



**Department of Insurance**

**State of Arizona**

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Director of Insurance

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REGULATORY BULLETIN 2014-04<sup>1</sup>

**TO:** Insurance Producers, Surplus Lines Brokers, Insurance Industry Representatives, Insurance Trade Associations, Life & Disability Insurers, Property & Casualty Insurers, and Other Interested Parties

**FROM:** Germaine L. Marks  
Director

**DATE:** July 15, 2014

**RE:** **2014 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 Legislature's website at <http://www.azleg.gov>. Please direct any questions regarding this bulletin to Andrew Carlson, Executive Assistant for Policy Affairs, (602) 364-3471.

Arizona's 51<sup>st</sup> Legislature, Second Regular Session, adjourned *sine die* on April 24, 2014. Except as otherwise noted, all legislation has a general effective date of July 24, 2014.

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<sup>1</sup>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 2014:

### SB 1089: insurance holding companies; enterprise risk (Ch. 104)

This legislation makes several changes and additions to ARS Title 20 that align certain provisions of Arizona law with the National Association of Insurance Commissioners' ("NAIC") model act for "Insurance Holding Company Systems" (HCS).

Amends ARS § 20-481:

- For the purposes of the HCS article, defines:
  - "Enterprise Risk" to mean *any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 20-488.02 or would cause the insurer to be in hazardous financial condition pursuant to section 20-220.01.*
  - "Supervisory College" to mean *a temporary or permanent forum for communication and cooperation between regulators charged with supervision of entities which belong to an insurance holding company system that has international operations.*
- Includes "fraternal benefit societies" in the definition of "insurer".
- Redefines "person" by
  - Removing the securities brokers exclusion.
  - Excluding *any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.*

Amends ARS § 20-481.01:

- Clarifies that a domestic insurer may invest an amount greater than the statutory limitations in one or more subsidiaries with approval of the director.
- Alters the method by which an eligible investment is calculated for a domestic insurer.
- Removes the requirement to consider the minimum expendable surplus amount (ARS 20-211) when determining whether an insurer's surplus in regard to policyholders is reasonable in relation to its liabilities and adequate to its financial needs.
- Requires the quality and liquidity of investments in affiliates to be considered when determining whether an insurer's surplus in regard to policyholders is reasonable in relation to its liabilities and adequate to its financial needs.
- Permits the Director of Insurance to treat any investment in an affiliate as a disallowed asset when determining the insurer's adequacy of surplus as regards policyholders.

Amends ARS § 20-481.02:

- Requires a controlling person of a domestic insurer (seeking to divest control) to file a confidential notice with the Director of Insurance at least 30 days prior to the cessation of control and provide a copy of the notice to the insurer.
- Requires the Director of Insurance to determine whether the person seeking to divest or acquire a controlling interest will be required to file and obtain approval of the transaction.
- Requires information about the divestment or acquisition to remain confidential until the conclusion of the transaction unless the Director of Insurance determines it will interfere with enforcement of ARS § 20-481.02.
- Provides that the requirements listed above do not apply if a person seeking to merge or acquire control of a domestic insurer files a statement with the Director of Insurance containing the information required under ARS § 20-481.03.
- Requires the acquiring person to file a pre-acquisition notice (prescribed in ARS § 20-481.25, subsection C) with the Director of Insurance that applies to all offers, requests, invitations, agreements or acquisitions under ARS § 20-481.02.
- Defines "domestic insurer", for the purposes of ARS § 20-481.02, to mean *any person controlling a domestic insurer, unless the Director of Insurance determines that the person is either directly or through its affiliates primarily engaged in business other than the business of insurance.*

- Specifies that “person” *does not include any securities broker in the usual and customary broker’s function holding less than 20% of the voting securities of an insurance company or of any person that controls an insurance company.*

Amends ARS § 20-481.03:

- Makes the following changes to the “Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer” (statement) submitted to the Director of Insurance under ARS § 20-481.02:
  - Clarifies that the terms of any proposed or executed agreements made with any broker-dealer as to solicitation of securities must be disclosed.
  - Requires the person that files the statement under ARS § 20-481.02 to submit an agreement that the person will file the annual enterprise risk report pursuant to ARS § 20-481.10.
  - Requires the person that files the statement under ARS § 20-481.02 to submit an acknowledgement that the person and all subsidiaries in its control in the insurance holding company system will provide the Director of Insurance all requested information to evaluate enterprise risk to the insurer.

Amends ARS § 20-481.06:

- Makes technical and conforming changes.

Amends ARS § 20-481.07:

- Removes the requirement that a tender offer or request for tenders, merger or other acquisition of control may not be made until approved by the Director of Insurance.
- Requires the Director of Insurance to approve any merger or other acquisition of control unless the Director finds that the merger or acquisition does not meet specified statutory requirements.
- Permits the Director of Insurance to conduct a hearing for any transaction requiring the Director’s approval pursuant to ARS § 20-481.02.
  - Eliminates the requirement that any public hearing be held within 30 days after the statement under ARS § 20-481.02 is filed.
  - Eliminates the requirement that any public hearing be held within 20 days after the Director gives written notice of the hearing to the person that files the statement.
- Deletes the requirement that the Director of Insurance, when approving a hearing initiated by specified parties, hold a hearing no earlier than 20 days from the time the Director issues a notice of hearing.
- Deletes provisions related to discovery proceedings to be conducted before the hearing. (Title 41 provisions related to discovery take precedence.)
- Permits the Director of Insurance, when requested by the person filing the statement, to hold a public hearing on a consolidated basis for a proposed agency action, if the proposed acquisition of control will require the approval of other states in addition to Arizona.
  - Requires the person filing the statement to file it with the NAIC within five days after requesting a public hearing.
  - Permits the Director to opt out of the consolidated hearing.
  - Requires the Director to notify the person filing the statement within ten days after receiving the statement if the Director of Insurance is opting out.
  - Requires the hearing to be public and held in the United States.
- Requires the Director of Insurance to determine within 60 days after the statement is filed whether the person acquiring a domestic insurer is required to maintain or restore capital of the insurer (as required by state law).
- Allows the Director of Insurance to retain personnel at the acquiring person’s expense to assist the Director in reviewing the proposed acquisition of control.

Amends ARS § 20-481.09:

- Requires an authorized insurer to include a summary of changes to the original registration statement under ARS § 20-481.10 if mandated by the Director of Insurance.

Amends ARS § 20-481.10:

- Specifies, for the purposes of the registration statement, that an insurer must disclose certain agreements, relationships and transactions that have occurred during the last calendar year between the insurer and its affiliates.
- Requires all cost sharing arrangements between an insurer and its affiliates be disclosed in the insurer's registration statement.
- Requires an insurer to include financial statements of or within an insurance holding company system on the insurer's registration statement if requested by the Director of Insurance.
  - Allows an insurer to submit its most recent parent corporation financial statements filed with the United States Securities and Exchange Commission to satisfy the Director's request.
- Requires an insurer to provide a statement in the registration statement that names the insurer's board of directors as the overseer for corporate governance and internal controls of the insurer and that the insurer has approved, implemented, maintain and monitor corporate governance and internal control procedures.
- Requires an insurer to include any other information in the registration statement required by the Director of Insurance by rule.
- Requires the ultimate controlling person of each insurer subject to registration to annually file an enterprise risk report.
  - Specifies that the enterprise risk report identify the material risks with the insurance holding company system that could pose an enterprise risk to the insurer.
  - Requires the ultimate controlling person to file the enterprise risk report according to NAIC procedures.

