

REFERENCE TITLE: insurance; fees; consent; limits

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# SB 1118

Introduced by  
Senator Livingston

AN ACT

AMENDING SECTIONS 20-167, 20-239, 20-465, 20-1583 AND 28-4009, ARIZONA  
REVISED STATUTES; RELATING TO INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
 2 Section 1. Section 20-167, Arizona Revised Statutes, is amended to  
 3 read:

4 20-167. Fees; definition

5 A. The director shall collect in advance the following fees,  
 6 determined by the director, which are nonrefundable on payment:

	Not Less Than:	Not More Than:
7		
8 1. For filing charter documents:		
9 (a) Original charter documents,		
10 articles of incorporation,		
11 bylaws, or record of		
12 organization of insurers,		
13 or certified copies thereof,		
14 required to be filed with		
15 the director and not also		
16 subject to filing in the		
17 office of the corporation		
18 commission	\$ 40.00	\$ 115.00
19 (b) Amended charter documents	15.00	45.00
20 (c) No charge or fee shall be		
21 required for filing with		
22 the director any of such		
23 documents also required		
24 by law to be filed in the		
25 office of the corporation		
26 commission		
27 2. Certificate of authority:		
28 (a) Issuance:		
29 Fraternal benefit societies	\$ 15.00	\$ 45.00
30 Medical or hospital service		
31 corporations, health care		
32 services organizations or		
33 prepaid dental plan		
34 organizations	40.00	115.00
35 Mechanical reimbursement		
36 reinsurers	150.00	450.00
37 All other insurers	100.00	295.00
38 (b) Renewal:		
39 Fraternal benefit societies	15.00	45.00
40 Medical or hospital service		
41 corporations, health care		
42 services organizations or		
43 prepaid dental plan		
44 organizations	40.00	115.00

1	Domestic stock life insurers,		
2	domestic stock disability		
3	insurers or domestic stock		
4	life and disability insurers	750.00	2,250.00
5	Domestic life reinsurers,		
6	domestic disability		
7	reinsurers or domestic		
8	life and disability		
9	reinsurers	2,250.00	5,500.00
10	Mechanical reimbursement		
11	reinsurers	2,250.00	5,500.00
12	All other insurers	70.00	205.00
13	3. Certificate of registration as an		
14	administrator or application for		
15	renewal under section 20-485.12	\$ 100.00	\$ 295.00
16	4. Authority to solicit applications		
17	for and issue policies by means		
18	of mechanical vending machines	\$ 30.00	\$ 90.00
19	5. Service company permit	\$ 150.00	\$ 450.00
20	6. Application for motor vehicle		
21	service contract program approval	\$ 150.00	\$ 450.00
22	7. Life care contract application		
23	or annual report	\$ 225.00	\$ 675.00
24	8. Filing annual statement	\$ 150.00	\$ 450.00
25	9. Annual statement filing for		
26	exempt insurer transacting life		
27	insurance, disability insurance		
28	or annuity business pursuant to		
29	section 20-401.05	\$ 65.00	\$ 100.00
30	10. Licenses and examinations:		
31	(a) Licenses:		
32	Surplus lines broker's license,		
33	quadrennially	\$ 600.00	\$1,000.00
34	All other licenses,		
35	quadrennially	60.00	180.00
36	(b) Examinations for license:		
37	Examination on laws and one kind		
38	of insurance	8.00	25.00
39	Examination on laws and two or		
40	more kinds of insurance	15.00	45.00
41	11. Miscellaneous:		
42	Fee accompanying service of		
43	process on director	\$ 8.00	\$ 25.00

1	Certificate of director,		
2	under seal	<del>1.50</del> 0.00	5.00
3	Copy of document filed in		
4	director's office, per page	0.50	0.75

5 B. Except as provided in section 20-1098.18, the director shall  
 6 deposit, pursuant to sections 35-146 and 35-147, all fees collected  
 7 pursuant to this section in the state general fund. A refund is not  
 8 allowed for any unused portion of a fee, and the director shall not  
 9 prorate fees.

10 C. The license fees prescribed by this section shall be payment in  
 11 full of all demands for all state, county, district and municipal license  
 12 fees, license taxes, business privilege taxes and business privilege fees  
 13 and charges of every kind.

