

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 220

# SENATE BILL 1288

AN ACT

AMENDING SECTIONS 20-2101, 20-2104 AND 20-2113, ARIZONA REVISED STATUTES;  
AMENDING TITLE 20, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 20-2121; RELATING TO INSURANCE INFORMATION PRIVACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-2101, Arizona Revised Statutes, is amended to  
3 read:

4 20-2101. Scope

5 A. ~~The obligations imposed by This chapter apply~~ APPLIES to those  
6 insurance institutions, agents or insurance support organizations which, ~~on~~  
7 ~~or after the effective date of this chapter~~ THAT:

8 1. In the case of life, health or disability insurance, ~~—~~ EITHER:

9 (a) Collect, receive or maintain information in connection with  
10 insurance transactions which THAT pertain to natural persons who are  
11 residents of this state ~~or~~.

12 (b) Engage in insurance transactions WITH applicants, individuals or  
13 policyholders who are residents of this state.

14 2. In the case of property or casualty insurance, ~~—~~:

15 (a) Collect, receive or maintain information in connection with  
16 insurance transactions involving policies, contracts or certificates of  
17 insurance delivered, issued for delivery or renewed in this state ~~or~~.

18 (b) Engage in insurance transactions involving policies, contracts or  
19 certificates of insurance delivered, issued for ~~deliveries~~ DELIVERY or  
20 renewed in this state.

21 B. The rights granted by this chapter extend to:

22 1. In the case of life, health or disability insurance, the persons  
23 who are residents of this state, including natural persons who are the  
24 subject of information collected, received or maintained in connection with  
25 insurance transactions ~~involving policies, contracts or certificates of~~  
26 ~~insurance delivered, issued for delivery or renewed in this state, and~~  
27 applicants, individuals or policyholders who engage in or seek to engage in  
28 insurance transactions ~~involving policies, contracts or certificates of~~  
29 ~~insurance delivered, issued for delivery or renewed in this state.~~

30 2. In the case of property or casualty insurance, the persons,  
31 including natural persons who are the subject of information collected,  
32 received or maintained in connection with insurance transactions INVOLVING  
33 POLICIES, CONTRACTS OR CERTIFICATES OR INSURANCE DELIVERED, ISSUED FOR  
34 DELIVERY OR RENEWED IN THIS STATE, and applicants, individuals or  
35 policyholders who engage in or seek to engage in insurance transactions  
36 INVOLVING POLICIES, CONTRACTS OR CERTIFICATES OF INSURANCE DELIVERED, ISSUED  
37 FOR DELIVERY OR RENEWED IN THIS STATE.

38 C. For purposes of this section, a person is considered a resident of  
39 this state if the person's last known mailing address, as shown in the  
40 records of the insurance institution, agent or insurance support  
41 organization, is located in this state.

42 D. Notwithstanding subsections A and B, this chapter does not apply  
43 to information collected from the public records of a governmental authority  
44 and maintained by an insurance institution or its representatives for the  
45 purpose of insuring the title to real property located in this state.

1           Sec. 2. Section 20-2104, Arizona Revised Statutes, is amended to read:  
2           20-2104. Notice of insurance information practices

3           A. An insurance institution or agent shall provide a notice of  
4 information practices to all applicants AND or policyholders in connection  
5 with insurance transactions as PRESCRIBED IN THIS SECTION. ~~provided under the~~  
6 ~~following:~~

7           B. THE INSURANCE INSTITUTION OR AGENT SHALL PROVIDE THE NOTICE AT THE  
8 FOLLOWING TIMES:

9           1. In the case of an application for insurance, ~~a notice no~~ NOT later  
10 than ~~at the time of the delivery of~~ EITHER WHEN THE INSURANCE INSTITUTION OR  
11 AGENT:

12           (a) DELIVERS the insurance policy or certificate, if personal  
13 information is collected only from the applicant or from public records, ~~or~~  
14 ~~at the time the collection of.~~

15           (b) FIRST COLLECTS personal information ~~is initiated if personal~~  
16 ~~information is collected from a source other than the applicant or public~~  
17 records.

18           2. In the case of a policy renewal, ~~a notice no later than the policy~~  
19 ~~renewal date, except that no notice is required in connection with a policy~~  
20 ~~renewal if personal information is collected only from the policyholder or~~  
21 ~~from public records or a notice meeting the requirements of this section has~~  
22 ~~been given within the previous twenty-four months~~ AT LEAST ANNUALLY DURING  
23 THE CONTINUATION OF THE RELATIONSHIP WITH THE POLICYHOLDER.