Amends ARS § 20-481.12:

- Specifies that transactions within an insurance holding company system must include provisions required by rule for cost sharing agreements or management services.
- Clarifies that certain transactions involving a domestic insurer and any person in its insurance holding company system include amendments and modification of certain affiliate agreements.
  - Specifies that transactions involving reinsurance agreements or modifications, which require notification to the Director of Insurance, include:
    - All reinsurance pooling agreements.
    - Agreements in which the projected reinsurance premium or a change in the insurer's liability in any of the next three years equals or exceeds 5% of the insurer's surplus as regards policyholders as of December 31<sup>st</sup> next preceding.
    - Transactions involving all guarantees and tax allocation agreements.
    - Guarantees at the time executed by a domestic insurer, provided they meet specified requirements.
    - Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that exceeds specified thresholds.
      - Exempts acquisitions or investments in subsidiaries acquired under ARS § 20-481.01 or in nonsubsidiary insurance affiliates that are subject to the Insurance Holding Company System Article from this requirement.
  - Requires the transaction notice [ARS § 20-481.12 (B)] for amendments or modifications to include reasons for the change and the financial impact on the domestic insurer.
  - Mandates that informal notice be given within 30 days after the termination of a previously filed agreement to the Director of Insurance for determination of the type of filing.

Amends ARS § 20-481.13:

- Changes the reporting date from 15 days after the end of each calendar year to the end of each month for material changes or additions to the insurer's registration statement.
- Requires each registered insurer to report all dividends and other distributions within 5 business days following the declaration (previously 15 business days) and at least 10 business days before payment of the dividend or distribution.

Amends ARS § 20-481.18:

- States that a disclaimer of affiliation is deemed to be approved unless the Director of Insurance disallows it within 30 days of receipt.
- Entitles the disclaiming party to an administrative hearing if the disclaimer is disapproved.
- Exempts the disclaiming party from registration if the disclaimer is not disapproved.

Amends ARS § 20-481.19:

- Changes the methodology of “extraordinary dividend or distribution” to include any dividend or distribution whose fair market value within the preceding 12 months exceeds the lesser of 10% of such insurer’s surplus as regards policyholders as of December 31<sup>st</sup> next preceding.

Amends ARS § 20-481.20:

- Permits the Director of Insurance to examine any insurance holding company system registered insurer and its affiliates to determine the financial condition of the insurer.
  - States the examination may be inclusive of enterprise risk to the insurer by the ultimate controlling party or by any entity within the insurance holding company system or by the insurance holding company system on a consolidated basis.
- Allows the Director of Insurance to order a registered insurer to produce:
  - All information papers in possession of the insurer or its affiliates so long as the papers relate to any transactions between the insurer and its affiliates.
  - Information not in the possession of the insurer if the insurer has a right to access the information through contract, statutory obligation or any other method.
- Requires an insurer to provide the Director of Insurance a detailed explanation as to the why the insurer cannot obtain the ordered information and to identify the holder of the information.
  - Allows the Director, after notice and hearing (ARS § 20-161), to order the insurer to pay up to a \$200 per day penalty for each day’s delay or suspend or revoke the insurer’s certificate of authority, if the Director determines that the explanation is without merit.
- Permits the Director of Insurance to examine information papers in possession of the insurer’s affiliate, if the insurer fails to provide an explanation or information prescribed in ARS § 20-481.20 (C).
- Gives subpoena power to the Director of Insurance for the purposes of determining compliance with the examinations under ARS § 20-481.20.
  - Allows the Director to petition the court for relief and the court may enter an order compelling a witness to appear and testify or produce documentary evidence.
  - Entitles each witness the same fees and mileage as if the witness was a witness in superior court.
    - Mandates that any fees or mileage be itemized and charged against and paid by the examined insurer.

Amends ARS § 20-481.21:

- Clarifies that all insurer filing, examination or investigative information in possession or control of the ADOI pursuant to ARS §§ 20-481.03, 20-481.10, 20-481.12, 20-481.19 and 20-481.20 is not subject to discovery or admissible as evidence in a private civil action.
- Expands the list of persons with whom the Director of Insurance may share confidential information to include members of any supervisory college.
- Requires the Director of Insurance to verify in writing the legal authority to maintain confidentiality of the person receiving the information.
- Removes the Director of Insurance’s discretion to enter into agreements that govern sharing confidential or privileged information.
- Requires the Director of Insurance to enter into written agreements with the NAIC that govern the sharing and use of privileged or confidential information consistent with ARS § 20-481.21 and that meet specified requirements under ARS § 20-481.21(C).
- Permits the Director of Insurance to share confidential and privileged information from an insurer’s enterprise risk report with other state Directors and Commissioners of Insurance, if the other jurisdictions have laws substantially similar to Arizona and have agreed in writing not to disclose the information.
- States that information shared by the Director of Insurance pursuant to the Insurance Holding Company Systems Article does not constitute a delegation of regulatory authority by the

Director and the Director is solely responsible for the administration, execution and enforcement of the Article.

- States that information in the possession or control of the NAIC or its affiliates or subsidiaries pursuant to the Insurance Holding Company Systems Article is confidential and privileged, is not subject to public records requests, is not subject to subpoena and is not subject to discovery or admissible in evidence in any private civil action.

Amends ARS § 20-481.23:

- Adds to the list of acts or omissions that are deemed violations of the Insurance Holding Company Systems Article:
  - The intentional failure to file or make any statement, amendment or other material required to be filed in a “Form A”.
  - The effectuation or any attempt to effectuate an acquisition of control of, divestiture of, or merger with a domestic insurer that is subject ARS § 20-481.02 without the required approval of the Director of Insurance.

Amends ARS § 20-481.25:

- Corrects mistaken reference to the “director’s ability” rather than the “economist’s ability” to render an informed opinion.
- Applies the defined terms “insurer” and “market” to only subsection D of ARS § 20-481.25.

Amends ARS § 20-481.26 by allowing the appearance of a violation of ARS § 20-481.02 that prevents a full understanding of the enterprise risk to the insurer to serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision.

Enacts ARS § 20-481.31:

- Permits the Director of Insurance to participate in a Supervisory College for any registered domestic insurer with international operations in order to determine compliance with the Insurance Holding Company Systems Article.
- Permits the Director of Insurance, with respect to Supervisory Colleges, to:
  - Initiate the establishment of a Supervisory College.
  - Clarify the membership and participation of other supervisors in the Supervisory College.
  - Clarify the functions of the Supervisory College and the role of the other regulators, including the establishment of a group-wide supervisor.
  - Coordinate the ongoing activities of the Supervisory College, including planning meetings, supervisory activities and processes for information sharing.
  - Establish a crisis management plan.
- Mandates that each registered insurer subject to ARS § 20-481.31 is liable for and must pay the reasonable expenses of the Director of Insurance’s participation in a Supervisory College.
  - Permits the Director to establish a regular assessment to the insurer for payment of the expenses.
- Allows a Supervisory College to be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates.
- Permits the Director of Insurance to participate in a Supervisory College with other regulators charged with supervision of the insurer or its affiliates.
- Allows the Director of Insurance to enter into agreements with other regulatory agencies in order to assess certain aspects of individual insurers and as part of the examination of the individual insurers in accordance with ARS § 20-481.20.

Enacts ARS § 20-481.32:

- Prohibits a domestic insurer’s officers and directors from relief of liability or obligation to which they are subject by law.
- Requires a domestic insurer to be managed so as to assure its separate operating identity consistent with the Insurance Holding Company Systems Article.
- States that ARS § 20-481.32 does not preclude a domestic insurer from having or sharing a common management or the cooperative or joint use of personnel, property or services with one or more other persons under arrangements that meet the standards of ARS § 20-481.12.

