



Department of Insurance

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REGULATORY BULLETIN 2012-02¹

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

FROM: Christina Urias
Director

DATE: June 5, 2012

RE: **2012 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) 542-4068, 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 Fiftieth Legislature, First Regular Session, adjourned *sine die* on May 3, 2012. Except as otherwise noted, all insurance-related legislation has a general effective date of August 2, 2012.

¹This 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 2012:

HB 2153: insurance; financial provisions (Ch. 69)

This legislation makes several changes and additions to ARS Title 20 that aligns certain provisions of Arizona law with the National Association of Insurance Commissioners' ("NAIC's") "Investments of Insurers Model Act."

Amends ARS § 20-157.01 by making conforming changes related to amendments in ARS § 20-158.

Amends ARS § 20-158:

- States that information obtained by the Department in the course of a financial or market conduct examination of an insurer is confidential and privileged, not subject to public records searches, subpoena or discovery, and not admissible in a private civil action.
- Allows the Director of Insurance to use the information in the furtherance of any regulatory or legal action brought as part of the Director's official duties.
- Specifies that documents, materials or other information, including all work papers, possessed or controlled by the NAIC are confidential and privileged, not subject to public records searches, subpoena or discovery, and are not admissible in a private civil action, if used by the Department in a market conduct or financial examination or shared by the Director with another state's insurance department or the NAIC.
- Prohibits Department employees from testifying in any private civil action concerning information that is private or confidential under ARS §20-158 (F) and (G).

Amends ARS § 20-481.19:

- Requires an "insurance holding company system" member insurer that is declaring notice of an extraordinary dividend or distribution to notify the Director of the declaration within 5 business days after the declaration.
- Changes the guidelines of extraordinary dividend or distribution from the lesser of ten percent of an insurer's surplus to the greater of ten percent of the insurer's surplus or the net gain from operations.

Amends ARS § 20-532 to allow a domestic insurer's investment limitation to relate to assets or funds shown the insurer's most recently required balance sheet filed with the Director, unless the NAIC prescribes the use of a different financial statement.

Amends ARS § 20-536 by including "foreign securities" in the class of securities a domestic insurer may invest not more than 20% of its assets. Current law limits foreign securities investments to not more than 10%.

Amends ARS § 20-552:

- Specifies a domestic insurer's foreign securities investment shall not exceed 10% of its admitted assets in a single foreign jurisdiction with a sovereign debt rating of SVO 1.
- Specifies a domestic insurer's foreign securities investment shall not exceed 3% of its admitted assets in a single foreign jurisdiction with a sovereign debt rating of other than SVO 1.
- Defines "SVO" as the Securities Valuation Office of the NAIC or any successor office established by the NAIC.
- Excludes a Canadian investment from the foreign securities investment limitations under this section.

Enacts ARS § 20-552.01:

- Permits a domestic insurer to make investments of or in Canada, which have a similar characteristic or quality to United States investments as required by ARS Title 20, Chapter 3, Article 2.

- Limits a domestic insurer's aggregate amount of acquired Canadian investments – directly or indirectly through an investment subsidiary – to 25% of its admitted assets with the exceptions that:
 - An insurer that is authorized to do business in Canada and has outstanding insurance contracts on lives or risks in Canada and denominated in Canadian currency may exceed the 25% limitation, to the greater of the investment required by Canadian law or 115% of the insurer's reserves and contractual obligations on lives/risks in Canada.
 - An insurer may not acquire common stock or shares of any solvent Canadian institution if, after giving effect to the investment, the aggregate amount of the insurer's investments would then exceed 20% of its admitted assets.
 - An insurer may not acquire bonds or other investments that are secured by second mortgages or deed of trust on improved Canadian real property, if, after giving effect to the investment, the aggregate amount of the insurer's investments would then exceed 20% of its admitted assets.
- For the purposes of ARS § 20-552.01, defines "investment subsidiary" as *a subsidiary of an insurer engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer if each subsidiary agrees to limit its investment in any asset so that its investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations or avoid any other provisions of ARS Title 20, Chapter 3, Article 2, applicable to the insurer.*
- For the purposes of ARS § 20-552.01 (F), defines "total investment of the insurer" to include:
 - Direct investment by the insurer in an asset.
 - The insurer's proportionate share of an investment in an asset by an investment subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership interest in the subsidiary.

