulatory or legal action brought
43 as a part of the director's official duties.

1 F. If the documents, materials or other information the director
2 seeks to obtain by request is located outside this state, the person
3 requested to provide the documents, materials or other information shall
4 arrange for the fraud unit or a representative, including an official of
5 the state in which the documents, materials or other information is
6 located, to examine the documents, materials or other information where it
7 is located. The director may respond to similar requests from other
8 states.

9 G. An insurer that believes a fraudulent claim has been or is being
10 made shall send to the director, on a form prescribed by the director,
11 information relative to the claim including the identity of parties
12 claiming loss or damage as a result of an accident and any other
13 information the fraud unit may require. The director shall review the
14 report and determine if further investigation is necessary. If the
15 director determines that further investigation is necessary, the director
16 may conduct an independent investigation to determine if fraud, deceit or
17 intentional misrepresentation in the submission of the claim exists. If
18 the director is satisfied that fraud, deceit or intentional
19 misrepresentation of any kind has been committed in the submission of a
20 claim, the director may report the violations of the law to the reporting
21 insurer, to the appropriate licensing agency as defined in section
22 20-466.04 and to the appropriate county attorney or the attorney general
23 for prosecution.

24 H. The director may:

25 1. Share nonpublic documents, materials or other information with
26 other state, federal and international regulatory agencies, with the
27 national association of insurance commissioners and its affiliates and
28 subsidiaries and with state, federal and international law enforcement
29 authorities if the recipient agrees and warrants that it has the authority
30 to maintain the confidentiality and privileged status of the documents,
31 materials or other information.

32 2. Receive documents, materials and other information from the
33 national association of insurance commissioners and its affiliates and
34 subsidiaries and from regulatory and law enforcement officials of other
35 jurisdictions and shall maintain as confidential or privileged any
36 document, material or other information received with notice or the
37 understanding that it is confidential or privileged under the laws of the
38 jurisdiction that is the source of the document, material or other
39 information.

40 3. Enter into agreements that govern the sharing and use of
41 documents, materials and other information and that are consistent with
42 this section.

43 I. A disclosure to or by the director pursuant to this section or
44 as a result of sharing information pursuant to subsection G of this
45 section is not a waiver of any applicable privilege or claim of

1 confidentiality in the documents, materials or other information disclosed
2 or shared.

3 J. The director shall annually assess each insurer as defined in
4 section 20-441, subsection B authorized to transact business in this state
5 up to ~~one thousand fifty dollars, as annually adjusted pursuant to this~~
6 ~~subsection~~ \$1,050 for the administration and operation of the fraud unit
7 and the prosecution of fraud pursuant to this section. Monies collected
8 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
9 general fund. ~~The director shall annually revise the assessment amount in~~
10 ~~such a manner that the revenue derived from the assessment equals at least~~
11 ~~ninety-five per cent but not more than one hundred ten per cent of the~~
12 ~~appropriated budget of the fraud unit for the prior fiscal year.~~

13 K. A person, or an officer, employee or agent of the person acting
14 within the scope of employment or agency of that officer, employee or
15 agent, who in good faith files a report or provides other information to
16 the fraud unit pursuant to this section is not subject to civil or
17 criminal liability for reporting that information to the fraud unit.

18 Sec. 4. Section 20-1098.17, Arizona Revised Statutes, is amended to
19 read:

20 20-1098.17. Effect of fees payment; premium tax

21 A. The fees paid by a captive insurer pursuant to section 20-167,
22 subsection ~~G~~ F are payment in full and in lieu of all other demands for
23 all state, county, district, municipal and school taxes, licenses and
24 excises of whatever kind or character, except for:

25 1. A tax on real and tangible personal property that is located
26 within this state.

27 2. The transaction privilege tax and the use tax that is imposed
28 pursuant to title 42, chapter 5, articles 1 and 4.

29 3. The transaction privilege tax and use tax that is imposed by any
30 county, city or town.

31 B. Notwithstanding subsection A of this section, an agency captive
32 insurer that insures risks on policies as specified in section 20-1098.01,
33 subsection A, paragraph 3, subdivision (b) shall pay the premium tax
34 prescribed in section 20-224 for such policies that is in excess of any
35 fees paid pursuant to section 20-167.

36 Sec. 5. Department of gaming; regulatory assessment;
37 pari-mutuel pool

38 Notwithstanding any other law, in fiscal year 2020-2021, the
39 department of gaming shall establish and collect a regulatory assessment
40 from each commercial racing permittee, payable from amounts deducted from
41 pari-mutuel pools by the permittee, in addition to the amounts the
42 permittee is authorized to deduct pursuant to section 5-111, subsection B,
43 Arizona Revised Statutes, from amounts wagered on live and simulcast races
44 from in-state and out-of-state wagering handled by the permittee, in the
45 amount of 0.5 percent of the amounts wagered.

1 Sec. 6. Agricultural fees; continuation; intent; rulemaking
2 exemption

3 A. Notwithstanding any other law, the director of the Arizona
4 department of agriculture, with the assistance of the department of
5 agriculture advisory council, may continue, increase or lower existing
6 fees from fiscal years 2018-2019 and 2019-2020 in fiscal year 2020-2021
7 for services provided in fiscal year 2020-2021.