- Requires that at least 1/3<sup>rd</sup> of the directors of a domestic insurer and at least 1/3<sup>rd</sup> of the members of each committee of the board of directors of any domestic insurer meet specified membership qualifications, except under certain circumstances.
  - Requires at least one person be included in any quorum for the transaction of business at any meeting of the board or any committee.
- Requires a domestic insurer's board of directors to establish one or more committees composed solely of directors who are not officers of the insurer or specified employees of the insurer or various controlling entities, except under certain circumstances.
  - Charges the committee(s) with all of the following duties:
    - Nominating candidates for director for election by shareholders or policyholders;
    - Evaluating the performance of officers deemed to be principal officers of the insurer; and
    - Recommending to the board of directors the selection and compensation of the principal officers.
- Allows an insurer to request a waiver from the requirements of this section (ARS § 20-481.32) from the Director of Insurance if the insurer meets specified financial requirements and unique circumstances.
  - Permits the Director to consider various factors when making a waiver determination.

Amends ARS § 20-510 by making technical corrections.

Contains session law (Laws 2014, Chapter 104, Section 20) that exempts ADOI from the rule-making requirements of Title 41, Chapter 6, for two years from the effective date, in order to implement the provisions of this legislation.

### **HB 2001: insurance; continuing education; definition (Ch. 19)**

Amends ARS § 20-2901 by clarifying the definition of “continuously licensed” under the producer continuing education statutes to include a producer who:

- Late renews the producer's license and pays the late fee in a timely manner; or
- Places the producer's license on inactive status due to military service.

This legislation is retroactively effective from and after September 12, 2013.

### **HB 2047: travel insurance producer licensing (Ch. 24)**

Amends the definition of “limited line insurance” under ARS § 20-281 by including “limited lines travel insurance” and removing “travel accident ticket and baggage insurance”.

Amends ARS § 20-281 by deleting the definition of “travel accident ticket and baggage insurance producer”.

Amends ARS § 20-288<sup>2</sup>:

- Exempts an applicant for a limited lines travel insurance producer business entity license from pre-licensing examination requirements.
- Exempts a travel retailer working under a travel insurance producer business entity license from pre-licensing examination requirements.

Enacts ARS § 20-333:

- Permits a travel retailer to offer and issue travel insurance under a limited lines travel producer business entity license under the following conditions:
  - The limited lines travel producer or travel retailer provides purchasers specified policy information.
  - The limited lines travel producer maintains a register that is on a form prescribed by the Director of Insurance and:

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<sup>2</sup> HB 2121: insurers; licensure; director examination (Ch. 29) exempts all limited lines insurance applicants from pre-licensing examination requirements – see page 9 of this bulletin

- At the time of licensure, lists each travel retailer that offers travel insurance on the limited lines travel producer's behalf.
    - Contains specified information about the travel retailer, including contact information and who directs or controls the travel retailer's operations.
    - Must be submitted to the Department within 30 days after a request.
  - The limited lines travel producer certifies to the Department that the registered travel retailer is not in violation of 18 USC §1033 (see ARS § 20-489).
  - The limited lines travel producer designates an employee of the producer, who is a licensed individual producer, as the individual responsible for the producer's compliance with the Arizona travel insurance laws and rules. The individual producer is required to comply with applicable fingerprinting requirements in the resident state of the limited lines travel producer.
  - The limited lines travel producer pays all applicable insurance producer licensing fees required under ARS Title 20.
  - The limited lines travel producer requires a travel retailer employee or authorized representative to receive training or instruction on the types of insurance offered, ethical sale practices and required disclosures to prospective customers, if the employee's or representative's duties include offering or disseminating travel insurance. The training or instruction is subject to review by the Director of Insurance.
- Exempts limited lines travel producers and individuals registered under a limited lines travel producer's license from continuing education requirements (ARS Title 20, Chapter 18) and examination requirements (ARS Title 20, Chapter 2).
- Requires travel retailers that offer or disseminate travel insurance to make available written materials that provide and explain specified information about the insurer, the producer and the role of the travel retailer.
- Prohibits a travel retailer's employee, who is not a licensed insurance producer, from:
  - Holding himself or herself as a licensed insurer, licensed producer or insurance expert.
  - Evaluating or providing advice about a prospective purchaser's existing insurance coverage.
  - Evaluating or interpreting the terms, benefits and conditions of the offered travel insurance coverage.
- Allows a registered travel retailer and its employees or representatives to receive compensation for limited insurance-related activities – such as offering and disseminating travel insurance – as outlined in statute.
- Permits travel insurance to be issued under an individual policy or a group or master policy.
- Makes the limited lines travel producer responsible for the acts of the travel retailer and requires the producer to ensure the retailer is complying with ARS § 20-333.
- Applies specified portions of ARS Title 20, Chapter 2, Article 3 (“Insurance Producer Licensing”) to limited lines travel insurance producers and travel retailers offering and disseminating travel insurance under a limited lines travel insurance producer's license.
- Defines, for the purposes of ARS § 20-333, *limited lines travel insurance producer* as a business entity that is either:
  - A managing general agent.
  - A licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity.
- Defines, for the purposes of ARS § 20-333, “offer and disseminate”, “travel insurance”, and “travel retailer”.

## **HB 2048: insurance adjusters; portable electronics (Ch. 25)**

Amends ARS § 20-288 by exempting from pre-licensing examination an adjuster license applicant who resides in a state that does not license adjusters and who will be only adjusting portable electronics insurance (PEI) claims in Arizona.

Amends ARS § 20-321 by excluding registered third-party administrators (ARS Title 20, Ch. 2, Art. 9) and their employees who are engaged in administering accident and health or life insurance claims from the statutory definition of *adjuster*.

Amends ARS § 20-321.01:

- Permits a Canadian resident to apply for a PEI adjuster license if the applicant has obtained an adjuster license in another state that allows the applicant to adjust PEI claims in that state.
- Permits an applicant to apply for an Arizona adjuster license that only grants the applicant the authority to adjust PEI claims, if the applicant's resident state does not issue adjuster licenses and the applicant is otherwise permitted to adjust PEI claims in the applicant's resident state.

Amends ARS § 20-1693.02 by removing the requirement that written materials issued to a customer include that refunds upon cancellation must be issued within 60 days.

Amends ARS § 20-1693.03 by removing the prohibition of PEI vendors and its employees/representatives from offering or selling insurance except in conjunction with and incidental to PEI transactions.

Amends ARS § 20-1693.05:

- Allows a PEI enrolled customer to cancel PEI coverage at any time.
- Entitles a person, who pays the PEI premium, to receive a pro rata refund or credit of any unearned premium within 60 days after the insurer receives the cancellation notices from the customer.

## **HB 2121: insurers; licensure; director examination (Ch. 29)**

This legislation makes several changes to various parts of ARS Title 20, including statutes regulating reinsurers, nonresident producer licenses, pre-license examinations for producers and bail bond agents, and surplus lines reports.

Amends ARS § 20-156:

- Removes the requirement that the Director of Insurance must examine the following regulated entities at least once every five years:
  - Domestic life and disability reinsurers (ARS § 20-1082).
  - Service companies (ARS § 20-1095).
  - Mechanical reimbursement reinsurers (ARS § 20-1096).
- Allows the Director of Insurance to examine the above regulated entities as the Director deems advisable.

