

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 132

SENATE BILL 1134

AN ACT

AMENDING SECTION 20-167, AS AMENDED BY LAWS 2001, CHAPTER 58, SECTION 3 AND CHAPTER 205, SECTION 6; REPEALING SECTION 20-167, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 1; AMENDING SECTION 20-821, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-825.01; AMENDING SECTION 20-831, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-845; AMENDING SECTION 20-1004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 327, SECTION 5; AMENDING SECTIONS 20-1006.01, 20-1009, 20-1015, 20-1053, 20-1054, 20-1059, 20-1065, 20-1068 AND 20-1069, 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, as amended by
 3 Laws 2001, chapter 58, section 3 and chapter 205, section 6, is amended to
 4 read:

5 20-167. Fees

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

	Not Less Than:	Not More Than:
8		
9 1. For filing charter documents:		
10 (a) Original charter documents,		
11 articles of incorporation,		
12 bylaws, or record of organization		
13 of insurers, or certified copies		
14 thereof, required to be filed		
15 with the director and not also		
16 subject to filing in the office		
17 of the corporation commission	\$ 25.00	\$ 75.00
18 (b) Amended charter documents	10.00	30.00
19 (c) No charge or fee shall be required		
20 for filing with the director any		
21 of such documents also required		
22 by law to be filed in the office		
23 of the corporation commission		
24 2. Certificate of authority:		
25 (a) Issuance:		
26 Fraternal benefit societies	\$ 10.00	\$ 30.00
27 Medical or hospital service		
28 corporations, HEALTH CARE		
29 SERVICES ORGANIZATIONS OR		
30 PREPAID DENTAL PLAN		
31 ORGANIZATIONS	25.00	75.00
32 All other insurers	65.00	195.00
33 (b) Renewal:		
34 Fraternal benefit societies	10.00	30.00
35 Medical or hospital service		
36 corporations, HEALTH CARE SERVICES		
37 ORGANIZATIONS OR PREPAID DENTAL		
38 PLAN ORGANIZATIONS	25.00	75.00
39 Domestic stock life and disability		
40 insurers only or either	500.00	1,500.00

1	DOMESTIC LIFE REINSURERS, DOMESTIC		
2	DISABILITY REINSURERS OR domestic		
3	life and disability reinsurer only		
4	or either REINSURERS	\$1,500.00	\$4,500.00
5	All other insurers	45.00	135.00
6	3. Filing annual statement	100.00	300.00
7	4. Licenses and examinations:		
8	(a) Licenses:		
9	Surplus lines broker's license,		
10	biennially	200.00	600.00
11	All other licenses, biennially	20.00	60.00
12	(b) Examinations for license:		
13	Examination on laws and one		
14	kind of insurance	5.00	15.00
15	Examination on laws and two		
16	or more kinds of insurance	10.00	30.00
17	5. Miscellaneous:		
18	Fee accompanying service of		
19	process upon director	\$ 5.00	\$ 15.00
20	Certificate of director,		
21	under seal	1.00	3.00
22	Copy of document filed in		
23	director's office, per page	0.50	1.50

24 B. The director shall deposit, pursuant to sections 35-146 and 35-147,
 25 all fees for ~~licenses so~~ collected PURSUANT TO THIS SECTION in the state
 26 general fund. ~~No A refund shall be~~ IS NOT allowed for any unused portion of
 27 a fee nor shall fees be prorated, except that the fee for an initial license
 28 if applied for in the second half of the biennial term shall not exceed
 29 one-half of the license fee AND THE DIRECTOR SHALL NOT PRORATE FEES.

30 C. The license fees prescribed by this section shall be payment in
 31 full of all demands for any and all state, county, district and municipal
 32 license fees, license taxes, business privilege taxes and business privilege
 33 fees and charges of every kind.

34 D. Each domestic stock life or disability insurer that pays the
 35 renewal fee required under the ~~provisions of~~ subsection A of this section,
 36 shall be IS entitled to a credit in the amount of four hundred fifty-five
 37 dollars to apply to the premium tax the insurer then owes pursuant to section
 38 20-224, but the credit shall IS not be cumulative.