8 B. The legislature intends that the additional revenue generated by
9 the fees prescribed in subsection A of this section not exceed \$218,000 to
10 the state general fund, \$113,000 to the pesticide trust fund established
11 by section 3-350, Arizona Revised Statutes, and \$26,000 to the dangerous
12 plants, pests and diseases trust fund established by section 3-214.01,
13 Arizona Revised Statutes, in fiscal year 2020-2021.

14 C. The Arizona department of agriculture is exempt from the
15 rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,
16 until July 1, 2021 for the purpose of establishing fees pursuant to this
17 section.

18 Sec. 7. County fiscal obligations; report

19 A. Notwithstanding any other law, for fiscal year 2020-2021, a
20 county with a population of less than two hundred fifty thousand persons
21 according to the 2010 United States decennial census may meet any county
22 fiscal obligation from any source of county revenue designated by the
23 county, including monies of any countywide special taxing jurisdiction of
24 which the board of supervisors serves as the board of directors. Under
25 the authority provided in this subsection, a county may not use more than
26 \$1,250,000 for purposes other than the purposes of the revenue source.

27 B. On or before October 1, 2020, all counties with a population of
28 less than two hundred fifty thousand persons according to the 2010 United
29 States decennial census shall report to the director of the joint
30 legislative budget committee whether the county used a revenue source for
31 purposes other than the purposes of the revenue source to meet a county
32 fiscal obligation pursuant to subsection A of this section and, if so, the
33 specific source and amount of revenues that the county intends to use in
34 fiscal year 2020-2021.

35 Sec. 8. Legislative intent

36 The legislature intends that in fiscal year 2020-2021 the fee
37 prescribed in section 42-5041, subsection B, Arizona Revised Statutes, be
38 assessed and collected pursuant to the following guidelines:

39 1. The total amount of fees for all counties, cities, towns,
40 councils of governments and regional transportation authorities may not
41 exceed \$20,755,835 in any fiscal year.

42 2. The share of fees assessed to all counties pursuant to paragraph
43 1 of this section shall be in proportion to the aggregate amount of monies
44 distributed to counties for the fiscal year two years preceding the
45 current fiscal year pursuant to sections 42-5029, 42-6103, 42-6107,

1 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111 and 42-6112,
2 Arizona Revised Statutes, as a percentage of aggregate distributions to
3 all counties, cities, towns, councils of governments and regional
4 transportation authorities located in a county with a population of more
5 than four hundred thousand persons for the fiscal year two years preceding
6 the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103,
7 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01,
8 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.

9 3. The share of fees assessed to all cities and towns pursuant to
10 paragraph 1 of this section shall be in proportion to the aggregate amount
11 of monies distributed to cities and towns for the fiscal year two years
12 preceding the current fiscal year pursuant to sections 42-5029, 42-6001
13 and 43-206, Arizona Revised Statutes, as a percentage of aggregate
14 distributions to all counties, cities, towns, councils of governments and
15 regional transportation authorities located in a county with a population
16 of more than four hundred thousand persons for the fiscal year two years
17 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
18 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
19 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
20 Statutes.

21 4. The share of fees assessed to all councils of governments
22 pursuant to paragraph 1 of this section shall be in proportion to the
23 aggregate amount of monies distributed to all councils of governments for
24 the fiscal year two years preceding the current fiscal year pursuant to
25 section 42-6105, Arizona Revised Statutes, as a percentage of aggregate
26 distributions to all counties, cities, towns, councils of governments and
27 regional transportation authorities located in a county with a population
28 of more than four hundred thousand persons for the fiscal year two years
29 preceding the current fiscal year pursuant to sections 42-5029, 42-6001,
30 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109,
31 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
32 Statutes.

33 5. The share of fees assessed to all regional transportation
34 authorities located in a county with a population of more than four
35 hundred thousand persons pursuant to paragraph 1 of this section shall be
36 in proportion to the aggregate amount of monies distributed to all
37 regional transportation authorities located in a county with a population
38 of more than four hundred thousand persons for the fiscal year two years
39 preceding the current fiscal year pursuant to section 42-6106, Arizona
40 Revised Statutes, as a percentage of aggregate distributions to all
41 counties, cities, towns, councils of governments and regional
42 transportation authorities located in a county with a population of more
43 than four hundred thousand persons for the fiscal year two years preceding
44 the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103,

1 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01,
2 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.

3 6. Except as provided by sections 42-5033 and 42-5033.01, Arizona
4 Revised Statutes, the population of a county as determined by the most
5 recent United States decennial census plus any revision to the decennial
6 census certified by the United States census bureau shall be used as the
7 basis for apportioning monies pursuant to paragraph 2 of this section.

8 7. Except as provided by sections 42-5033 and 42-5033.01, Arizona
9 Revised Statutes, the population of a city or town as determined by the
10 most recent United States decennial census plus any revision to the
11 decennial census certified by the United States census bureau shall be
12 used as the basis for apportioning monies pursuant to paragraph 3 of this
13 section.