



Department of Insurance

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Director of Insurance

REGULATORY BULLETIN 2010-02¹

To: Insurance Producers, Surplus Lines Brokers, Insurance Industry Representatives, Insurance Trade Associations, Life & Disability Insurers, Property & Casualty Insurers, and other interested parties.

From: Christina Urias
Director of Insurance

Date: May 24, 2010

Re: **2010 Arizona Insurance Laws**

This Regulatory Bulletin summarizes the major, newly enacted legislation affecting the Department, its licensees, and insurance consumers. This summary is not meant as an exhaustive list or a detailed analysis of all insurance-related bills. It generally describes the substantive content, but does not capture all details or necessarily cover all bills that may be of interest to a particular reader. The Department may follow this bulletin with other, more detailed bulletins related to implementation of the legislation. All interested persons are encouraged to obtain copies of the enacted bills by contacting the Arizona Secretary of State's office at 602/542-4086, or from the Arizona legislative web site at <http://www.azleg.state.az.us>. Please direct any questions regarding this bulletin to Karlene Wenz, Executive Assistant for Policy Affairs, 602/364-3471.

Arizona's Forty-ninth Legislature, Second Regular Session, adjourned *sine die* on April 29, 2010. Except as otherwise noted, all insurance-related legislation has a general effective date of July 29, 2010.

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 Arizona Revised Statutes Section 41-1033 for a review of the Statement.

INSURANCE-RELATED BILLS ENACTED IN 2010:

HB 2071: life insurance (Ch. 251)

Amends ARS § 20-1209 by eliminating interest rate language that is redundant in light of the more recently enacted language within ARS § 20-1209.01.

Repeals ARS § 20-1211.

Amends ARS § 20-1226:

- Permits a life insurance policy to include an exclusion for death “resulting from suicide that occurs within two years after the issue or reinstatement of the policy.”
- Permits a life insurance policy to include an exclusion “for suicide that occurs within one year after any increase in death benefits only to the extent of the increased death benefits.”

Amends ARS § 20-1241.01, by adding the reinstatement of a life insurance policy to the list of replacements of policies and contracts to which Title 20, Chapter 6, Article 1.1, Replacement of Life Insurance Policies and Annuity Contracts, does not apply.

Amends ARS § 20-1251, providing the Director the discretion to permit the deliverance of a group life insurance policy if “the Director determines that the group of individuals to be insured is substantially similar to a group described in section 20-1251.01 and sections 20-1252 through 20-1256.”

Applies the above to policies issued or renewed from and after December 31, 2010.

HB 2072: department of insurance; continuation (Ch. 13)

Repeals ARS § 41-3010.17, which would have terminated the Arizona Department of Insurance as of July 1, 2010, and adds ARS § 41-3020.17, extending the Department to July 1, 2020.

HB 2073: mortgage guaranty insurers (Ch. 31)

Amends ARS § 20-1550:

- Permits the Director to order a mortgage guaranty insurer to cease transacting new business when the insurer fails to meet the statutorily required minimum policyholder position, rather than requiring such action.
- Amends the definition of “face amount of an insured mortgage” to clarify that it “does not include the outstanding principal balance of any indebtedness secured by the subject real property to the extent that the insurer has established a loss reserve for that indebtedness.”

HB 2168: auto insurance; trade secrets; disclosure (Ch. 124)

Amends ARS § 20-386 by excluding “information in a filing or supporting information that is a trade secret under Title 44” from the requirement that rate filings be open to public inspection. Requires the insurer or filer to submit evidence to the Director that a filing or supporting information is a trade secret.

HB 2308: insurance information; transfer of business (Ch. 38)

Amends ARS § 20-2102:

- Amends the definition of “insurance transaction” by specifically including transfers of business.

- Defines “transfer of business” as “the transfer by an institution or insurance producer that owns the policy expiration of a policyholder’s existing policy of insurance or the transfer of a group of policyholders’ existing policies of insurance to another insurance institution,” and specifies that a “transfer of business” does not include “the transfer of business by an insurance producer that is under an exclusive contract or a contract requiring the insurance producer to submit all eligible business to an insurer or group of insurers under a common management.”