39 ~~E. Each domestic life and disability reinsurer only or either, which~~
 40 ~~pays the renewal fee required under the provisions of subsection A of this~~
 41 ~~section, shall be entitled to a credit in the amount of fourteen hundred~~
 42 ~~fifty-five dollars to apply to the premium tax then owed by such company~~
 43 ~~pursuant to the provisions of section 20-224, but such credit shall not be~~
 44 ~~cumulative.~~

1 ~~F.~~ E. The director may contract for the examination for the licensing
2 of adjusters, insurance producers, bail bond agents, risk management
3 consultants and surplus lines brokers. ~~When~~ IF the director does so, the fee
4 for examinations for licenses pursuant to this section ~~shall be~~ IS payable
5 directly to the contractor by the applicant for examination. The director
6 may agree to a reasonable examination fee to be charged by the contractor.
7 ~~Such~~ THE fee may exceed the amounts prescribed in subsection A, paragraph 4,
8 subdivision (b) of this section.

9 ~~G.~~ F. Each year DECEMBER 1, if the revenue collected from fees for
10 DURING the prior calendar FISCAL year is less than ninety-five per cent or
11 more than one hundred ten per cent of the appropriated budget for the
12 beginning CURRENT fiscal year, the director shall revise the fees within the
13 limits prescribed by subsection A of this section on a uniform percentage
14 basis among all fee categories and shall adjust the credits CREDIT prescribed
15 by subsections SUBSECTION D ~~and E~~ of this section as necessary in order to
16 retain any required uniformity. THE DIRECTOR SHALL REVISE THE fees ~~shall be~~
17 revised in such a manner that the revenue derived from the fees equals at
18 least ninety-five per cent but not more than one hundred ten per cent of the
19 appropriated budget for the beginning CURRENT fiscal year, and such revised
20 fee schedule shall be effective July 1 of the subsequent FISCAL year. FOR
21 THE PURPOSES OF THIS SUBSECTION, APPROPRIATED BUDGET DOES NOT INCLUDE ANY
22 APPROPRIATION FOR THE OPERATION OF THE CAPTIVE INSURANCE PROGRAM ESTABLISHED
23 UNDER CHAPTER 4, ARTICLE 14 OF THIS TITLE. ANY FEES COLLECTED FROM CAPTIVE
24 INSURERS PURSUANT TO SUBSECTION H OF THIS SECTION SHALL NOT BE COUNTED FOR
25 THE PURPOSE OF MEETING THE REQUIREMENT OF THIS SECTION TO RECOVER AT LEAST
26 NINETY-FIVE BUT NO MORE THAN ONE HUNDRED TEN PER CENT OF THE DEPARTMENT'S
27 APPROPRIATED BUDGET.

28 ~~H.~~ G. The director may contract with a voluntary domestic
29 organization of surplus lines brokers to perform any transaction prescribed
30 in chapter 2, article 5 of this title, including the acceptance or
31 maintenance of the reports required by section 20-408. The director may
32 allow the contractor to charge a stamping fee. The surplus lines broker
33 shall pay the stamping fee established pursuant to this section directly to
34 the contractor.

35 H. CAPTIVE INSURERS SHALL PAY CERTIFICATE OF AUTHORITY ISSUANCE AND
36 RENEWAL FEES AS PRESCRIBED BY THE DIRECTOR.

37 I. For the purposes of subsection ~~H~~ G of this section, "stamping fee"
38 means a reasonable filing fee charged by a contractor for any transaction
39 prescribed in chapter 2, article 5 of this title, including the acceptance
40 or maintenance of the reports required by section 20-408.

41 Sec. 2. Repeal

42 Section 20-167, Arizona Revised Statutes, as amended by Laws 2001,
43 chapter 327, section 1, is repealed.

1 Sec. 3. Section 20-821, Arizona Revised Statutes, is amended to read:
2 20-821. Scope of article; rules; authority of director

3 A. Hospital service corporations, medical service corporations, dental
4 service corporations, optometric service corporations and hospital, medical,
5 dental and optometric service corporations incorporated in this state are
6 governed by this article and are exempt from all other provisions of this
7 title, except as expressly provided by this article and any rule adopted by
8 the director pursuant to section 20-143 relating to contracts of such service
9 corporations. No insurance law enacted after January 1, 1955 ~~is deemed to~~
10 apply APPLIES to such corporations unless they ~~are~~ THE LAW specifically
11 referred REFERS to therein CORPORATIONS.

