

NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 20 COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

- | <u>1. Article, Part or Section Affected</u> | <u>Rulemaking Action</u> |
|--|---------------------------------|
| Article 4 | Amend |
| R20-6-401 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. § 20-143(B)
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
- Notice of Rulemaking Docket Opening: 25 A.A.R. xxxx, April xx, 2019
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Mary E. Kosinski
- Address: Arizona Department of Insurance
- 100 N. 15th Ave, Suite 102
- Phoenix, Arizona 85007-2624
- Telephone: (602) 364-3100
- E-mail: mkosinski@azinsurance.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

On June 15, 2018, the Department relocated. Department rule R20-6-401 still recites the Department's prior address. The Department wishes to update the rule to its current address.

The rule also incorporates a National Association of Insurance Commissioners' (NAIC) model regulation by reference. A.R.S. § 41-1028, which authorizes an agency to incorporate matter in its rules by reference, requires a statement of where copies of the incorporated matter is available from the agency and from the organization originally issuing the incorporated matter. A.R.S. § 41-1028(D). The Department and NAIC addresses are both outdated and need to be corrected.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

Not applicable.

9. The agency's contact person who can answer questions about the economic,

small business and consumer impact statement;

Not applicable.

10. The time, place, and nature of the proceedings to make, amend, repeal or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No proceeding is scheduled. Persons may request an oral proceeding on the proposed rule by contacting:

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Address: Arizona Department of Insurance
100 N. 15th Ave., Suite 102
Phoenix, Arizona 85007-2624
Telephone: (602) 364-3100
E-mail: mkosinski@azinsurance.gov

Comments may be posted at: public_comments@azinsurance.gov

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the

rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Under A.R.S. § 20-143(B), the Director shall make rules concerning proxies, consents or authorizations in respect of securities issued by domestic stock insurance companies having a class of equity securities held of record by one hundred or more persons to conform with the requirements of section 12(g)(2)(G)(ii) of the securities and exchange act of 1934, as amended, and as may be amended.

The rule is not more stringent than the federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

R20-6-401(A) references the National Association of Insurance Commissioner's (NAIC) Model Laws, Regulations and Guidelines, Volume III, pp. 490-4-, Regulation Regarding Proxies, Consents and Authorizations of Domestic Stock Insurers, April 1995 (and no future editions or amendments).

This reference is not being changed. The addresses of the Department and NAIC where the reference material can be found are being updated.

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 4. TYPES OF INSURANCE COMPANIES

Section

R20-6-401. Proxies, Consents, and Authorizations of Domestic Stock Insurers

ARTICLE 4. TYPES OF INSURANCE COMPANIES

R20-6-401. Proxies, Consents, and Authorizations of Domestic Stock Insurers

- A.** The Department incorporates by reference National Association of Insurance Commissioners Model Laws, Regulations and Guidelines, Volume III, pp. 490-1 through 490-40, Regulation Regarding Proxies, Consents, and Authorization of Domestic Stock Insurers, April 1995 (and no future editions or amendments), which is on file with the Office of the Secretary of State and available from the Department of Insurance, ~~2910 N. 44th St., Phoenix, AZ 85018~~ 100 N. 15th Ave., Suite 102, Phoenix, AZ 85007-2624 and the National Association of Insurance Commissioners, Publications Department, ~~2301 McGee St., Suite 800, Kansas City, MO 64108,~~ 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197, modified as follows:

Section 1 A is modified to read: "No domestic stock insurer that has any class of equity securities held of record by 100 or more persons, or any director, officer or employee of that insurer, or any other person, shall solicit, or permit the use of the person's name to solicit, by mail or otherwise, any proxy, consent, or authorization in respect to any class of

equity securities in contravention of this regulation and Schedules A and B, hereby made a part of this regulation.

- B.** Domestic stock insurance companies shall comply with this Section as required under A.R.S. § 20-143(B).