Amends ARS § 20-2113 to further clarify that as transfers of business are insurance transactions, they are an exception to the privacy protection disclosure requirements.

**Note: Enactment of HB 2308 supersedes the following language in Regulatory Bulletin 2001-11: “Producers have also inquired about the need for authorization when the producer is doing a “book roll” of business to another insurer. The producer should look at whatever authorization the insured has previously signed to determine if it permits such information-sharing with a different insurer, and if it is still current. Without a current authorization, such transactions will generally require the producer to obtain a new authorization from the insured because they do not occur at the request of the insured.” All other portions of Regulatory Bulletin 2001-11 remain in effect.

HB 2463: auto glass repair; fraudulent practices (Ch. 180)

Adds ARS § 20-463.01 to specify a series of unlawful practices by those who sell or repair auto glass as violations of Title 20.

Amends ARS § 20-466.01 by adding violation of ARS § 20-463.01 as a class 6 felony.

Amends ARS § 20-466.02, making violators of ARS § 20-463.01 subject to injunctions, payment of restitution, civil penalties and payment of court and investigative costs.

HB 2579: insurance; continuing education; continuation (Ch. 21)

Repeals the session law (Laws 1998, chapter 255, section 17, as amended by Laws 2003, chapter 216 section 1) that would have repealed ARS §§ 20-2901 thru 20-2905, the provisions on continuing education requirements for insurance producers, thus maintaining those requirements.

SB 1045: state compensation fund; successor (Ch. 268)

Repeals ARS § 41-3010.01, which would have terminated the State Compensation Fund (SCF) on July 1, 2010.

Adds ARS § 41-3012.19, terminating the SCF Board of Directors on July 1, 2012 and repealing Title 23, Chapter 6, Article 5, effective January 1, 2013.

Enacts the following session laws:

- Temporarily continues SCF while the Board of Directors establishes a mutual insurer corporation as SCF’s successor.
- Requires establishment of the successor mutual insurer corporation (“successor insurer”) according to Title 20 requirements.
- Requires the SCF Board of Directors to report on the State of Arizona’s equity or other financial interests in SCF.
- Provides that on January 1, 2013, the successor insurer shall assume all the assets, liabilities and obligations of SCF.
- Prohibits use of the term “State Compensation Fund” or “SCF” in the successor insurer’s name or logo beginning June 30, 2014.

- Provides for the addition of two more members of the Board of Directors during the transition.
- Authorizes the Industrial Commission of Arizona to adopt any rules necessary to conform to the above changes.
- Directs the Legislative Council to prepare conforming legislation for the termination of SCF and its Board for consideration in the 2011 legislative session.

SB 1419: dentists; dental hygienists (Ch. 170)

Adds ARS §§ 20-847, 20-1057.12, 20-1342.06, 20-1402.04, and 20-1404.04, which, beginning January 1, 2011:

- Prohibit the contracts between dental insurers and dentists from requiring contracted dentists to provide services to insured individuals based on a fee set by the insurer unless the service is a covered service under the insured's policy.
- Provides that the above does not restrict the insurer's ability to establish dental benefits for services offered in coverage that is administered but not insured by the insurer.
- Defines "covered service" as "a service for which any reimbursement is available under" the policy terms "without regard to contractual limitations by a deductible, copayment, coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, exclusion or other limitation."

This summary is not an exhaustive list or a detailed analysis of all insurance-related bills enacted in this legislative session. It generally describes the substantive content, but does not capture all details or necessarily cover all bills that may be of interest to a particular reader. The Department may follow this bulletin with other, more detailed bulletins related to implementation of the legislation. This bulletin is available on the Department's web site, www.azinsurance.gov. For questions about the bulletin, please contact Karlene Wenz, Executive Assistant for Policy Affairs, at 602/364-3471, or kwenz@azinsurance.gov.