14 D. The director may contract for the examination for licensing  
 15 adjusters, insurance producers, bail bond agents, risk management  
 16 consultants and surplus lines brokers. If the director does so, the fee  
 17 for examinations for licenses pursuant to this section is payable directly  
 18 to the contractor by the applicant for examination. The director may  
 19 agree to a reasonable examination fee to be charged by the contractor.  
 20 The fee may exceed the amounts prescribed in this section.

21 E. The director may contract with a voluntary domestic organization  
 22 of surplus lines brokers to perform any transaction prescribed in chapter  
 23 2, article 5 of this title, including the acceptance or maintenance of the  
 24 reports required by section 20-408. The director may allow the contractor  
 25 to charge a stamping fee. The surplus lines broker shall pay the stamping  
 26 fee established pursuant to this section directly to the contractor.

27 F. Captive insurers shall pay certificate of authority issuance and  
 28 renewal fees as prescribed by the director.

29 G. For the purposes of this section, "stamping fee" means a  
 30 reasonable filing fee charged by a contractor for any transaction  
 31 prescribed in chapter 2, article 5 of this title, including the acceptance  
 32 or maintenance of the reports required by section 20-408.

33 Sec. 2. Section 20-239, Arizona Revised Statutes, is amended to  
 34 read:

35 20-239. Electronic communications and records; applicability;  
 36 definitions

37 A. Any notice to a party or any other document that is required  
 38 under this title in an insurance transaction or that is to serve as  
 39 evidence of insurance coverage may be delivered, stored and presented by  
 40 electronic means if it meets the requirements of title 44, chapter 26,  
 41 article 1. If an insurer uploads a document or notice to a portal or  
 42 secure website, the insurer shall send a separate notice to the party that  
 43 specifies that the document or notice has been uploaded and that includes  
 44 a description of the document or notice that has been uploaded.

1           B. An insurer may deliver a notice or document by electronic means  
2 to a party pursuant to this section if the party electronically consents  
3 to that method of electronic delivery and has not withdrawn consent. A  
4 named insured that effectuates insurance transactions by electronic means  
5 shall be deemed to have consented to receive notices and documents by  
6 electronic means in accordance with this section unless the named insured  
7 opts out of electronic delivery and elects delivery by hard copy.

8           C. An oral communication WITH A CONTEMPORANEOUS RECORD MADE OF THE  
9 COMMUNICATION or a recording of an oral communication ~~does not~~ MAY qualify  
10 as consent for the purposes of this section.

11           D. Notwithstanding subsection A of this section, an insurer sending  
12 a notice pursuant to section 20-1632, subsection A, for a period of five  
13 years after the date of the notice, shall maintain in its files  
14 verification that the notice was sent by electronic means with a United  
15 States postal service electronic postmark or another email delivery  
16 service that provides electronic postmarks substantially similar to a  
17 United States postal service electronic postmark. The verification must  
18 contain sufficient information from which the department may determine  
19 that the notice was properly sent.

20           E. An insurer providing notice to an insured pursuant to section  
21 20-1632 by electronic means shall also send that notice to the named  
22 insured by United States postal service certified mail, certificate of  
23 mailing or first class mail using intelligent mail barcode or another  
24 similar tracking method used or approved by the United States postal  
25 service pursuant to section 20-1632 if either of the following applies:

26           1. The notice being electronically delivered is rejected for  
27 delivery or returned to the insurer.

28           2. The insurer becomes aware that the email address provided by the  
29 party is no longer valid.

30           F. Delivery of a notice or document pursuant to this section is  
31 equivalent to any delivery method required or allowed under this title,  
32 including delivery by the United States postal service by first class  
33 mail, postage prepaid, certified mail, certificate of mailing or first  
34 class mail using intelligent mail barcode or another similar tracking  
35 method used or approved by the United States postal service.

36           G. After the party elects to receive notices and documents by  
37 electronic means, if a change in the hardware or software requirements  
38 needed to access or retain a notice or document delivered by electronic  
39 means creates a material risk that the party will not be able to access or  
40 retain a subsequent notice or document to which the consent applies, the  
41 insurer must inform the party of:

42           1. The revised hardware and software requirements for access to and  
43 retention of a notice or document delivered by electronic means.

