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NOTICE OF THE OPPORTUNITY TO COMMENT

Pursuant to Arizona Revised Statutes (“A.R.S”) §§ 41-1001(24) and 41-1091, the Arizona Department of Insurance and Financial Institutions (“Department”) issues Substantive Policy Statements (“Bulletins”) to provide guidance to the industry on requirements under Arizona law. Bulletins are advisory-only and intended to promote a level playing field and provide regulatory certainty by uniform application of regulatory provisions.

While Arizona law does not require prior notice or public comment before the issuance of a Bulletin, there may be pertinent legal and policy considerations that would enhance the Bulletin. In such instances, the Department may request public comment on the subject of a Bulletin.

I. Topic for Comment

The Department is considering adoption of a Bulletin regarding the growing number of instances of potential noncompliance in rate, rule, and form filings in which unregistered and unpermitted entities engage in conduct that may require a registration, permit or license under Arizona law.

The Bulletin is intended to outline all relevant laws and provide guidance to any entities that may be: (1) assisting two or more insurers in the making of rates by compiling and providing to the insurers statistical information and data without a registration or license; or (2) issuing a service contract as defined under Arizona law within an insurance product without the required permit. The Bulletin is also intended to provide notice to all insurers on the utilization of and requirements relating to services provided by unregistered or unlicensed entities.

The Department invites any interested parties to submit comments prior to the final publication of the Bulletin on April 25, 2025. The Department is particularly interested in comments from service companies, advisory and rate service organizations, property and casualty insurers, and any other entities subject to rating statutes found in A.R.S. Title 20, Chapter 2, Articles 4 and 4.1.

II. Instructions

Clearly state and support any proposed amendments to the Bulletin (draft attached below) in response to this Notice. When submitting comments, reference “Draft Bulletin 2025-02” in the subject line, if submitted by email, or in the heading of any mailed document to ensure that your comments are considered. The Department will consider all timely submitted comments but cannot commit to incorporating any individual comment into the Bulletin.

Interested parties should submit comments before the close of business on **April 22, 2025**.

Comments may be submitted by email at public_comments@difi.az.gov or delivered on or before the above date to: Department of Insurance and Financial Institutions, Attention: Enforcement, Innovation and Regulatory Policy Division, 100 North 15th Avenue, Suite 261, Phoenix, AZ, 85007-2630.

Substantive Policy Statement¹

Pursuant to Arizona Revised Statutes (“A.R.S”) §§ 41-1001(24) and 41-1091, the Arizona Department of Insurance and Financial Institutions (“Department”) issues this Substantive Policy Statement (“Bulletin”) to provide guidance regarding recently observed areas of potential noncompliance in rate and rule filings. This Bulletin is intended to promote a level playing field and provide regulatory certainty by uniform application of regulatory provisions.

I. Purpose

The purpose of this Bulletin is to address the growing number of instances in which unregistered and unpermitted entities engage in conduct that may require a registration, permit or license issued by the Department under Arizona law. This Bulletin will outline all relevant laws and provide guidance to the industry.

II. Scope

This Bulletin is intended to advise any entities that may be: (1) assisting two or more insurers in the making of rates by compiling and providing to the insurers statistical information and data without a registration; or (2) issuing a service contract as defined under Arizona law within an insurance product without the required permit.

This Bulletin is also intended to provide notice to all insurers on the utilization of and requirements relating to the insurers’ use of unregistered or unlicensed entities to provide services to Arizona insurers.

III. Background

This Bulletin will address two pending issues the Department has observed in recent filings, provided that this is not an exclusive list.

First, regarding the issue of Advisory and Rate Service Organizations, the Department has observed, through rate filings, several entities assisting insurers in the making of rates by providing statistical data, predictive models with developed relativities that are used or adopted by the insurer to establish rates without being registered as required under Arizona law. See A.R.S. §§ 20-368 and 20-389.

Second, regarding the issue of Service Contract coverage in an insurance contract, the Department has observed, mainly through property and casualty insurance form filings, a number of insurance contracts that include coverages for individual consumer products that

¹ This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.

meet the definition of service contracts under Arizona law. See A.R.S. § 20-1095(7). The coverages are being provided by insurers that have not obtained a permit to offer service contracts. See A.R.S. § 20-1095.01.