Enacts ARS § 20-560:

- Permits a domestic insurer, directly or through an investment subsidiary, to use derivative instruments to engage in hedging, income generation, and replication transactions subject to the conditions set forth in the statute.
- Allows a domestic insurer to enter into hedging transactions if, after giving effect to such transactions, all of the following apply:
 - The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed 7.5% of the insurer's admitted assets.
 - The aggregate statement value of options, caps and floors written in hedging transactions does not exceed 3% of the insurer's admitted assets.
 - The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions does not exceed 6.5% of insurer's admitted assets.
- Authorizes a domestic insurer to enter into various income generation derivative transactions provided the insurer adheres to specific methods of calculation in quantifying its investment (set forth in the statute) and does not exceed 10% of its admitted assets.
- With prior written approval of the Director of Insurance, a domestic insurer may enter into replication transactions if both of the following apply:
 - The insurer would otherwise be authorized to invest its funds under ARS Title 20, Chapter 3, Article 2.
 - The replicated asset is subject to the provisions of ARS Title 20, Chapter 3, Article 2, relating to the making of investments by the insurer in that type of asset as if the transaction constituted a direct investment by the insurer in the replicated asset.
- Allows the Director of Insurance to approve additional derivative transactions in excess of ARS § 20-560 (B) or for other risk management purposes.
- Stipulates that additional replication transactions approved by the Director of Insurance shall be permitted only for risk management purposes.

- Requires each derivative instrument to be one of the following:
 - Traded on a qualified exchange.
 - Entered into with or guaranteed by a business entity.
 - Issued or written with the issuer of the underlying interest on which the derivative instrument is based.
 - Entered into with a qualified foreign exchange.

For the purposes of ARS § 20-560, defines *business entity*, *cap*, *collar*, *derivative instrument*, *derivative transaction*, *floor*, *forward*, *future*, *hedging transaction*, *income generation transaction*, *option*, *qualified exchange*, *qualified foreign exchange*, *replication transaction*, *swap*, *underlying interest*, and *warrant*.

HB 2393: false claims; notice of penalty (Ch. 32)

Amends ARS § 20-466.02:

- Clarifies the “notice of penalty for false or fraudulent claims” statute to limit the form that must contain the fraud warning to a “claims form.”
- Defines “claims form” as *any document supplied by an insurer to an insured, claimant or other person that the insured, claimant or other person is required to complete and submit to support of a claim of benefits.*

HB 2571: state personnel system (Ch. 321)

Amends ARS § 20-141 by removing the six-year term of the Director of Insurance and stating the Director of Insurance serves at the pleasure of the Governor.

Amends ARS § 20-148 by stating that the Director of Insurance, subject to the new state personnel system statutes, shall appoint such other deputies, assistants and clerks, as necessary properly to discharge the duties imposed upon the Director under Title 20.

HB 2625: insurers; healthcare coverage; religious beliefs (Ch. 337)

Amends ARS § 20-826:

- Changes the term “religious employer” to “religiously affiliated employer” and expands its definition to include *an entity whose articles of incorporation clearly state that it is a religiously motivated organization and whose religious beliefs are central to the organization’s operating principles.*
- Removes the requirement for a religious employer to notify prospective employees that the employer refuses to cover contraceptive methods for religious reasons.
- Removes the prohibition that a religious employer may not discriminate against an employee who obtains insurance coverage or prescriptions for contraceptives from another source.
- Specifies a religiously affiliated employer may require an HMDO corporation to provide a contract without coverage for specific services and items that are contrary to the employer’s religious beliefs.
- Specifies that coverage for prescriptive contraceptive methods ordered by a health care provider for uses other than for contraceptive, abortifacient, abortion or sterilization purposes are not excluded.
 - Permits a religiously affiliated employer to require a subscribed employee to first pay for the prescription and then submit a claim with evidence that the prescription is not an excluded coverage.
- Permits a religiously affiliated employer to state its beliefs in the written affidavit to the HDMO corporation for exclusion of specific coverage.

- States that ARS § 20-826 (Z) does not authorize a religiously affiliated employer to obtain an employee's protected health information or to violate HIPAA or any federal regulations adopted pursuant to HIPAA.
- States that ARS § 20-826 (Z) shall not be construed to restrict or limit any protections against employment discrimination as prescribed by federal or state law.