1           2. The party's right to withdraw consent without the imposition of  
2 any fee, condition or consequence.

3           H. This section does not affect the requirements related to content  
4 or timing of any notice or document required under this title.

5           I. If a provision of this title expressly requires verification or  
6 acknowledgment of receipt of a notice or document, the notice or document  
7 may be delivered by electronic means only if the method used provides for  
8 verification or acknowledgment of receipt.

9           J. The legal effectiveness, validity or enforceability of any  
10 insurance contract or policy executed by a party may not be denied solely  
11 because the insurer failed to obtain electronic consent or confirmation of  
12 consent.

13           K. A party's withdrawal of consent:

14           1. Does not affect the legal effectiveness, validity or  
15 enforceability of a notice or document delivered by electronic means to  
16 the party before the withdrawal of consent is effective.

17           2. Is effective within seven days after the insurer receives the  
18 withdrawal.

19           L. If an insurer fails to comply with subsection G of this section,  
20 the party may treat that failure as a withdrawal of consent for the  
21 purposes of this section.

22           M. This section does not apply to a notice or document delivered by  
23 an insurer in an electronic format before July 24, 2014 to a party who,  
24 before that date, has consented to receive a notice or document in an  
25 electronic format as otherwise provided by law.

26           N. If a party's consent to receive certain notices or documents in  
27 an electronic format is on file with an insurer before July 24, 2014 and  
28 the insurer intends to deliver additional notices or documents to that  
29 party in an electronic format pursuant to this section, before delivering  
30 the additional notices or documents electronically the insurer must notify  
31 the party of both of the following:

32           1. The notices or documents that may be delivered by electronic  
33 means under this section that were not previously delivered  
34 electronically.

35           2. The party's right to withdraw consent to have notices or  
36 documents delivered by electronic means.

37           O. An insurer may not charge a fee to a party who does not consent  
38 to receive notices or documents by electronic means and who chooses to  
39 receive the notices or documents in hard copy.

40           P. This section applies only to property, casualty, disability,  
41 marine and transportation, surety, prepaid legal, prepaid dental, title,  
42 identity theft, workers' compensation and life insurance policies and  
43 annuities that are subject to this title, including policies and contracts

1 issued by health care services organizations and hospital, medical, dental  
2 and optometric service corporations.

3 Q. This section does not modify, limit or supersede the electronic  
4 signatures in global and national commerce act (P.L. 106-229; 15 United  
5 States Code sections 7001 through 7031).

6 R. For the purposes of this section:

7 1. "Delivered by electronic means" includes either:

8 (a) The delivery to an email address at which a party has consented  
9 to receive notices or documents.

10 (b) The posting on an electronic network or site accessible via the  
11 internet or a mobile application, computer, mobile device, tablet or other  
12 electronic device, together with a separate notice of the posting that  
13 includes a description of the document or notice that has been posted and  
14 that is provided by email to the email address at which the party has  
15 consented to receive notice or by any other delivery method that has been  
16 consented to by the party.

17 2. "Party" means a recipient of any notice or document as part of  
18 an insurance transaction, including an applicant, an insured or a  
19 policyholder.

20 Sec. 3. Section 20-465, Arizona Revised Statutes, is amended to  
21 read:

22 20-465. Fees; insurance producers; definition

23 A. An insurance producer shall not charge or receive any fee or  
24 service charge in addition to the premium in connection with the  
25 transaction of insurance, unless both of the following apply:

26 1. The fee or service charge and the specific services for which it  
27 is charged are disclosed ~~and agreed to~~ in writing ~~by~~ TO the insured.

28 2. The amount of the fee or service charge is reasonably related to  
29 the cost of the service rendered and does not duplicate or increase any  
30 fee or service charge included in the insurer's rate filing pursuant to  
31 this title.

32 B. If after an examination and a hearing the director determines  
33 that an insurance producer has failed to comply with this section, the  
34 director may order the insurance producer to refund all or part of the fee  
35 or service charge and may impose civil penalties as set forth in section  
36 20-295. The insurance producer shall pay the costs of the examination  
37 from monies deposited with the director pursuant to section 20-159  
38 regardless of the findings of the examination.

39 C. This section does not restrict or prohibit insurance producers  
40 from charging and collecting fees included in the insurer's rate filing  
41 pursuant to this title.