IV. Department Position

A. Advisory Organizations and Rate Service Organizations

Under Arizona law, an advisory organization “means any person other than a single insurer who assists two or more insurers or rate service organizations in the making of rates by compiling and furnishing loss or expense statistics or other statistical information and data, or by the submission of recommendations as to rates, forms or supplementary rate information.” A.R.S. § 20-381. To conduct the business of an advisory organization in Arizona, the entity must file certain documents with the Department. A.R.S. §§ 20-390(A), 20-368(B). Insurers making their own filings, or rating organizations, cannot support their filings by statistics or adopt rate-making recommendations furnished by an advisory organization that has not complied with A.R.S. § 20-368(D).

Additionally, rate service organizations “means any person other than a single insurer who assists insurers by compiling and furnishing loss or expense statistics and recommendations, making or filing rates, forms or supplementary rate information.” A.R.S. § 20-381(6). Rate service organizations are prohibited from providing any service related to the rates of any insurance, and any insurer may not utilize the services of a rate service organization unless the organization has obtained a license by the Department. A.R.S. § 20-389.

The Department has observed instances of unregistered entities providing technical assistance to insurers related to rate-making. The entities in question provide technical assistance to insurers by selling statistical information and data and/or predictive models that provide relativities or segmentation/scores to generate rating factors used by insurers in the making of rates. To operate as an advisory or rate service organization an entity must comply with all applicable statutory requirements pursuant to A.R.S. Title 20, Chapter 2, Articles 4 and 4.1.

i. Department Position and Guidance

The Department understands that rate development utilized by the insurance industry has evolved significantly with the use of complex predictive models that incorporate large amounts of consumer data resulting in complex algorithms to establish the ultimate premium charged to an insured. As the changes evolve, the Department is aware that the industry might require more lead time to comply with applicable Arizona laws. To find a collaborative solution, the Department is engaging all stakeholders and interested parties to determine a workable

timeframe or other solution aimed at ensuring the insurance industry is compliant with Arizona law.

The Department will not take any official enforcement actions as it continues to work with the industry on finding solutions to this matter, or at the earliest, January 1, 2027.

B. Service Contracts

Under Arizona Law, a service contract means “a written contract or agreement for a separately stated consideration for any duration to perform, in whole or in part, the repair, replacement or maintenance, or indemnification for repair, replacement or maintenance, for the operational or structural failure of a consumer product due to a defect in materials, workmanship, accidental damage from handling, a power surge or interruption or normal wear and tear, with or without additional provisions for payment of indemnity including towing, rental and emergency road service, road hazard protection or roof leak.” A.R.S. § 20-1095(7)(a). Additionally, a consumer product is defined as “any property that is distributed in commerce, that is normally used for personal, family or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed, and that becomes part of the intended usefulness of real property or that is typically transferred with real property as an integral functioning utility appliance or system.” A.R.S. § 20-1095(2). To offer service contracts in Arizona, an entity must be issued a service company permit by the director. A.R.S. § 20-1095.01(2).

The Department has observed insurance product filings in which insurers offer service contract coverages within the insurance policy without first obtaining a permit as a service company. A.R.S. § 20-1095.01(A) requires any company, including insurers, that offers specific coverages for consumer products defined as a service contract under Arizona law to obtain a service company permit.

i. Department Position and Guidance

The Department understands that some insurers may have provided service contract coverages in their insurance policies for some time. As the Department has not issued any previous guidance on this matter, the Department is aware that the industry might require more lead time to bring its practices into compliance with applicable Arizona laws. The Department also acknowledges that, based on the products it has reviewed, some insurers may need more lead time than others due to how the coverages were presented as well as concerns about managing consumer expectations. To find a collaborative solution the Department is engaging all stakeholders and interested parties to determine a workable timeframe for potential solutions to ensure the insurance and service contract industries are in compliance with Arizona law.

The Department will not take any official enforcement actions as it continues to work with the industry on finding solutions to this matter, or at the earliest, January 1, 2027.

III. Conclusion

The Department is committed to enforcing Arizona's law in the least burdensome manner, providing regulatory certainty, and ensuring that industry practices align with Arizona's statutes.

All previous communications or positions by the Department regarding compliance on the issues discussed herein shall be controlled by this Bulletin.

The Department is scheduling an initial meeting with all stakeholders interested in these issues in May 2025. All interested parties are invited to participate and provide comments and suggestions on these topics at the meeting.

The Department will provide specific instructions regarding the May meeting at a later date. Updates and information on how to participate in the meeting will be posted on the Department's [website](#) closer to the set date.