Amends ARS § 20-1057.08 by mirroring the changes to ARS § 20-826.

- This section of law regulates HCSO coverage.

Amends ARS § 20-1402 by mirroring the changes to ARS § 20-826.

- This section of law regulates group disability policies.

Amends ARS § 20-1404 by mirroring the changes to ARS § 20-826.

- This section of law regulates group blanket disability policies.

Amends ARS § 20-2329 by mirroring the changes to ARS § 20-826.

- This section of law regulates accountable health plans.

SB 1036: health insurance; eye care services (Ch. 344)

Amends ARS § 20-1406:

- Clarifies that "whether by a network of health care providers or by the selection of a health care provider by the subscriber," a subscriber of a group or blanket disability insurance contract that provides eye medical care service shall have freedom of choice to select an eye care provider.
- Specifies that ARS § 20-1406 (B) does not require that any specific optometrist or physician, or number or percentage of optometrists or physicians, be included on an insurer's provider network.

SB 1045: tax correction act; 2012 (Ch. 3)

Amends ARS § 20-224.03:

- Modifies statutes relating to premium tax credits for new employment, as follows:
 - Clarifies that from and after June 30, 2011, a credit is allowed for full-time employees who are Arizona residents and hired in a qualified position located Arizona.
 - Designates employees hired in the final 90 days of the tax year as new employees in the next taxable year, rather than the current tax year.
 - Specifies that the total number of hires related to credits may not exceed either:
 - 400 qualified employment positions per taxpayer per year or
 - The difference between the average number of full-time employees in Arizona in the current taxable year and the average number of full-time employees in Arizona during the immediately preceding taxable year.
 - Contains a retroactive effective date of from and after June 30, 2011.

SB 1123: surplus lines insurance; brokers (Ch. 55)

SB 1123 makes several changes to the surplus lines broker reporting requirements.

Amends ARS § 20-408:

- Removes the compliance attestation from the required information a surplus lines broker must file with the ADOI to procure surplus lines insurance, if the insurance coverage is not a recognized surplus line.
- Requires a surplus lines broker to maintain evidence of compliance with the requirements of ARS §20-407 (A) for the duration of the policy plus 6 years after the policy's expiration date, if the insurance coverage is not a recognized surplus line.

Amends ARS § 20-415:

- Allows a facsimile of a surplus lines broker's quarterly statement to be submitted to the clearinghouse in lieu of the original statement.
- Mandates that a surplus lines broker must maintain the original notarized statement for 6 years after the calendar year in which the statement was filed.

SB 1134: automobile insurance; notice to insured (Ch. 56)

Amends ARS § 20-1632 by requiring, for reasons other than nonpayment of premium, an automobile insurer to:

- Provide notice to a policyholder of a nonrenewal, cancellation or reduction in the limits of liability or coverage action at least 10 days prior to effective date of the action; and
- Refund any unearned premium to a policyholder at least 10 days prior to the effective date of the action.

SB 1251: portable electronics insurance (Ch. 57)

This legislation enacts ARS Title 20, Chapter 6, Article 17, establishing a limited lines insurance license for the transaction of portable electronics insurance (commercial inland marine).

Enacts ARS § 20-1693:

- Defines the terms *customer*, *enrolled customer*, *location*, *portable electronics*, *portable electronics transaction*, *supervising entity*, and *vendor*.
- Defines "portable electronics insurance" as:
 - Insurance providing coverage for the repair or replacement of portable electronic that may provide coverage against loss, theft or inoperability
- Specifies that "portable electronics insurance" does not include:
 - Service contracts under ARS Title 20, Chapter 4, Article 11;
 - An insurance policy covering a seller's or manufacturer's obligations under a warranty; or
 - A homeowner's, renter's, private passenger auto, commercial multi-peril or similar policy.

Enacts ARS § 20-1693.01:

- Permits the Director of Insurance to issue a limited lines license that authorizes a vendor to offer and sell insurance coverage under a portable electronics insurance policy.
- Requires a vendor to obtain a portable electronics insurance license before selling or offering a portable electronics insurance policy.
- Authorizes a vendor's employee or authorized representative to sell or offer coverage under a portable electronics insurance policy at a location the vendor engages in portable electronics transactions.
- Requires a vendor's designated representative to file a written application for a portable electronics insurance license.
- Requires a vendor to provide the information in the license application to all officers, directors and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under the federal securities law, if the vendor derives more than 50% of its revenue from the sale of portable electronics insurance.

