



**Department of Insurance**

**State of Arizona**

*Office of the Director*

Telephone: (602) 364-3471

Telecopier: (602) 364-3470

---

**JANET NAPOLITANO**

Governor

2910 North 44th Street, Suite 210

Phoenix, Arizona 85018-7256

[www.id.state.az.us](http://www.id.state.az.us)

**CHRISTINA URIAS**

Director of Insurance

---

REGULATORY BULLETIN 2008-4 <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: Christina Urias  
Director of Insurance

Date: July 16, 2008

Re: **2008 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. We encourage all interested persons to obtain copies of the enacted bills by contacting the Arizona Secretary of State's office at (602) 542-4086, or 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-eighth Legislature, First Regular Session, adjourned *sine die* on, June 27, 2008. Except as otherwise noted, all insurance related legislation has a general effective date of September 26, 2008.

---

<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 2008:**

### **HB 2031: insurance; technical changes; definitions (Ch. 163)**

Amends A.R.S. §20-281 by adding “personal lines insurance” to the lines included in the definition of “major line insurance.”

Moves the provision prohibiting a person from using an insurance license principally to procure insurance covering himself, his family or his insurable interests from §20-285 to §20-295.

Amends A.R.S. §20-296, eliminating a reference to paper insurance licenses.

Amends A.R.S. §20-488 by adding a provision authorizing DOI intervention when a property and casualty insurer exhibits a trend of significantly declining Risk-Based Capital (RBC).

Amends A.R.S. §§20-1243.04 and 20-2662, updating references to the National Association of Securities Dealers to reflect the organization’s new name, the Financial Industry Regulatory Authority.

### **HB 2081: insurance; captive insurers; authority (Ch. 213)**

Amends A.R.S. §20-1098 by adding “persons” to those that may make up an industry group.

Amends A.R.S. §20-1098.01 to clarify that a captive insurer is not prohibited from directly insuring employment practices liability.

Amends A.R.S. §20-1098.04 to permit captive insurers formed as reciprocal insurers to be organized by three or more subscribers, and to remove the requirement that at least one of the subscribers be an Arizona resident.

Amends A.R.S. §20-1098.19 to clarify that branch captives may provide any coverage that a pure captive may provide.

Amends Title 29 to reflect existing Title 20 provisions, allowing pure captive insurers to form as limited liability companies.

### **HB 2224: service company contracts (Ch. 172)**

Amends A.R.S. §20-1095.02:

- Adds warranties issued by builders to the exemptions to licensure in Title 20, Chapter 4, Article 11, and adds that the warranties must cover the “actual items, structures or improvements that they manufacture, build or sell.”
- Revises the existing exemption for service company contracts on mechanical equipment by adding that the contract may only cover the actual item the service company sells.
- Amends the exemption to Title 20, Chapter 4, Article 11 for licensed contractors and those not required to be licensed pursuant to §31-1121(A)(23) by adding that the service contract in question may only cover the “actual items, structures or improvements that the person installs, constructs or builds.”
- Adds scheduled maintenance agreements of limited duration that do not include repair or replacement to the exemptions to Title 20, Chapter 4, Article 11.

### **HB 2282: insurance policies; misrepresentation (Ch. 236)**

Amends A.R.S. §20-443 by prohibiting an insurance producer, consultant or third party administrator from falsely disclosing the method or amount of compensation received in connection with a health benefits plan.

### **HB 2513: stranger originated life insurance (Ch. 240)**

Enacts A.R. S. §20-443.02:

- Defines stranger originated life insurance, including instances in which trusts are created to give the appearance of insurable interest.
- Makes stranger originated life insurance a violation of the statute governing insurable interest with respect to personal insurance and establishes the intentional practice or plan to initiate such policies as a violation of the unfair trade practices act.
- Specifies that the policy owner's lawful assignment of the policy is not a violation of the unfair trade practices act.
- Specifies a number of practices that **do not** constitute stranger originated life insurance, including the collateral assignment of the policy by an owner and business succession arrangements.

### **HB 2658: insurance contracts; small employer coverage (Ch. 118)**

Amends A.R.S. §20-1380 to clarify that if an insurer wishes to cease marketing all individual health insurance products the insurer must non-renew all in force policies, and that an insurer cannot terminate all in force policies on a common date, but only on each policy's renewal date.

Amends A.R.S. §20-2301 to clarify that the definition of "health benefit plan" includes group disability policies and certificates of insurance of a group disability policy issued outside this state.

Amends A.R.S. §20-2304 to clarify that accountable health plans that market health benefit plans to voluntary small employer risk pools may claim the premium tax exemption for those premiums.