42 D. Notwithstanding subsection A of this section, an insurance  
43 producer shall not charge or receive any fee or service charge in  
44 connection with the transaction of medicare supplement insurance.

1 E. This section does not apply to insurance producers transacting  
2 commercial insurance.

3 F. This section does not apply to surplus lines brokers transacting  
4 surplus lines insurance as set forth in article 5 of this chapter.

5 G. For the purposes of this section, "commercial insurance" means  
6 insurance that insures against the risks arising from business and  
7 commercial activity other than insurance maintained by a transportation  
8 network company driver under a private passenger automobile insurance  
9 policy.

10 Sec. 4. Section 20-1583, Arizona Revised Statutes, is amended to  
11 read:

12 20-1583. Title insurance agencies; use of corporate names

13 ~~A. An agent for a title insurer shall not adopt a corporate or~~  
14 ~~business name containing the words "title insurance", "title guaranty" or~~  
15 ~~"title guarantee" or other words indicating that the agent is in the~~  
16 ~~business of title insurance, unless those words are followed by the words~~  
17 ~~"agent" or "agency". In any stationery, sign, advertising, brochure,~~  
18 ~~literature or similar writing issued or used by the agent, the words~~  
19 ~~"agent" or "agency" shall be in the same size and type as the words~~  
20 ~~preceding them. This section does not apply to a title insurer acting as~~  
21 ~~agent for another title insurer.~~

22 ~~B.~~ A title insurer may authorize the use of its corporate name or a  
23 portion of the name to a title insurance agency ~~if the name of the title~~  
24 ~~insurance agency complies with subsection A.~~

25 ~~C. For purposes of this section only, a title insurer is not~~  
26 ~~responsible for a violation of this section by an agent for the title~~  
27 ~~insurer and is not liable for a civil penalty that is imposed on a title~~  
28 ~~insurance agent.~~

29 Sec. 5. Section 28-4009, Arizona Revised Statutes, is amended to  
30 read:

31 28-4009. Motor vehicle liability policy requirements

32 A. An owner's motor vehicle liability policy shall comply with the  
33 following:

34 1. The policy shall designate by explicit description or by  
35 appropriate reference all motor vehicles for which coverage is granted.  
36 If coverage is provided for a fleet of seven or more motor vehicles, the  
37 maximum payable for any one accident is the limit of liability stated in  
38 the policy. There is no accumulation of coverage for each separate vehicle  
39 covered.

40 2. The policy shall insure the person named in the policy as the  
41 insured and any other person, as insured, using the motor vehicle or motor  
42 vehicles with the express or implied permission of the named insured  
43 against loss from the liability imposed by law for damages arising out of  
44 the ownership, maintenance or use of the motor vehicle or motor vehicles



1 within the United States or the Dominion of Canada, subject to limits  
2 exclusive of interest and costs, for each motor vehicle as follows:

3 (a) For a policy that is issued or renewed on or before June 30,  
4 2020 or for a policy that is issued to a person that has a valid  
5 certificate of self-insurance or partial self-insurance pursuant to  
6 section 28-4007:

7 (i) \$15,000 because of bodily injury to or death of one person in  
8 any one accident.

9 (ii) Subject to the limit for one person, \$30,000 because of bodily  
10 injury to or death of two or more persons in any one accident.

11 (iii) \$10,000 because of injury to or destruction of property of  
12 others in any one accident.

13 (b) For a policy that is issued or renewed beginning on July 1,  
14 2020, except for a policy that is issued to a person that has a valid  
15 certificate of self-insurance or partial self-insurance pursuant to  
16 section 28-4007:

17 (i) \$25,000 because of bodily injury to or death of one person in  
18 any one accident.

19 (ii) Subject to the limit for one person, \$50,000 because of bodily  
20 injury to or death of two or more persons in any one accident.

21 (iii) \$15,000 because of injury to or destruction of property of  
22 others in any one accident.

23 3. By agreement in writing between a named insured and the insurer  
24 the policy may exclude as insured a person or persons designated by name  
25 when operating a motor vehicle. The written agreement between the named  
26 insured and insurer is effective for each renewal of the policy by the  
27 insurer and remains in effect until the insurer agrees in writing to  
28 provide coverage for the person or persons who were previously excluded  
29 from coverage.