24           3. In the case of a policy reinstatement or change in insurance  
25 benefits, ~~a notice no~~ NOT later than the time WHEN THE INSURANCE INSTITUTION  
26 RECEIVES a request for a policy reinstatement or change in insurance benefits  
27 ~~is received by the insurance institution, except that no~~ A notice is NOT  
28 required if ~~personal information is collected only from the policyholder or~~  
29 ~~from public records~~ A NOTICE WAS ALREADY GIVEN WITHIN THE IMMEDIATELY  
30 PRECEDING TWELVE MONTHS.

31           ~~B.~~ C. The notice shall be in writing OR, IF THE APPLICANT OR  
32 POLICYHOLDER AGREES, IN AN ELECTRONIC FORM and SHALL EITHER CONTAIN THE  
33 INFORMATION REQUIRED FOR COMPLIANCE WITH THE NOTICE REQUIREMENTS ESTABLISHED  
34 UNDER SECTION 503 OF THE GRAMM LEACH BLILEY ACT (15 UNITED STATES CODE  
35 SECTION 6803) OR SHALL state:

36           1. Whether personal information may be collected from persons other  
37 than the individual or individuals proposed for coverage.

38           2. The types of personal information that may be collected and the  
39 types of sources and investigative techniques that may be used to collect  
40 such THE information.

41           3. The types of disclosures identified in section 20-2113, paragraphs  
42 2 through 6, 9, 11, 12 and 14 and the circumstances under which the  
43 disclosures may be made without prior authorization, except only those  
44 circumstances need be described which occur with such a frequency as to  
45 indicate a general business practice.

1           4. A description of the rights established under sections 20-2108 and  
2 20-2109 and the manner in which those rights may be exercised.

3           5. That information obtained from a report prepared by an insurance  
4 support organization may be retained by the insurance support organization  
5 and disclosed to other persons.

6           ~~C.~~ D. Instead of the notice prescribed in subsection ~~B~~ C of this  
7 section, the insurance institution or agent may provide an abbreviated notice  
8 informing the applicant ~~or policyholder~~ that:

9           1. Personal information may be collected from persons other than the  
10 individual or individuals proposed for coverage.

11           2. The information as well as other personal or privileged information  
12 subsequently collected by the insurance institution or agent may in certain  
13 circumstances be disclosed to third parties without authorization.

14           3. A right of access and correction exists with respect to all  
15 personal information collected.

16           4. The notice prescribed in subsection ~~B~~ C of this section will be  
17 furnished PROVIDED to the applicant ~~or policyholder~~ upon ON request.

18           ~~D.~~ E. The obligations imposed by this section upon ON an insurance  
19 institution or agent may be satisfied by another insurance institution or  
20 agent authorized to act on its behalf.

21           F. IF AN INSURANCE INSTITUTION, AGENT OR INSURANCE SUPPORT  
22 ORGANIZATION THAT IS REQUIRED TO GIVE NOTICE UNDER THIS SECTION GIVES THE  
23 NOTICE TO THE SPONSOR OF AN EMPLOYEE BENEFIT PLAN, A GROUP OR BLANKET  
24 INSURANCE POLICYHOLDER OR GROUP ANNUITY CONTRACT HOLDER OR A WORKERS'  
25 COMPENSATION PLAN PARTICIPANT AND DOES NOT DISCLOSE PERSONAL INFORMATION  
26 ABOUT ANY OF THE INDIVIDUALS DESCRIBED IN PARAGRAPH 1, 2 OR 3 OF THIS  
27 SUBSECTION EXCEPT AS OTHERWISE ALLOWED UNDER SECTION 20-2113, THE INSURER,  
28 PRODUCER OR INSURANCE SUPPORT ORGANIZATION IS NOT REQUIRED TO PROVIDE THE  
29 NOTICE TO:

30           1. A PARTICIPANT OR A BENEFICIARY OF AN EMPLOYEE BENEFIT PLAN THAT THE  
31 INSURER ADMINISTERS OR SPONSORS OR FOR WHICH THE INSURER ACTS AS TRUSTEE,  
32 INSURER OR FIDUCIARY.