12 B. Chapter 2, article 12 of this title, sections 20-223, 20-234,
13 20-261, 20-261.01, 20-261.02, 20-261.03, 20-261.04, 20-1133, 20-1377,
14 20-1408, 20-1692, 20-1692.01, 20-1692.02 and 20-1692.03 and chapters 15, 17
15 and 20 of this title AND ANY RULES ADOPTED TO IMPLEMENT THESE PROVISIONS
16 apply to all corporations governed by this article.

17 C. Chapter 21 of this title applies to a hospital service corporation,
18 A medical service corporation or a hospital and medical service corporation.

19 Sec. 4. Title 20, chapter 4, article 3, Arizona Revised Statutes, is
20 amended by adding section 20-825.01, to read:

21 20-825.01. Minimum capital or surplus required; application

22 A CORPORATION THAT IS EXEMPT FROM THE RISK-BASED CAPITAL REQUIREMENT
23 PRESCRIBED IN SECTION 20-488.08 SHALL MAINTAIN UNIMPAIRED CAPITAL OR SURPLUS,
24 OR BOTH, IN THE AMOUNT OF AT LEAST TWENTY-FIVE THOUSAND DOLLARS.

25 Sec. 5. Section 20-831, Arizona Revised Statutes, is amended to read:

26 20-831. Annual statement; examination

27 A. Not later than March 31 of each year every such corporation shall
28 file with the director a statement ~~verified by at least two of its principal~~
29 ~~officers showing its condition on the last day of the next preceding calendar~~
30 year OF ITS FINANCIAL CONDITION, TRANSACTIONS AND AFFAIRS AS OF THE PRECEDING
31 DECEMBER 31 AS PRESCRIBED IN SECTIONS 20-223 AND 20-234 AND SHALL PAY THE
32 ANNUAL RENEWAL FEE PRESCRIBED IN SECTION 20-167.

33 B. AT THE TIME OF FILING ITS ANNUAL STATEMENT AS REQUIRED BY SECTION
34 20-223, A CORPORATION SHALL ALSO DISCLOSE TO THE DIRECTOR, IN THE FORM OR
35 MANNER PRESCRIBED BY THE DIRECTOR, INFORMATION SIMILAR TO THAT REQUIRED OF
36 OTHER CORPORATIONS TRANSACTING BUSINESS IN THIS STATE PURSUANT TO TITLE 10,
37 CHAPTER 39, ARTICLE 2 THAT IS NOT ALREADY FILED WITH OR AVAILABLE TO THE
38 DIRECTOR.

39 C. The director may appoint an examiner, deputy examiner or other
40 person to examine into the affairs of the corporation who has the power of
41 visitation and examination, is entitled to free access to all the books,
42 papers and documents relating to the business of the corporation and may
43 summon the officers, agents or employees or any other persons and require
44 them to testify under oath concerning the affairs, transactions and condition

1 of the corporation. An examination shall be conducted at least every three
2 FIVE years.

3 ~~B.~~ D. The corporation shall pay the cost of the examination and
4 audit, but the corporation is not required to pay for more than one such
5 audit or examination in any one year. The corporation shall pay the costs
6 as provided for insurers pursuant to section 20-159.

7 E. A CORPORATION THAT FAILS TO TIMELY FILE THE ANNUAL STATEMENT
8 REQUIRED UNDER SUBSECTION A OF THIS SECTION OR FAILS TO PROVIDE INFORMATION
9 REQUIRED UNDER SUBSECTION B OF THIS SECTION IS SUBJECT TO THE PENALTIES
10 PRESCRIBED IN SECTION 20-223.