30 B. An operator's motor vehicle liability policy shall insure the  
31 person named as insured in the policy against loss from the liability  
32 imposed on the person by law for damages arising out of the use by the  
33 person of a motor vehicle not owned by the person, within the same  
34 territorial limits and subject to the same limits of liability provided in  
35 subsection A of this section for an owner's motor vehicle liability  
36 policy.

37 C. A motor vehicle liability policy:

38 1. Shall state the name and address of the named insured, the  
39 coverage afforded by the policy, the premium charged for the policy, the  
40 complete vehicle identification number of all vehicles covered by the  
41 policy, the policy period and the limits of liability.

42 2. Shall contain an agreement or be endorsed that insurance is  
43 provided under the policy in accordance with the coverage defined in this  
44 chapter for bodily injury and death or property damage, or both.

- 1           3. Is subject to all of the provisions of this chapter.
- 2           4. Is not required to ~~insure~~ PROVIDE COVERAGE FOR ANY liability
- 3 ~~either~~ THAT IS NOT REQUIRED UNDER THIS TITLE OR ANY OTHER STATE LAW,
- 4 INCLUDING:
- 5           (a) Under any workers' compensation law.
- 6           (b) On account of bodily injury to or death of an employee of the
- 7 insured while engaged in the employment, other than domestic, of the
- 8 insured or while engaged in the operation, maintenance or repair of the
- 9 motor vehicle.
- 10          (c) For damage to property owned by, rented to, in charge of or
- 11 transported by the insured.
- 12          (d) For damage to property or bodily injury caused intentionally by
- 13 or at the direction of the insured.
- 14          (e) For a private passenger motor vehicle used while a
- 15 transportation network company driver is logged in to a transportation
- 16 network company's digital network or software application to be a driver
- 17 or is providing transportation network services unless expressly
- 18 authorized by the terms of the motor vehicle liability insurance policy or
- 19 an endorsement or amendment to the policy.
- 20          5. Is subject to the following provisions that are not required to
- 21 be in the policy:
- 22          (a) The liability of the insurance carrier with respect to the
- 23 insurance required by this chapter becomes absolute when injury or damage
- 24 covered by the motor vehicle liability policy occurs. The policy may not
- 25 be cancelled or annulled as to that liability by an agreement between the
- 26 insurance carrier and the insured after the occurrence of the injury or
- 27 damage, and a statement made by the insured or someone on the insured's
- 28 behalf or a violation of the policy shall not defeat or void the policy.
- 29          (b) The satisfaction by the insured of a judgment for the injury or
- 30 damage is not a condition precedent to the right or duty of the insurance
- 31 carrier to make payment on account of the injury or damage.
- 32          (c) The insurance carrier may settle any claim covered by the
- 33 policy, and if the settlement is made in good faith, the amount of the
- 34 claim is deductible from the limits of liability specified in subsection
- 35 A, paragraph 2 of this section.
- 36          (d) The policy, the written application for the policy, if any, and
- 37 any rider or endorsement that does not conflict with this chapter
- 38 constitute the entire contract between the parties.
- 39          6. May provide that the insured shall reimburse the insurance
- 40 carrier for any payment the insurance carrier would not have been
- 41 obligated to make under the terms of the policy except for this chapter.
- 42          7. May provide for the prorating of the insurance under the policy
- 43 with other valid and collectible insurance.
- 44          8. MAY CONTAIN EXCLUSIONS EXCEPT AS SPECIFICALLY PROHIBITED BY LAW.

1           D. A policy that grants the coverage required for a motor vehicle  
2 liability policy may also grant lawful coverage in excess of or in  
3 addition to the coverage specified for a motor vehicle liability policy,  
4 and the excess or additional coverage is not subject to this chapter.  
5 With respect to a policy that grants the excess or additional coverage,  
6 the term "motor vehicle liability policy" applies only to that part of the  
7 coverage that is required by this section.

8           E. The requirements for a motor vehicle liability policy may be  
9 fulfilled by the policies of one or more insurance carriers that together  
10 meet the requirements.

11           F. A binder issued pending the issuance of a motor vehicle  
12 liability policy fulfills the requirements for the policy.