33           2. AN INDIVIDUAL WHO IS COVERED UNDER A GROUP OR BLANKET INSURANCE  
34 POLICY OR GROUP ANNUITY CONTRACT ISSUED BY THE INSURER.

35           3. A BENEFICIARY IN A WORKERS' COMPENSATION PLAN.

36           G. AN INSURANCE INSTITUTION OR AGENT IS NOT REQUIRED TO GIVE NOTICE  
37 UNDER THIS SECTION TO A POLICYHOLDER WHOSE POLICY IS LAPSED, EXPIRED OR  
38 OTHERWISE INACTIVE IF THE INSURANCE INSTITUTION OR AGENT HAS NOT COMMUNICATED  
39 WITH THE POLICYHOLDER FOR AT LEAST TWELVE CONSECUTIVE MONTHS, OTHER THAN TO  
40 PROVIDE ANNUAL PRIVACY NOTICES, MATERIAL REQUIRED BY LAW OR ORDER OF A STATE  
41 OR FEDERAL REGULATORY AUTHORITY OR PROMOTIONAL MATERIALS.

42           H. AN INSURANCE INSTITUTION OR AGENT IS NOT REQUIRED TO GIVE NOTICE  
43 UNDER THIS SECTION TO A POLICYHOLDER WHOSE LAST KNOWN ADDRESS OF RECORD IS  
44 INVALID. AN ADDRESS IS DEEMED INVALID UNDER THIS SUBSECTION IF MAIL SENT TO  
45 THAT ADDRESS BY THE INSURANCE INSTITUTION OR AGENT HAS BEEN RETURNED BY THE

1 POSTAL AUTHORITIES AS UNDELIVERABLE AND IF SUBSEQUENT ATTEMPTS BY THE  
2 INSURANCE INSTITUTION OR AGENT TO OBTAIN A VALID ADDRESS FOR THE INDIVIDUAL  
3 HAVE BEEN UNSUCCESSFUL.

4 Sec. 3. Section 20-2113, Arizona Revised Statutes, is amended to read:  
5 20-2113. Disclosure limitations and conditions

6 An insurance institution, agent or insurance support organization shall  
7 not disclose any personal or privileged information about an individual  
8 collected or received in connection with an insurance transaction unless the  
9 disclosure is:

10 1. With the written authorization of the individual except that:

11 (a) If the authorization is submitted by another insurance  
12 institution, agent or insurance support organization, the authorization meets  
13 SHALL MEET the requirement of REQUIREMENTS PRESCRIBED IN section 20-2106.

14 (b) If the authorization is submitted by a person other than an  
15 insurance institution, agent or insurance support organization, the  
16 authorization is SHALL BE dated, signed by the individual and obtained one  
17 year or less prior to the date a disclosure is sought pursuant to this  
18 subsection SECTION.

19 2. To a person other than an insurance institution, agent or insurance  
20 support organization, if the disclosure is reasonably necessary:

21 (a) To enable the person to perform a business, professional or  
22 insurance function for the disclosing insurance institution, agent or  
23 insurance support organization and the person agrees not to disclose the  
24 information further without the individual's written authorization unless the  
25 further disclosure either:

26 (i) Would otherwise be permitted by this section if made by an  
27 insurance institution, agent or insurance support organization.

28 (ii) Is reasonably necessary for the person to perform his function  
29 for the disclosing insurance institution, agent or insurance support  
30 organization.

31 (b) To enable the person to provide information to the disclosing  
32 insurance institution, agent or insurance support organization for the  
33 purpose of determining an individual's eligibility for an insurance benefit  
34 or payment or detecting or preventing criminal activity, fraud, material  
35 misrepresentation or material nondisclosure in connection with an insurance  
36 transaction.

37 3. To an insurance institution, agent, insurance support organization  
38 or self-insurer if the information disclosed is limited to that which is  
39 reasonably necessary to detect or prevent criminal activity, fraud, material  
40 misrepresentation or material nondisclosure in connection with insurance  
41 transactions or for either the disclosing or receiving insurance institution,  
42 agent or insurance support organization to perform its function in connection  
43 with an insurance transaction involving the individual.

44 4. To a medical care institution or medical professional for the  
45 purpose of verifying insurance coverage or benefits, informing an individual

1 of a medical problem of which the individual may not be aware or conducting  
2 an operations or service audit, if only the information which is reasonably  
3 necessary to accomplish the purposes prescribed by this paragraph is  
4 disclosed.