- Specifies that a portable electronics insurance license authorizes the licensee, its employees or authorized representatives to engage in activities permitted by ARS Title 20, Chapter 6, Article 17.

Enacts ARS § 20-1693.02:

- Requires that at every location where portable electronics insurance is offered to customers, written material must be made available to a prospective customer that explains purchase options, possible coverage duplication, claims processes, material and key terms, cancellation rights, and unearned premium refunds rights.
- Specifies that portable electronics insurance may be offered on a periodic basis as a group or master commercial inland marine policy issued to a vendor.
- Requires that eligibility and underwriting standards for customers electing to enroll in coverage be established for each policy.

Enacts ARS § 20-1693.03:

- States that a vendor's employees and authorized representatives may sell or offer portable electronics insurance and are exempt from licensure as an insurance producer and continuing education requirements if:
 - The vendor obtains a license to authorize its employees or authorized representatives to sell or offer portable electronics insurance.
 - The vendor or its designee provides a training program that gives the vendor's employees instruction about coverage on a portable electronics insurance and applicable Arizona law.
- Prohibits a vendor or its employees or authorized representatives from offering or selling insurance except in conjunction with or incidental to portable electronics transaction.
- Prohibits a vendor (including its employees or authorized representatives) from advertising, representing or portraying itself as a licensed insurer or producer unless so licensed.
- Permits a vendor to bill and collect charges for portable electronics insurance coverage.
- States that any charge for coverage that is not included in the acquisition of the portable electronic device must be separately itemized on the customer's bill.
- Requires a vendor to clearly and conspicuously disclose to a customer if the portable electronics insurance coverage is included with purchase or lease of the portable electronic device.
- Specifies that a vendor that bills and collects for coverage is not required to maintain those monies in a segregated account, if an insurer authorizes the vendor to hold the monies in an alternative manner and the vendor remits the monies to the supervising entity within 60 days of receipt.
- Mandates that monies received by a vendor from a customer for coverage are held in trust by the vendor in a fiduciary capacity for the benefit of the insurer.
- Allows a vendor to receive compensation for billing and collection services.

Enacts ARS § 20-1693.04, which clarifies that the Director of Insurance may deny, suspend for not more than 12 months, revoke or refuse to renew the license of a vendor, if a vendor or its employee or authorized representative violates ARS Title 20, Chapter 6, Article 17.

Enacts ARS § 20-1693.05:

- Allows an insurer to terminate or alter the terms and conditions of an insured's portable electronics insurance policy with at least 30 days notice.
- Requires an insurer, if the insurer changes the terms and conditions of a policy, to provide a vendor with a revised policy and each enrolled customer with documents indicating the changes, including a summary of the material changes.
- Permits an insurer to terminate a customer's portable electronics insurance policy with 15 days notice for discovery of fraud or material misrepresentation (obtaining coverage or a claim).
- Permits an insurer to terminate a customer's enrollment under a policy for:
 - Nonpayment of premium.
 - Customer cessation of active service with vendor.

- Customer exhausts the aggregate liability limit, if any, and the insurer provides 30 calendar days notice.
- Requires a vendor, if the vendor terminates its portable electronics insurance policy, to mail or deliver a written notice to each enrolled customer, advising the customer of the termination and the effective date. The notice must be mailed or delivered at least 30 days prior to the termination.
- Mandates any legally required notice or correspondence for portable electronics insurance to be in writing and sent within the notice period.
- Allows notices and correspondence to be sent either by mail or electronic means with the following guidelines:
 - Requires any mailed notice or correspondence to be sent to the vendor's specified address and to the vendor's affected customer's last known address on file with the insurer.
 - Requires an insurer or a vendor to maintain proof of mailing in a form authorized and accepted by the US Postal Service.
 - Requires any notice or correspondence sent by electronic means to be sent to the vendor's specified e-mail address and to the vendor's affected customer's last known e-mail address as provided to the insurer or vendor.
 - Specifies that a customer who provides an e-mail address to the insurer or vendor is deemed to constitute consent to receive notices and correspondence by electronic means.
 - Requires an insurer or a vendor to maintain proof that the notice or correspondence was sent.
- Permits an appointed supervising entity to send legally required notices or correspondence on behalf of an insurer or vendor.