Amends ARS § 20-287:

- Requires a resident insurance producer, who moves from Arizona to another state, to file a change of address form and apply for licensure in the new resident state within 30 days after requesting a clearance letter from ADOI, if the producer wants to remain continuously licensed in Arizona.
- Requires a nonresident insurance producer, who moved from Arizona to another state as outlined above, to immediately notify the Director of Insurance of the new resident license.

Amends ARS § 20-288:

- Clarifies that the Arizona examination exemption is not available to producer license applicants who:
  - fail an Arizona examination for a specific line of authority 4 times within a 12 month period; and
  - become licensed in another state for the specific line of authority; and
  - cancel the out-of-state license and apply for an Arizona resident license within 1 year of the last Arizona examination attempt.
- Exempts applicants for a limited lines insurance producer license from pre-licensing examination requirements.

Amends ARS § 20-340.01 by removing the requirement that a licensed bail bond agent must obtain a property insurance producer license in order to transact civil bonds in Arizona.

Amends ARS § 20-415:

- Changes the filing schedule for each surplus lines broker's statement of business covering multistate risks from quarterly to semiannually for transactions from and after January 1, 2015.

- Maintains current semiannually reporting requirements for each surplus lines broker's multistate transactions occurring on or before December 31, 2014.
- Stipulates that if ADOL enters into a multistate agreement and participates in a clearinghouse for reporting and paying tax for surplus lines insurance coverage of multistate risks, the filing schedule for each surplus lines broker's statement of business covering multistate transactions will revert to a quarterly schedule as outlined in statute.

Enacts ARS § 20-489.01 by applying ADOL's enforcement of sections 1033 and 1034 of the violent crime control and law enforcement act of 1994 (PL 103-322) to ADOL's ability to receive criminal history information in connection with the issuance, renewal, suspension or revocation of a license or certificate of authority or the consideration of a merger or acquisition [ARS § 20-142(E)].

### **HB 2329: insurance; notification; cancellation; nonrenewal (Ch. 58)**

Amends ARS § 20-1632:

- Permits an insurer to use first class mail using "intelligent mail barcode" or another similar tracking method used and approved by the United States Postal Service for the required notice of cancellation, nonrenewal or reduction in limits of liability or coverage of a private passenger automobile policy for reasons other than nonpayment of premium.
- Stipulates an insurer must obtain proof of mailing when sending United States certified mail, United States post office certificate of mailing or first class mailing using intelligent mail barcode for a notice of cancellation or nonrenewal or reduction in limits of liability or coverage of a private passenger automobile policy for reasons other than nonpayment of premium.

Amends ARS § 20-1674:

- Permits an insurer to electronically deliver a cancellation notice to the insured's agent for the cancellation of a commercial property insurance policy, a commercial liability insurance policy or a commercial multi-peril insurance policy.
- Permits an insurer to use first class mail using "intelligent mail barcode" or another similar tracking method used and approved by the United States Postal Service for the required notice of cancellation of a commercial property insurance policy, a commercial liability insurance policy or a commercial multi-peril insurance policy.
- Stipulates an insurer must obtain proof of mailing when sending a notice of cancellation via United States certified mail, United States post office certificate of mailing or first class mailing using intelligent mail barcode for cancellation of a commercial property insurance policy, a commercial liability insurance policy or a commercial multi-peril insurance policy.

Amends ARS § 20-1676:

- Permits an insurer to electronically deliver a nonrenewal notice to the insured's agent for the nonrenewal of a commercial property insurance policy, a commercial liability insurance policy or a commercial multi-peril insurance policy.
- Permits an insurer to use first class mail using "intelligent mail barcode" or another similar tracking method used and approved by the United States Postal Service for the required notice of nonrenewal of a commercial property insurance policy, a commercial liability insurance policy or a commercial multi-peril insurance policy.
- Stipulates an insurer must obtain proof of mailing when sending a nonrenewal notice via United States certified mail, United States post office certificate of mailing or first class mailing using intelligent mail barcode for nonrenewal of a commercial property insurance policy, a commercial liability insurance policy or a commercial multi-peril insurance policy.

### **HB 2331: life care contracts; in-home care (Ch. 91)**

Amends ARS § 20-1801:

- Defines "contract holder" to mean *a person who enters into a life care contract with a provider or who is designated, in a life care contract, to be a person provided with services in the person's private residence with the right to future access to services, board and lodging in a facility.*

- Specifies, for the purposes of the Life Care Contract chapter of Title 20, that “facility” does not include a contract holder’s private residence.
- Redefines “life care contract” to include services provided in a person’s private residence with the right to future access to services, board and lodging in a facility.
- Makes other technical and conforming changes.

Amends ARS § 20-1802:

- Requires a person, in order to qualify for a permit to provide life care services in a contract holder’s residence with the obligation to provide future access to life care services in a facility, to file a permit application with ADOI that includes a copy of:
  - The proposed form of life care contract to be entered into with residents at each facility and
  - The proposed form of life care contract to be entered into with contract holders to provide services at a contract holder’s private residence with the right to future access to services, board and lodging at each facility.
- Requires the permit application to state the estimated number of contract holders who will receive services in their private residences with the right to future access to services, board, and lodging at the facility.
- Requires the permit application to include, if a provider is providing services to a contract holder in the person’s residence, a statement outlining the frequency and average dollar amount of each increase in periodic rates for contract holders for the previous five years (or any shorter period) as the provider has been providing services to contract holders in their private residences.
- Makes other conforming changes.

Amends ARS § 20-1803:

- Permits the life care contract applicant to solicit reservations (under a provisional permit) for the provisions of services of private residences.
- Makes other conforming changes.

Amends ARS § 20-1804:

- Permits an escrowed entrance fee to be released to the provider when the life care contract commences, if the fee applies to a contract holder who will be receiving services in the contract holder’s private residence.
- Makes other conforming changes.

Amends ARS §§ 20-1805 and 20-1807 by making conforming changes.

Amends ARS § 20-1808:

- Includes “the provider’s contract holders” in the list of persons who must receive notice that the provider is in court-ordered rehabilitation proceedings.
- Makes other conforming changes.

## **HB 2482: interstate insurance product regulation compact (Ch. 95)**

Under ARS Title 20, Chapter 23, this legislation establishes the State of Arizona as a member of the Interstate Insurance Product Regulation Commission (“IIPRC”) by enacting the Interstate Insurance Product Regulation Compact (“the Compact”). The IIPRC is a central point of electronic filing for asset-based insurance products, including individual and group life insurance, annuities, and disability insurance. The Compact has 44 member states and those compacting states develop and approve uniform standards for insurance products filed through the Compact. As part of this legislation, Arizona opts-out of all uniform standards involving long-term care insurance products. This summary excludes long-term care insurance provisions found in the compact.

Enacts ARS § 20-3251:

- Includes a “Purpose” article that establishes:
  - Arizona seeks to join other states and establish the compact and become a member of the commission.
  - The Arizona Director of Insurance as the designated commission representative for Arizona.