Amends A.R.S. §20-2309 to clarify that if an insurer wishes to cease marketing all group health insurance products the insurer must non-renew all in force policies, and that an insurer cannot terminate all in force policies on a common date, but only on each policy's renewal date.

### **HB 2847: autism; covered benefits; task force (Ch. 4)**

Enacts A.R.S. §20-826.04:

- Prohibits hospital service corporations or medical service corporations from excluding or denying treatment, or from imposing cost sharing mechanisms, solely based on a diagnosis of autism spectrum disorder.
- Specifies that "treatment" includes diagnosis, assessment and services.
- Prohibits hospital service corporations or medical service corporations from excluding or denying coverage of medically necessary behavioral therapy provided by or supervised by a licensed or certified provider.
- States that coverage requirements do not apply to coverage issued to an individual or to a small employer (2-50 employees) or to a limited benefit policy, nor is coverage required for services provided outside of Arizona.
- Establishes a maximum behavioral therapy benefit of \$50,000 per year for eligible children up to age 9, and a maximum behavioral therapy benefit of \$25,000 per year for eligible children ages 9 to 16.
- Defines "autism spectrum disorder" as "one of the three following disorders as defined in the most recent edition of the diagnostic and statistical manual of mental disorders of the American Psychiatric Association": autistic disorder, Asperger's syndrome, or pervasive developmental disorder.
- Defines "behavioral therapy" as "interactive therapies derived from evidence based research, including applied behavior analysis, which includes discrete trial training, pivotal response training, intensive intervention programs and early intensive behavioral intervention."
- Applies to all contracts, policies and evidences of coverage issued or renewed from and after June 30, 2009.

Enacts A.R.S. §20-1057.11, applying the same provisions above to health care service corporations.

Enacts A.R.S. §20-1402.03, applying the same provisions above to group disability coverage.

Enacts A.R.S. §20-1404.03, applying the same provisions above to blanket disability coverage.

**SB 1086: insurance producers; examinations; applicability (Ch. 122)**

Amends A.R.S. §20-284:

- Extends, from 120 days to one year, the period in which insurance producer license applicants may use “passing” examination results to obtain a license.
- Extends this period for insurance producer license applicants who have been called to active military duty from a maximum of one year to a maximum of one and one-half years.

Repeals Laws 2005, Chapter 126, section 3.

**SB 1163: replacement policies; application of law (Ch. 160)**

Amends A.R.S. §20-1241.01 to clarify that Chapter 6, Article 1.1, “Replacement of Life Insurance Policies and Annuity Contracts” does not apply to an application to the insurer that issued the existing policy or contract if a term conversion privilege is exercised among corporate affiliates.

**SB 1223: insurance; long-term care (Ch. 230)**

Amends A.R.S. §20-1691 by defining a “Long-Term Care Partnership Program” as a “qualified state long-term care insurance partnership as defined in section 1917(b) of the Social Security Act (42 United States Code Section 1396P).”

Amends A.R.S. §20-1691.03:

- Limits preexisting condition limitations in policies issued after December 31, 2008 to “six months after the effective date of coverage of an insured for whom advice or treatment was recommended by, or received from, a health care services provider.” (See statute for exception.)
- Limits the exclusion of coverage under policies issued to individuals to a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within 6 months following the effective date of coverage.

Enacts A.R.S. §20-1691.12:

- Requires anyone selling, soliciting or negotiating long term care insurance to be licensed as an insurance producer for accident and health or sickness, and to have completed prescribed initial or continuing education in long-term care insurance, beginning July 1, 2009.
- Requires long-term care insurers to verify that an insurance producer has completed the education requirements prior to permitting the producer to sell, solicit or negotiate the insurer’s long-term care products.
- Requires insurers to keep records of producers’ completion of the required education and to provide it to the Director upon request.
- Allows an insurance producer’s completion of long-term care insurance education in another state to satisfy the Arizona educational requirement if the other state’s requirement is substantially similar to Arizona’s.

\*\* NOTE: The Arizona Health Care Cost Containment System (AHCCCS) will administer the Long-Term Care Partnership Program in Arizona. Questions about the program, including reciprocity with other states, should be directed to AHCCCS.

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. Any person may view this bulletin on the Department's web site at [www.id.state.az.us](http://www.id.state.az.us). For questions about this bulletin, please contact Karlene Wenz, Executive Assistant for Policy Affairs, at 602/364-3471, or [kwenz@azinsurance.gov](mailto:kwenz@azinsurance.gov).