Enacts ARS § 20-1693.06, which applies several sections of ARS Title 20 to the sale of portable electronics insurance.

The following bills neither enact new, nor amend existing, provisions of Title 20; however, these bills also impact the Department, our licensees and insurance consumers:

HB 2091: residential roofing repair contracts (Ch.219)

Enacts ARS § 32-1158.02:

- Enhances the minimum residential construction contract requirements for repair or replacement of damage resulting directly from catastrophic storm damage to include:
 - A purchaser cancellation notice of rights.
 - A repair estimate with specific disclosures (outlined in the bill).
- States that a residential owner of a property and casualty insurance policy has the right to cancel a contract for the repair/replacement of damage from a catastrophic storm within 72 hours after the insured owner has been notified by the insurer that the claim has been denied.
- Permits the insured owner of a residence to cancel a contract for the repair/replacement of damage from a catastrophic storm for any reason within 4 business days after signing the contract.
 - Under this scenario, a cancellation shall be evidenced by the insured owner submitting written notice to the contractor's address stated in the contract.
- Requires a contractor to tender to the insured owner any payments made by the owner and any note or other evidence of indebtedness within 10 days after a contract has been cancelled, except that:
 - A contractor is entitled to receive reasonable compensation for the performance of emergency services, if the insured owner has received a detailed description and itemization of the charges for the services.

- Prohibits the down payment of a contract from exceeding 50% of the total contract.
- Requires any changes to the original repair/replacement contract to be in a written change order that is signed by the homeowner.
- Requires a contractor to notify the residential owner of a property and casualty insurance policy of any cancellation to the contractor's workers' compensation coverage.
- Allows the Arizona Registrar of Contractors to suspend or revoke a contractor's license for failure to comply with ARS § 32-1158.02.
- Requires an individual or contractor, who prepares a repair estimate for a catastrophic storm repair with the anticipation of making an insurance claim, to disclose the following information to an insured owner:
 - A precise description and location of all damaged claimed or included on the estimate.
 - Documentation to support the damage claimed on the estimate.
 - A detailed description and itemization of any emergency repairs already completed by the contractor.
 - Documentation of damaged areas that are excluded from the estimate and any reason for their exclusion.
 - For roof repair or replacement, a provision stating whether the property was inspected before the preparation of the estimate and whether the roof was physically assessed.
 - A provision stating that the contractor has made no assurances that the claimed loss will be covered by an insurance policy.
- Prohibits a contractor from beginning work on a residential repair or replacement contract, until an insurer approves or denies an insured owner's submitted a claim for the work, except that work may be performed to prevent further loss.
- Prohibits an unlicensed or non-exempt person from bringing a private cause of action to recover monies from a homeowner for any residential repair or replacement that the person performs under ARS § 32-1158.02.
- Forbids a contractor that is providing post-storm repair contracting services from:
 - Negotiating on behalf of an insured owners for the settlement of a claim; or
 - Making assurances that a proposed repair will be covered by an insurance policy.
- Allows a contractor to assist in claims disputes with an insurer, if the insured owner gives the contractor permission *and* the contractor is not compensated for the communication.
- Permits an insurer that is providing coverage for post-storm repair or replacement to issue its check to the policyholder and the contractor, with the policyholder's written consent.
- Outlines several individuals who are not limited from contacting and negotiating with an insured owner.

HB 2677: vehicle insurance; proof shown electronically (Ch. 105)

Amends ARS § 28-4131 to include "a display on a wireless communications device" as evidence of the financial responsibility requirements (mandatory automobile insurance).

Amends ARS § 28-4133 by requiring insurance identification cards to state "an image of the card that is displayed on a wireless communication device":

- Meets the financial responsibility requirements of ARS § 28-4009 and § 28-4033 (A)(2)(c).
- Is satisfactory evidence if the person is asked by the Arizona Department of Transportation to verify financial responsibility on the motor vehicle.

Amends ARS § 28-4135:

- Allows evidence of financial responsibility to be maintained on a wireless communication device in a motor vehicle.