- The purposes of the compact, through joint or cooperative action among compacting states, to include:
  - The promotion and protection of consumer interests of individual and group annuity, life insurance, and disability income insurance products.
  - The development of uniform standards for insurance products covered under the compact.
  - The establishment of a central clearinghouse to receive and provide prompt review of covered insurance products and related advertisements submitted by authorized insurers.
  - The giving of appropriate regulatory approval to product filings and advertisements that satisfy the applicable uniform standard.
  - The improvement of regulatory resource and expertise coordination between state insurance departments, regarding uniform standards and review of covered insurance products.
  - The creation of the commission.
  - The performance of all related functions as may be consistent with the state regulation of the business of insurance.
- Establishes Articles II-XVI that provide for the creation of the commission and for the functions, capabilities, and structure of the commission, including provisions that:
  - State the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed with the commission and give approval to those product filings satisfying applicable uniform standards.
  - Clarify that ARS § 20-3251 does not prohibit an Arizona licensed insurer from filing its products with ADOI.
  - Require each compacting state to have one member and only one member.
    - Specifies that the member must be qualified to serve in that position and may be subject to removal or suspension pursuant to law.
    - Specifies how a member vacancy may be filled.
    - Entitles the member to one vote and participation in the governance of the commission.
  - Outline the commission's abilities, procedures and guidelines to adopt rules, uniform standards, operating procedures and other related functions.
  - Require a uniform standard to become effective at least 90 days after its adoption by the commission.
  - Permit a compacting state to opt out of a uniform standard and provides the guidelines to do so.
  - Define "opt out" to mean *any action by a compacting state to decline to adopt or participate in an adopted uniform standard.*
  - State that Arizona opts out of all uniform standards involving long-term care insurance products.
  - Make any covered product opt out prospective.
    - Specifies that covered products in-place before the opt out effective date are not impacted (see Article XIV of the compact).
  - State that the Arizona laws pertaining confidentiality or nondisclosure, except for privileged records, do not relieve the Director of Insurance of the duty to disclose relevant records or information to the commission.
    - Specifies that disclosure to the commission does not waive or otherwise affect any confidentiality requirement.
    - Specifies that any confidential information of the commission remains confidential after the information is provided to the Director of Insurance.
  - Require insurers and third-party filers to file a product with the commission and pay applicable fees, if the filing party seeks to have the product approved by the commission.
  - Permit any commission-approved product to be sold or otherwise issued in a compacting state where an insurer is legally authorized to do business.
  - Outline the abilities of an insurer to appeal the commission's disapproval of a filed product.
  - Set forth the authority of the commission to monitor, review and reconsider filed products and advertisements and permits the commission to withdraw or modify its approval of a filing after proper notice and hearing.

- State that the compact does not prevent the enforcement of any other law of a compacting state, except that:
  - Any products approved or certified to the commission, the rules, uniform standards and any other requirements are the exclusive provisions applicable to the products.
  - Any advertisement subject to the commission's authority, any rule, uniform standard or other requirement of the commission that governs the advertisement's content is the exclusive provision applicable to it.
- Require all filed insurance products filed in Arizona to be subject to Arizona law.

**HB 2598: blanket disability insurance; special groups (Ch. 100)**

Amends ARS § 20-1404:

- Expands the scope of a blanket disability policy or contract to include:
  - Any operator, owner or lessee of a means of transportation covering a group defined as all persons who may become passengers on such means of transportation.
  - Employees or volunteers, under a policy or contract issued to a college, school or other institution of learning or to the head or principal thereof.
  - Any civil defense group covering all or any group members, participants or volunteers of such group.
  - A sports team or camp employees, officials, supervisors or volunteers.
  - Any group of members, participants or volunteers of an incorporated or unincorporated religious, charitable, recreational, educational or civic organization.
  - A newspaper's or publisher's carriers.
  - Patrons or guests of a restaurant, hotel, motel, resort, innkeeper or other group with a high degree of potential customer liability, under a contract issued to the same entity.
  - Patients, donors or surrogates of a health care provider or other arranger of health services, so long as the coverage is not made a condition of receiving care. The provider or arranger is deemed the policyholder.
  - Account holders, debtors, guarantors or purchasers, under a policy or contract issued to a bank, financial vendor or financial institution, or to a parent holding company or to the trustee, trustees or agent designated by one or more banks, financial vendors or other financial institutions.
  - Members of an incorporated or unincorporated association of persons having a common interest or calling, under a policy or contract issued to the association. The association is deemed to be the policyholder.
  - Persons who are provided travel-related services by a travel agency or other organization that provides travel-related services, under a contract or policy issued to an agency or organization. The travel agency is deemed to be the policyholder.
- Permits the Director of Insurance to exercise discretion on an individual risk basis or class of risks, or both, when making a determination about a group that is not specified in statute but may be subject to the issuance of a blank disability policy.
- Makes other clarifying and technical changes.

**HB 2508: insurance; navigator; application counselor; licensure (Ch. 153)**

This legislation establishes the licensure of individual and business entity navigators and individual certified application counselors (CAC).

Amends ARS § 13-3714 by making conforming changes.

Contains session law that transfers Title 20, Chapter 2, Article 3.4, Arizona Revised Statutes to Title 20, Chapter 2, Article 3.5, Arizona Revised Statutes.

Enacts Title 20, Chapter 2, Article 3.4, Arizona Revised Statutes, titled "Navigators and Certified Application Counselors".

Enacts ARS § 20-336 that provides definitions for "certified application counselor", "exchange", "health benefit plan", "issuer", and "navigator".

Enacts ARS § 20-336.01:

- States that beginning October 1, 2014, the “Navigator and Certified Application Counselor” article applies to a person who acts or claims to be a navigator or certification application counselor.
- Exempts licensed Accident and Health or Sickness insurance producers (pursuant to Arizona law) from the requirements of the article.
- Exempts from the requirements of the article persons who work as navigators or certified application counselors only on tribal lands and were required to complete a security background investigation for federal service.

Enacts ARS § 20-336.02 that prohibits a person from acting as or claiming to be a navigator or CAC unless the person is licensed pursuant to the article.

Enacts ARS § 20-336.03:

- Requires a person who applies for a navigator license to:
  - Apply on a form prescribed by the Director of Insurance.
  - Declare under penalty of license denial, suspension or revocation that the statements made in the application are true, correct and complete.
  - Provide information concerning the applicant's identity, personal history, business record and experience in insurance and any other pertinent fact the Director requires.
- Requires the Director of Insurance, before approving an individual's navigator application, to find that the individual:
  - Is at least 18 years of age.
  - Has not committed any act that is ground for license denial, suspension or revocation (under ARS § 20-295).
  - Has not been convicted of a misdemeanor involving fraud or dishonesty.
  - Has provided evidence of navigator certification from the United States Department of Health and Human Services.
  - Has submitted a full set of fingerprints to the Director and successfully completed a criminal history records check in a manner prescribed by the Director, except as provided in Laws 2014, Chapter 153, Section 6.
  - Has identified the entity with which it is affiliated and supervised.
- Requires a business entity to obtain a navigator entity license if the entity acts as a navigator, supervises the activities of individual navigators or receives funding to perform navigator activities.
- Requires the Director of Insurance, before approving a business entity's navigator application, to find that the business entity:
  - Has not committed an act that is a ground for license denial, suspension or revocation.
  - Has not been convicted of a misdemeanor involving fraud or dishonesty.
  - Has designated an individually licensed navigator who is responsible for the business entity's compliance with the Arizona insurance laws.
- Requires a business entity's navigator application to include the names of all members, officers and directors of the business entity.
  - Permits the Director of Insurance to require any individual named by the business entity to provide the information required for a license as an individual navigator.
- Requires ADOL to submit fingerprints received pursuant to ARS § 20-336.03 to the Arizona Department of Public Safety for the purpose of obtaining state and federal criminal records check.
  - Permits DPS to exchange the fingerprint data it receives with the Federal Bureau of Investigation.
- Prohibits a navigator, unless licensed for that line of authority pursuant to Title 20, from performing any of the following:
  - Selling, soliciting or negotiating insurance in Arizona for any class or classes of insurance.
  - Recommending, endorsing or offering opinions about the benefits, terms and features of a particular health benefit plan or offering an opinion about which health benefits plan is better or worse for a particular individual or employer.
  - Providing any information or services related to a health benefit plan or another product not offered in the exchange.