11 Sec. 6. Title 20, chapter 4, article 3, Arizona Revised Statutes, is
12 amended by adding section 20-845, to read:

13 20-845. Suspension or revocation of certificate of authority;
14 civil penalties

15 A. THE DIRECTOR MAY SUSPEND OR REVOKE A CERTIFICATE OF AUTHORITY
16 ISSUED TO A CORPORATION PURSUANT TO THIS ARTICLE IF THE DIRECTOR FINDS THAT
17 ANY OF THE FOLLOWING CONDITIONS EXIST:

18 1. THE CORPORATION IS OPERATING SIGNIFICANTLY IN CONTRAVENTION OF ITS
19 BASIC ORGANIZATIONAL DOCUMENTS OR IN A MANNER CONTRARY TO THAT DESCRIBED IN,
20 AND REASONABLY INFERRED FROM, ANY OTHER INFORMATION SUBMITTED PURSUANT TO
21 SECTIONS 20-824 AND 20-825.

22 2. THE CORPORATION HAS ISSUED SUBSCRIPTION CONTRACTS THAT DO NOT
23 COMPLY WITH THE REQUIREMENTS OF SECTION 20-826.

24 3. THE CORPORATION CAN NO LONGER BE EXPECTED TO MEET ITS OBLIGATIONS
25 TO SUBSCRIBERS.

26 4. THE CORPORATION, OR ANY AUTHORIZED PERSON ON ITS BEHALF, HAS
27 ADVERTISED OR MERCHANDISED ITS SERVICES IN A MATERIALLY UNTRUE, MISLEADING,
28 DECEPTIVE OR UNFAIR MANNER.

29 5. THE CORPORATION HAS FAILED TO SUBSTANTIALLY COMPLY WITH THIS
30 ARTICLE OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE.

31 6. THE CORPORATION IS IN AN UNSOUND CONDITION OR IN SUCH A CONDITION
32 AS TO RENDER ITS FURTHER TRANSACTION OF BUSINESS IN THIS STATE HAZARDOUS TO
33 ITS SUBSCRIBERS OR TO THE RESIDENTS OF THIS STATE.

34 B. IF THE CERTIFICATE OF AUTHORITY OF A CORPORATION IS SUSPENDED, THE
35 CORPORATION SHALL NOT ACCEPT, DURING THE PERIOD OF THE SUSPENSION, ANY
36 ADDITIONAL SUBSCRIBERS EXCEPT NEWBORN CHILDREN OR OTHER NEWLY ACQUIRED
37 DEPENDENTS OF EXISTING SUBSCRIBERS AND SHALL NOT ENGAGE IN ANY ADVERTISING
38 OR MARKETING.

39 C. IF THE CERTIFICATE OF AUTHORITY OF A CORPORATION IS REVOKED, THE
40 CORPORATION SHALL PROCEED, IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE
41 ORDER OF REVOCATION, TO CONCLUDE ITS AFFAIRS AND SHALL CONDUCT NO FURTHER
42 BUSINESS EXCEPT AS MAY BE ESSENTIAL TO THE ORDERLY CONCLUSION OF BUSINESS.
43 THE DIRECTOR, BY WRITTEN ORDER, MAY PERMIT ANY FURTHER OPERATION OF THE
44 CORPORATION AS THE DIRECTOR FINDS TO BE IN THE BEST INTEREST OF SUBSCRIBERS
45 TO THE END THAT SUBSCRIBERS SHALL BE AFFORDED THE GREATEST PRACTICAL

1 OPPORTUNITY TO OBTAIN CONTINUING HOSPITAL, MEDICAL, DENTAL OR OPTOMETRIC
2 COVERAGE AS APPLICABLE.

3 D. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, A CORPORATION
4 THAT HAS HAD ITS CERTIFICATE OF AUTHORITY SUSPENDED OR REVOKED, OR THAT IS
5 SUBJECT TO AN ADVERSE ACTION BY THE DIRECTOR, IS ENTITLED TO A HEARING
6 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10 AND, EXCEPT AS PROVIDED IN
7 SECTION 41-1092.08, SUBSECTION H, IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO
8 TITLE 12, CHAPTER 7, ARTICLE 6.