- States a person is not consenting for law enforcement to access other content on the device when it is presented as evidence of financial responsibility.
- Permits a court to require a person to produce an insurance identification card as evidence in a hearing for a violation of the motor vehicle financial responsibility requirements.

HB 2713: long-term care insurance premiums; deduction (Ch. 351)

Amends ARS § 43-1022:

- Allows premium costs for long-term care insurance to be subtracted from Arizona gross income, when computing Arizona adjusted gross income, if an individual is not itemizing deductions.

Enacts ARS § 43-1032:

- Allows a taxpayer after December 31, 2012 to subtract amounts contributed to a long-term health care savings account as long as the amounts are included in the individual's federal adjusted gross income.
- Specifies that for purposes ARS § 43-1032, a taxpayer may establish a long-term health care savings account with an account administrator.
- Requires an account administrator to:
 - Administer the account and to have a fiduciary duty to the taxpayer.
 - Use the money in the account to only pay the taxpayer's long-term health care expenses.
 - Reimburse the taxpayer for any long-term health care expenses that were paid directly by the taxpayer.
- Specifies that if the taxpayer makes any withdrawal from the long-term health care savings account for purposes unrelated to long-term care expenses, the taxpayer must pay a penalty equal to 10% of the withdrawal.
- Outlines that the Arizona Department of Revenue must consider withdrawals not related to long-term care expenses as income for purposes of computing Arizona adjusted gross income.
- Requires the Arizona Department of Revenue to credit penalties to the state general fund.
- Defines *account administrator* and *long-term health care expense*.

SB 1016: workers' compensation; methods of compensation (Ch. 12)

Amends ARS § 23-986 by removing the prohibition against the state compensation fund's marketing representatives from being licensed to sell any other type of insurance other than workers' compensation insurance.

Amends ARS § 23-1062 by permitting commonly accepted methods for transferring money, including an electronic fund transfer and a pre-paid debit card, to compensate an employee.

SB 1124: surplus lines; ADOT contracts (Ch. 137)

SB 1124 changes the insurance requirements of various ADOT procurement contract methods.

Amends ARS § 28-6923 by mandating that any required contractor insurance in a ADOT construction or reconstruction contract be placed with an authorized insurer or a surplus lines insurer approved and identified by the Director of Insurance.

Enacts ARS § 28-7369 under Title 28, Chapter 20, Article 13 – "Alternative Contracting Procedures" – by mandating that any required contractor insurance for procured services under this article be placed with an authorized insurer or a surplus lines insurer approved and identified by the Director of Insurance.

Amends ARS § 28-7704 by mandating that any required contractor insurance for procurement under section of Title 28, Chapter 22, Article 1, be placed with an authorized insurer or a surplus lines insurer approved and identified by the Director of Insurance.

SB 1153: rental cars; liability insurance; subrogation (Ch. 345)

Amends ARS § 28-2166:

- Forbids the Arizona Department of Transportation from allowing an owner of a motor vehicle rental business to rent a motor vehicle until the owner meets specific financial requirements.
- Specifies that when a renter causes any damage or injury, the rental business holds primary liability unless the rental agreement discloses otherwise or the renter purchases public liability insurance from the owner.
- Requires that any public liability insurance purchased from the owner to be applied and exhausted before any other applicable and available liability insurance coverage.
- Stipulates that an owner of a motor vehicle rental business must respond to a third-party claim, provide financial responsibility as prescribed by law, and provide a defense for all claims for damages and injuries caused by the renter and one of following conditions exist:
 - The renter does not have any other liability coverage that is available and applicable to the loss.
 - The owner has not provided the claimant with specific information about the renter and insurance coverage within 20 days after the owner is notified of the claim.
- States that when an owner assumes defense of a claim as prescribed by law, the owner cannot tender the claim to the excess insurer without a written agreement. Further, the excess insurer is not responsible for any costs incurred by the owner before the tender is accepted.
- Specifies that an owner has no obligation to provide a defense after it has paid its coverage limits, if the renter has no other liability coverage available and applicable to the loss.
- Requires an owner's public liability insurance or obligation to provide excess coverage when the owner is does not provide primary coverage.
- Contains a delayed effective date of from and after October 31, 2012.
- States the amendments to ARS § 28-2166 do not apply to claims arising out rental or lease agreement entered into before November 1, 2012.