- Engaging in any unfair method of competition or any fraudulent, deceptive or dishonest act or practice.
- Specifies that the expiration date for a navigator license issued to a person who also holds a license pursuant to Title 20 is the same as the expiration date for the insurance producer license.

Enacts ARS § 20-336.04:

- Requires a individual who applies for a CAC license to:
  - Apply on a form prescribed by the Director of Insurance.
  - Declare under penalty of license denial, suspension or revocation that the statements made in the application are true, correct and complete.
  - Provide information concerning the applicant's identity, personal history, business record and experience in insurance and any other pertinent fact the Director requires.
- Requires the Director of Insurance, before approving an individual's CAC application, to find that the individual:
  - Is at least 18 years of age.
  - Has not committed any act that is ground for license denial, suspension or revocation (under ARS § 20-295).
  - Has not been convicted of a misdemeanor involving fraud or dishonesty.
  - Has met the standards and provided evidence of certification as prescribed by 45 CFR 155.225.
  - Has submitted a full set of fingerprints to the Director and successfully completed a criminal history records check in a manner prescribed by the Director, except as provided in Laws 2014, Chapter 153, Section 6.
  - Has identified the entity with which it is affiliated and supervised.
- Requires ADOL to submit fingerprints received pursuant to ARS § 20-336.03 to the Arizona Department of Public Safety for the purpose of obtaining state and federal criminal records check.
  - Permits DPS to exchange the fingerprint data it receives with the Federal Bureau of Investigation.
- Prohibits a CAC, unless licensed for that line of authority pursuant to Title 20, from performing any of the following:
  - Selling, soliciting or negotiating insurance in Arizona for any class or classes of insurance.
  - Recommending, endorsing or offering opinions about the benefits, terms and features of a particular health benefit plan or offering an opinion about which health benefits plan is better or worse for a particular individual or employer.
  - Providing any information or services related to a health benefit plan or another product not offered in the exchange.
  - Engaging in any unfair method of competition or any fraudulent, deceptive or dishonest act or practice.
- Specifies that the expiration date for a navigator license issued to a person who also holds an insurance producer license pursuant to Title 20 is the same as the expiration date for the insurance producer license.

Enacts ARS § 20-336.05:

- Permits the Director of Insurance to examine and investigate the business affairs and records of any navigator or CAC to determine whether the individual or entity has engaged or is engaging in any violation of Title 20.
- Allows the Director to adopt rules pursuant to Title 41, Chapter 6, to carry out the "Navigator and Certified Application Counselor" article.

Enacts ARS § 20-336.06:

- Applies (to the extent permitted by the article) the following laws to navigators and CACs:
  - ARS § 20-281 (definitions)
  - ARS § 20-286 (B), (C) & (D) (licensure; lines of authority)
  - ARS § 20-289 (expiration; surrender; renewal)
  - ARS § 20-289.01 (inactive license or application status during military service)
  - ARS § 20-292 (violation; injunctive relief)
  - ARS § 20-295 (license denial, suspension or revocation; civil penalty)

- ARS § 20-296 (effect of suspension or revocation of license)
- ARS § 20-297 (assumed business name; trade name)
- ARS § 20-299 (sharing of information)
- ARS § 20-301 (report of actions)
- ARS § 20-302 (rules)
- ARS § 20-452 (prohibited inducements)
- Title 20, Chapter 2, Article 6, Arizona Revised Statutes (Unfair Practices and Frauds)
- Title 20, Chapter 11, Article 1, Arizona Revised Statutes (Insurance Information and Privacy Protection)

Amends ARS §§ 32-1004 and 41-624 by making technical and conforming changes.

Contains session law (Laws 2014, Chapter 153, Section 6) that exempts applicants for a navigator or CAC license from undergoing a criminal background check if the applicant meets the following criteria:

- Was required to undergo a criminal history records check as a condition of employment as a navigator or CAC on or after August 1, 2010 and before July 24, 2014.
- Submits an attestation from both the applicant and the applicant's employer that the applicant has passed a criminal history records check.

Contains session law (Laws 2014, Chapter 153, Section 7) that:

- Repeals the Navigator and Certified Application Counselor article on or before January 1, 2024, if 42 USC § 18031 relating to health benefit exchanges is declared unconstitutional by the United States Supreme Court or is repealed by the United States Congress.
- Requires the Director of Insurance to notify in writing the Director of Legislative Council of the date on which the repeal occurs or if the repeal does not occur.

## **HB 2560: insurance; self-evaluative privilege (Ch. 154)**

Enacts Title 20, Chapter 23, Arizona Revised Statutes, titled "Insurance Compliance Self-Evaluative Privilege".

Enacts ARS § 20-3301:

- Defines, for the purposes of the article, "insurance compliance audit" and "insurance compliance self-evaluative audit document".
- Applies the provisions of the article to the following types of regulated or licensed entities:
  - Stock, mutual, reciprocal or title insurer.
  - Fraternal benefit society.
  - Health care services organization.
  - Hospital service corporation, medical service corporation, dental service corporation, optometric service corporation or hospital, medical, dental and optometric service corporation.
  - Prepaid dental plan organization.
  - Mechanical reimbursement reinsurer.
  - Prepaid legal plan.
  - Lloyd's association.
  - Service company as defined by Title 20.

Enacts ARS § 20-3302:

- Makes the information contained in an insurance compliance self-evaluative audit document privileged and not discoverable or admissible as evidence in any legal action in any civil or administrative proceeding other than a regulatory or legal action except as part of the Director of Insurance's duties.
  - States that this privilege is a matter of substantive law and is not merely a procedural matter governing civil proceedings in Arizona courts.
  - Outlines the scope of the privilege applicable to certain entities and individuals, including the Director of Insurance and ADOL employees.
  - Applies the privilege to specified actions by the Director of Insurance and requires an insurer to comply with any audit requests or compliance dates set by the Director.
  - Outlines the types of information privilege does not apply.