9 E. IF, AFTER A HEARING, THE DIRECTOR FINDS GROUNDS PURSUANT TO
10 SUBSECTION A OF THIS SECTION TO SUSPEND OR REVOKE A CORPORATION'S CERTIFICATE
11 OF AUTHORITY, THE DIRECTOR MAY IMPOSE, IN LIEU OF OR IN ADDITION TO THAT
12 SUSPENSION OR REVOCATION, THE FOLLOWING CIVIL PENALTIES THAT SHALL BE
13 REMITTED TO THE STATE TREASURER FOR DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
14 35-147, IN THE STATE GENERAL FUND:

15 1. FOR AN UNINTENTIONAL VIOLATION, NOT MORE THAN ONE THOUSAND DOLLARS
16 FOR EACH VIOLATION AND NOT MORE THAN AN AGGREGATE OF TEN THOUSAND DOLLARS IN
17 ANY SIX MONTH PERIOD.

18 2. FOR AN INTENTIONAL VIOLATION, NOT MORE THAN FIVE THOUSAND DOLLARS
19 FOR EACH VIOLATION AND NOT MORE THAN AN AGGREGATE OF FIFTY THOUSAND DOLLARS
20 IN ANY SIX MONTH PERIOD.

21 Sec. 7. Section 20-1004, Arizona Revised Statutes, as amended by Laws
22 2001, chapter 327, section 5, is amended to read:

23 20-1004. Issuance of certificate of authority

24 A. Issuance of a certificate of authority shall be granted by the
25 director if the director is satisfied that the following conditions are met:

26 1. The persons responsible for conducting the affairs of the prepaid
27 dental plan organization are competent and trustworthy and are professionally
28 capable of providing or arranging for the provision of services offered.

29 2. The prepaid dental plan organization constitutes an appropriate
30 mechanism to achieve an effective prepaid dental plan, in accordance with
31 regulations issued by the director of the department of health services,
32 which shall include at least the basic dental services appropriate to such
33 plan as determined by the director of the department of health services.

34 3. The prepaid dental plan organization is financially responsible and
35 may reasonably be expected to meet its obligations to members and prospective
36 members. In making this determination the director shall consider at least:

37 (a) The financial soundness of the prepaid dental plan's arrangements
38 for services and the schedule of charges used.

39 (b) Any agreement with an insurer, a hospital or a medical service
40 corporation, a government or any other organization for insuring the payment
41 of the cost of prepaid dental services or the provisions for automatic
42 applicability of an alternative coverage in the event of discontinuance of
43 the plan.

44 (c) The sufficiency of an agreement with providers for the provision
45 of prepaid dental services.

1 4. Each officer responsible for conducting the affairs of the prepaid
2 dental plan organization has filed with the director, subject to the
3 director's approval, a fidelity bond in the amount of fifty thousand dollars.

4 ~~8. A certificate of authority shall expire at midnight on June 30 next~~
5 ~~following the date of issuance or previous renewal. If the prepaid dental~~
6 ~~plan organization remains in compliance with this article and has paid a~~
7 ~~renewal fee of not less than twenty-five dollars nor more than seventy-five~~
8 ~~dollars, its certificate shall be renewed.~~

9 ~~C. The fees prescribed by this section shall be adjusted within the~~
10 ~~limits prescribed by this section at the same time and in the same manner~~
11 ~~prescribed by section 20-167, subsection F.~~

12 Sec. 8. Section 20-1006.01, Arizona Revised Statutes, is amended to
13 read:

14 20-1006.01. Risk-based capital requirements; minimum capital
15 and surplus

16 A. A prepaid dental plan organization shall comply with chapter 2,
17 article 12 of this title.

18 B. A PREPAID DENTAL PLAN ORGANIZATION THAT IS EXEMPT FROM THE
19 RISK-BASED CAPITAL REQUIREMENTS PRESCRIBED IN SECTION 20-488.08 SHALL
20 MAINTAIN UNIMPAIRED CAPITAL OR SURPLUS, OR BOTH, IN AN AMOUNT OF AT LEAST
21 TWENTY-FIVE THOUSAND DOLLARS.

22 Sec. 9. Section 20-1009, Arizona Revised Statutes, is amended to read:

23 20-1009. Annual report to director

24 A. Every prepaid dental plan organization annually on or before the
25 first day of March shall file with the director a report covering its
26 activities for the preceding calendar year, verified by at least two
27 principal officers of the corporation.