5 5. To an insurance regulatory authority.

6 6. To a law enforcement or other governmental authority to protect the  
7 interests of the insurance institution, agent or insurance support  
8 organization in preventing or prosecuting the perpetration of fraud upon it,  
9 or if the insurance institution, agent or insurance support organization  
10 reasonably believes that illegal activities have been conducted by the  
11 individual.

12 7. Otherwise permitted or required by law.

13 8. In response to a valid administrative or judicial order, including  
14 a search warrant or subpoena.

15 9. Made for the purpose of conducting actuarial or research studies,  
16 except that no individual may be identified in any actuarial or research  
17 report, materials allowing the individual to be identified are SHALL BE  
18 returned or destroyed as soon as they are no longer needed and the actuarial  
19 or research organization agrees SHALL AGREE not to disclose the information  
20 unless the disclosure would otherwise be permitted by this section if made  
21 by an insurance institution, agent or insurance support organization.

22 10. To a party or a representative of a party to a proposed or  
23 consummated sale, transfer, merger or consolidation of all or part of the  
24 business of the insurance institution, agent or insurance support  
25 organization, except that prior to the consummation of the sale, transfer,  
26 merger or consolidation only the information is disclosed which is reasonably  
27 necessary to enable the recipient to make business decisions about the  
28 purchase, transfer, merger or consolidation and the recipient agrees not to  
29 disclose the information unless the disclosure would otherwise be permitted  
30 by this section if made by an insurance institution, agent or insurance  
31 support organization.

32 11. To a person whose only use of the information will be in connection  
33 with the marketing of a product or service if:

34 (a) No medical record information, privileged information or personal  
35 information relating to an individual's character, personal habits, mode of  
36 living or general reputation is disclosed and no classification derived from  
37 the information is disclosed.

38 (b) The individual has been given an opportunity to indicate that the  
39 individual does not want personal information disclosed for marketing  
40 purposes and has given no indication that the individual does not want the  
41 information disclosed.

42 (c) The person receiving the information agrees not to use it except  
43 in connection with the marketing of a product or service.

44 12. To an affiliate whose only use of the information will be in  
45 connection with an audit of the insurance institution or agent or the

1 marketing of an insurance OR FINANCIAL product or service, if the affiliate  
2 agrees not to disclose the information for any other purpose or to an  
3 unaffiliated person, EXCEPT THAT NO MEDICAL RECORD INFORMATION MAY BE  
4 DISCLOSED FOR MARKETING PURPOSES WITHOUT THE INDIVIDUAL'S WRITTEN CONSENT.

5 13. By a consumer reporting agency if the disclosure is to a person  
6 other than an insurance institution or agent.

7 14. To a group insurance policyholder for the purpose of reporting  
8 claims experience or conducting an audit of the insurance institution's or  
9 agent's operations or services if the information disclosed is reasonably  
10 necessary for the recipient to conduct the review or audit.

11 15. To a professional peer review organization for the purpose of  
12 reviewing the service or conduct of a medical care institution or medical  
13 professional.

14 16. To a governmental authority for the purpose of determining the  
15 individual's eligibility for health benefits for which the governmental  
16 authority may be liable.

17 17. To a certificate holder or policyholder for the purpose of  
18 providing information regarding the status of an insurance transaction.

19 Sec. 4. Title 20, chapter 11, article 1, Arizona Revised Statutes, is  
20 amended by adding section 20-2121, to read:

21 20-2121. Enforcement of privacy provisions of Gramm Leach  
22 Bliley act

23 A. THE DEPARTMENT MAY ENFORCE TITLE V, SUBTITLE A OF THE GRAMM LEACH  
24 BLILEY ACT (15 UNITED STATES CODE SECTIONS 6801 THROUGH 6809) RELATED TO  
25 PRIVACY AND PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

26 B. THE DIRECTOR MAY ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO  
27 CARRY OUT THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 23, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2001.

Passed the House April 12, 20 01,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 14, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

S.B. 1288

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Rodas Amos  
President of the Senate

Channing Bellinger  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of April, 2001,

at 4:00 o'clock P M.

Jandee Ramirez  
Secretary to the Governor

APPROVED THIS 23 day of

April, 2001,

at 6:36 o'clock P M.

Janice K. Hull  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of April, 2001,

at 4:50 o'clock P M.

Robert Taylor  
Secretary of State

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