- Specifies that privilege is not waived or eliminated for any other purpose when the audit is used in a criminal proceeding.
- Permits a person who conducts or participates in the preparation of an audit and who has actually observed physical events to testify regarding those events.
  - Prohibits the person from being compelled to testify or produce documents related to any privileged part of the audit or any item listed under the definition of “insurance compliance self-evaluative audit document”.
- States that the “Insurance Compliance Self-Evaluative Privilege” article does not provide civil or criminal immunity to an organization or to affect any other privilege that may be available by law.
- States that the audit does not prevent the discovery of information maintained by an insurer that was not developed for the audit.
- Outlines the circumstances where privilege does not apply.
- Permits an insurer to file with the appropriate court a petition requesting an in-camera hearing on whether the insurance compliance self-evaluative audit document is privileged or subject to disclosure, subject to the following:
  - The petition is filed within 30 days after the insurer is served with a written request by certified mail for disclosure of an insurance compliance self-evaluative audit document.
  - The Director of Insurance’s authority under ARS §§ 20-156, 20-157, 20-157.01, 20-160 and 20-466 is exempted from this requirement.
- Provides that an insurer’s failure to file a petition waives the privilege for this request only.
- Provides that under an insurer’s petition for in-camera hearing, the following apply:
  - The petition must include specified information.
  - The court must issue an order scheduling an in-camera hearing to determine whether the audit document is subject to disclosure or privileged.
  - After an in camera review, the court may require disclosure of privileged material if the court finds the privilege is asserted for a fraudulent purpose, the material is not subject to the privilege or the material shows evidence of noncompliance with law or certain directorial orders.
    - The court may only compel the disclosure of those portions of an insurance compliance self-evaluative audit document that are relevant to the issues in dispute in the underlying proceeding.
    - Any compelled disclosure will not be considered to be a public document or be deemed to be a waiver of the privilege for any other civil or administrative proceeding.
    - A party unsuccessfully opposing disclosure may apply to the court for an appropriate order protecting the document from further disclosure.
  - At the time of filing an objection to the disclosure, the insurer must provide specified information related to the insurance compliance self-evaluative audit document.
- Mandates that the insurer has the burden of demonstrating the applicability of the privilege when the insurer asserts privilege under ARS § 20-3302(A).
- Mandates that the party seeking disclosure has the burden of proving that the privilege is asserted for a fraudulent purpose, once the insurer has established the applicability of the privilege.
- Permits the parties, at any time, to stipulate in proceedings which sections of an insurance compliance self-evaluative audit document are subject or not subject to the privilege.
  - States that the stipulation may be limited to the instant proceeding and not subject to any other proceeding (absent specific language to the contrary).
- Stipulates that ARS § 20-3302 or the release of any self-evaluative audit document does not limit, waive or abrogate the scope or nature of any statutory or common law privilege including the work product doctrine, the attorney-client privilege or the subsequent remedial measures exclusion.

Contains session law (Laws 2014, Chapter 154, Section 2) that states the insurance compliance self-evaluative privilege established by this legislation applies to all litigation and administrative proceedings pending on the effective date of this legislation (July 24, 2014).

## SB 1404: direct care plans; insurance; exemption (Ch. 161)

Amends ARS § 20-103:

- States that a “Direct Primary Care Provider Plan” (DPCPP) that is issued pursuant to Title 44, Chapter 11, Article 25 is not insurance.
- Specifies that Title 20 does not apply to DPCPPs.

Enacts ARS § 20-123:

- States that a DPCPP issued pursuant to Title 44, Chapter 11, Article 25 does not constitute the transaction of insurance business or a Health Care Services Organization (HCSO) for the purposes of Title 20 regulation, if the DPCPP does not assume financial risk or agree to indemnify for third party services.
- Defines, for the purposes of ARS § 20-123, “Direct Primary Care Provider Plan” as *a primary care provider, group, entity or practice that collects on a prepaid basis fees to conduct primary health care for enrollees.*
- Defines, for the purposes of ARS § 20-123, “Enrollee”, “Primary Care Provider” and “Primary Health Care”.

Amends ARS § 44-1521:

- Includes DPCPP (as defined by ARS § 20-123) in the definition for “Merchandise”.<sup>3</sup>
- Makes technical changes.

Enacts Title 44, Chapter 11, Article 25, Arizona Revised Statutes, titled “Direct Primary Care Provider Plans”.

Enacts ARS § 44-1799.91:

- Defines, for the purposes of the article, “Direct Primary Care Provider Plan”, “Enrollee”, “Primary Care Provider” and “Primary Health Care” to have the same meaning as provided in ARS § 20-123.
- Defines, for the purposes of the article:
  - “Health Insurer” as *a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation holding a certificate of authority under Title 20.*
  - “Provider Access” as *the method, manner and frequency that an enrollee may use a primary care provider under the enrollee’s direct primary care provider plan.*

Enacts ARS § 44-1799.92:

- Permits a DPCPP to arrange for primary health care for enrollees in Arizona.
- Requires every DPCPP to be in writing and subject to the provisions of ARS § 44-1799.92.
- Requires a copy of the written DPCPP to be given to the enrollee at the time the enrollee signs the DPCPP.
- Requires a DPCPP to describe all of the following:
  - The specific provider access and primary health care services that the primary care provider will provide.
  - The enrollee’s total payment obligation.
  - The terms of cancellation, which must include cancellation terms for relocation and military duty.
- Specifies that a DPCPP may not charge different fees for comparable services based on an enrollee’s health status or sex.
- Entitles an enrollee to cancel a DPCPP for any reason on written notice to the DPCPP.
- Requires a DPCPP to provide a written disclaimer on or accompanying all application and guideline materials distributed by or on behalf of the DPCPP that reads, in substance:

*Notice: The organization facilitating the Direct Primary Care Provider Plan is not an insurance company, and the direct primary care company guidelines and plan operation are not an insurance policy. Participation in the Direct Primary Care Provider Plan or a subscription to any of its documents should not be considered to be a health insurance policy. Regardless*

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<sup>3</sup> This provision applies the “Consumer Fraud” article of Title 44 to DPCPPs.

*of whether you receive treatment for medical issues through the Direct Primary Care Provider Plan, you are always personally responsible for the payment of any additional medical expenses you may incur.*

- Prohibits a primary care provider from submitting a claim for payment to any health insurer or any health insurer's contractor or subcontractor for primary health care services provided to an enrollee under a DPCPP.

### **SB 1181: guaranty fund; workers' compensation (Ch. 186)**

This legislation is effective from and after June 30, 2015.

Amends ARS § 20-661:

- Redefines, for the purposes of the workers' compensation insurance account, an "insolvent insurer" to include any insolvent insurer against which an order of liquidation with a finding of insolvency has been entered on, before or after June 30, 2015.
- Adds insurers writing workers' compensation insurance to the definition of "member insurer".
- Makes technical and conforming changes.

Amends ARS § 20-662:

- Establishes a workers' compensation insurance account within the Arizona Property and Casualty Insurance Guaranty Fund (fund).
- Requires that monies placed in the accounts of the fund to be expended only for the purposes of the account into which the monies were placed.
- Prohibits monies placed into the three individual fund accounts from being used directly or indirectly for any other purpose, including to satisfy an obligation attributable to another account.

Amends ARS § 20-663:

- Expands the membership of the Arizona Guaranty Fund Board to include at least one member who represents a workers' compensation insurer that has been authorized to transact workers' compensation insurance business in Arizona for at least 10 consecutive years.
- Makes technical and conforming changes.

Amends ARS § 20-664:

- Charges the Arizona Guaranty Fund Board with the following new powers and duties:
  - The board must adjust, compromise, settle and pay compensable workers' compensation claims, and deny all other claims, subject to the regulatory and adjudicatory authority of the Industrial Commission of Arizona (ICA) over workers' compensation claims pursuant to Title 23, Chapter 6.
    - Workers' compensation settlements that have become final are excepted from the fund's authority to void claim settlements entered into within four months of insolvency.
  - The board must expend member insurer assessments only for the purposes of the account into which the assessed amounts were placed.
- Makes conforming changes.

Amends ARS § 20-666 by excluding the workers' compensation insurance account from the board's ability to prorate available funds and paying the unpaid portion at a later date.

Amends ARS § 20-667:

- Excludes obligations arising out of a covered worker's compensation claim for benefits under Title 23, Chapter 6, from the fund's statutory obligations.
- Specifies that a settlement or commutation of a workers' compensation claims approved by an award of the ICA that has become final pursuant to ARS §§ 23-942 or 23-943 is not voidable.
- Requires the fund to assume all contractual rights and obligations of the ICA regarding the administration of workers' compensation insolvent carrier claims if the ICA has contracted with a third-party processor to administer claims.

Amends ARS § 20-673:

- Entitles a claimant for workers' compensation benefits to all rights and obligations conferred under Title 23, Chapter 6.
- Requires recovery of a workers' compensation claim to be sought from the guaranty fund (or its equivalent) of the place of residence of the claimant.
- Excludes workers' compensation claimants from certain requirements related to recoverable damages.

Amends ARS § 20-674 by excluding premium taxes and assessments collected pursuant to Title 23, Chapter 6, from member insurer's certificate of contribution.

Amends ARS § 20-676:

- Requires the ICA to grant up to a 90-day continuance of any scheduled hearing, on a showing of good cause, to allow the fund to assume the defense and investigate the claim.

Repeals ARS § 20-679.

Enacts ARS § 20-679:

- Specifies that a covered claim does not include a claim filed with the fund after the earlier of:
  - 18 months after the date of the order of liquidation.
  - The final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.
- Requires a covered claim for workers' compensation to include claims filed that meet specified requirements of ARS §§ 20-667 and 23-1061.

Amends ARS § 20-680 by removing the exclusion of workers' compensation insurance from coverage by the fund.

Amends ARS § 23-961:

- Removes specified duties of the Director of Insurance related to issuance of an Arizona certificate of authority to a workers' compensation insurer.
- Removes specified information a workers' compensation insurer must submit to the Director of Insurance.
- Permits the Director of Insurance to release all or part of a workers' compensation insurer's deposit to the insurer that was deposited prior to June 30, 2015.
  - Requires the Director to consider specific factors when determining whether to order the release of an insurer's deposit.

Amends ARS § 23-966:

- Removes the authority of the ICA to increase the assessment to reimburse the ICA special fund for specified losses.
- Limits the special fund's scope to self-insured employers and other employers authorized by the ICA.

Amends ARS § 23-1065 by reducing the taxing authority of the ICA for the special fund from 1.5% of premiums received by private insurance carriers to 1%

Amends ARS §§ 23-902 and 23-1081 by making conforming changes.

Contains session law that requires the ICA to transfer \$222,848,153.00 in assets acceptable to the fund from the special fund for deposit into the Arizona Property and Casualty Insurance Guaranty Fund's workers' compensation insurance account.

## **SB 1222: insurance policies; electronic notices (Ch. 188)**

Enacts ARS § 20-239:

- Restricts the provisions of this legislation to only property, casualty and life insurance policies subject to Title 20.

- Allows any notice/document to a party required under Title 20 in an insurance transaction or that is to serve as evidence of coverage to be delivered, stored and presented by electronic means if it meets statutory requirements.
- Permits an insurer to deliver a notice or document to a party by electronic means with prior consent.
- Requires an insurer to obtain distinct advanced electronic consent from the named insured for delivery of any notice under ARS § 20-1632 (nonrenewal/cancellation of private passenger automobile insurance).
- Prohibits an oral communication from qualifying as consent.
- Requires an insurer, when issuing an electronic notice of nonrenewal, cancellation or reduction in the limits of liability or coverage of private passenger automobile insurance, to:
  - Maintain verification in its files for 5 years after sending the notice.
  - Ensure the notice was sent with a United States Postal Service Electronic Postmark (USPSEP) or another electronic postmark that is substantially similar to the USPSEP.
  - Ensure the verification contains sufficient information from which ADOI may determine that the notice was properly sent.
  - Deliver the notice to the named insured by specified non-electronic means if either:
    - The notice being electronically delivered is rejected for delivery or returned to the insurer, or
    - The insurer becomes aware that the e-mail address provided by the party is no longer valid.
- Affirms that electronic delivery of a notice under ARS § 20-239 is equivalent to any delivery method required under Title 20.
- Requires an insurer to inform a consenting party of any hardware or software changes that may affect the party's ability to access or retain a notice/document or future notice/document.
  - Requires the insurer to inform the party of the revised requirements for access of the notice/document.
  - Entitles the party to withdraw consent without imposition of any fee, condition or consequence.
  - Entitles the party to withdrawal of consent if the insurer fails to comply with ARS § 20-239 (G).
- Specifies that ARS § 20-239 does not affect the requirements related to content or timing of any notice/document required under Title 20.
- States the legal effectiveness, validity or enforceability of an insurance contract or policy executed by a party may not be denied solely because the insurer failed to obtain electronic consent or confirmation of consent.
- Mandates a party's withdrawal of consent is effective within seven days after the insurer receives the withdrawal.
- Outlines the party's rights for consent submitted prior to the effective date of this legislation.
- Prohibits an insurer from charging a fee to a party who elects not to receive notices/documents by electronic means.
- States that ARS § 20-239 does not modify, limit or supersede the Electronic Signatures in Global and National Commerce Act (15 USC § 7001).
- Defines "delivered by electronic means" and "party".

Renumbers ARS § 20-398.01 to ARS § 20-240 and makes conforming changes to ARS § 20-240.

### **SB 1047: closing protection letters; escrow agents (Ch. 216)**

Amends ARS § 6-841.02:

- Permits a title insurer to provide a closing protection letter to any person that is a party to a transaction in which a title insurance policy will be issued.
- Allows a closing protection letter to indemnify a person insured under a title insurance policy against a loss that results from certain actions of a policy-issuing title insurance agent or other settlement service provider approved by the insurer.
- Requires a title insurer to charge a fee to a party that receives a closing protection letter.
  - Specifies when the title insurer earns the fee.
  - Limits the fee to no more than \$25.00 per letter issued and names the parties subject to the fee limitation.

- Prohibits a title insurer from providing any other protection that purports to indemnify against improper acts or omissions of a person with regard to settlement or closing services.

### **HB 2078: cancer treatment medications; cost-sharing (Ch. 255)**

This legislation applies to contracts, evidences of coverage and policies that are issued, delivered or renewed on or after January 1, 2016 by the following types of entities regulated by ADOI:

- Hospital, Medical, Dental and Optometric Service Corporations (ARS § 20-821, *et seq.*)
- Health Care Services Organizations (ARS § 20-1051, *et seq.*)
- Disability Insurers (ARS § 20-1341, *et seq.*)
- Group and Blanket Disability Insurance (ARS § 20-1401, *et seq.*)

In this summary, these entities will be referred to collectively as “health insurer.”

Enacts ARS §§ 20-841.10, 20-1057.14, 20-1376.05 and 20-1406.06:

- Prohibits a health insurer from issuing, delivering or renewing a contract, evidence of coverage or policy that requires a higher copayment, deductible or coinsurance amount for patient-administered cancer treatment medications than is required for those cancer treatment medications that are injected or intravenously administered by a health care provider.
  - Stipulates that the above mandate only applies if the contract, evidence of coverage or policy provides coverage both for cancer treatment medications that are injected or intravenously administered by a health care provider and for patient-administered cancer treatment medications.
- Prohibits a health insurer from increasing copayment, deductible or coinsurance amounts for covered cancer treatment medications that are injected or intravenously administered in order to avoid compliance with the cost-sharing mandate.
- Permits a health insurer to increase copayment, deductible or coinsurance amounts for cancer treatment medications if the increase is applied generally to other medical or pharmaceutical benefits and not to circumvent the cost-sharing mandate.
- Prohibits a health insurer from reclassifying benefits with respect to cancer treatment medications in a manner that is inconsistent with this legislation.
- Defines “cancer treatment medications”.
- Names this legislation as the “Fair Access to Cancer Treatment Act”.

END OF DOCUMENT