28 ~~B. The reports shall be on forms prescribed by the director and shall~~
29 ~~include:~~

30 ~~1. A financial statement of the organization, including its balance~~
31 ~~sheet and receipts and disbursements for the preceding year certified by an~~
32 ~~independent public accountant.~~

33 ~~2. Any material changes in the information.~~

34 ~~3. The number of persons who become members during the year, the~~
35 ~~number of members as of the end of the year and the number of memberships~~
36 ~~terminated during the year.~~

37 ~~4. The costs of all care provided and the number of units of care~~
38 ~~provided.~~

39 ~~5. Any other information relating to the performance of the prepaid~~
40 ~~dental plan organization as is necessary to enable the director to carry out~~
41 ~~the duties prescribed by this article OF ITS FINANCIAL CONDITION,~~
42 ~~TRANSACTIONS AND AFFAIRS AS OF THE PRECEDING DECEMBER 31 AS PRESCRIBED IN~~
43 ~~SECTIONS 20-223 AND 20-234 AND SHALL PAY THE ANNUAL RENEWAL FEE PRESCRIBED~~
44 ~~IN SECTION 20-167.~~

1 D. Notwithstanding subsections B and C of this section, a prepaid
2 dental plan organization that has had its certificate of authority denied,
3 suspended or revoked, or ~~has suffered~~ THAT IS SUBJECT TO an adverse decision
4 ACTION by the director, is entitled to a hearing pursuant to title 41,
5 chapter 6, article 10 and, except as provided in section 41-1092.08,
6 subsection H, is entitled to judicial review pursuant to title 12, chapter
7 7, article 6.

8 E. IF, AFTER A HEARING, THE DIRECTOR FINDS GROUNDS PURSUANT TO
9 SUBSECTION A OF THIS SECTION TO SUSPEND OR REVOKE AN ORGANIZATION'S
10 CERTIFICATE OF AUTHORITY, THE DIRECTOR MAY IMPOSE, IN LIEU OF OR IN ADDITION
11 TO THAT SUSPENSION OR REVOCATION, THE FOLLOWING CIVIL PENALTIES THAT SHALL
12 BE REMITTED TO THE STATE TREASURER FOR DEPOSIT, PURSUANT TO SECTIONS 35-146
13 AND 35-147, IN THE STATE GENERAL FUND:

14 1. FOR AN UNINTENTIONAL VIOLATION, NOT MORE THAN ONE THOUSAND DOLLARS
15 FOR EACH VIOLATION AND NOT MORE THAN AN AGGREGATE OF TEN THOUSAND DOLLARS IN
16 ANY SIX MONTH PERIOD.

17 2. FOR AN INTENTIONAL VIOLATION, NOT MORE THAN FIVE THOUSAND DOLLARS
18 FOR EACH VIOLATION AND NOT MORE THAN AN AGGREGATE OF FIFTY THOUSAND DOLLARS
19 IN ANY SIX MONTH PERIOD.

20 Sec. 11. Section 20-1053, Arizona Revised Statutes, is amended to
21 read:

22 20-1053. Application for certificate of authority

23 A. An application for a certificate of authority to operate as a
24 health care services organization shall be filed with the director in a form
25 prescribed by the director, shall be verified by an officer or authorized
26 representative of the applicant and shall set forth, or be accompanied by,
27 the following:

28 1. A copy of the articles of incorporation and all amendments to the
29 articles.

30 2. A copy of the bylaws, rules and regulations, or similar document,
31 if any, regulating the conduct of the internal affairs of the applicant.

32 3. A list of the names, addresses and official positions of the
33 persons who are to be responsible for the conduct of the affairs of the
34 applicant, including all members of the board of directors, board of
35 trustees, executive committee, or other governing board or committee, the
36 principal officers in the case of a corporation, and the partners or members
37 in the case of a partnership or association.

38 4. A copy of any contract made or to be made between any providers or
39 persons listed in paragraph 3 and the applicant.

40 5. A statement generally describing the health care services
41 organization and its health care plan or plans, facilities and personnel, as
42 approved by the director.

43 6. A copy of the form of evidence of coverage to be issued to the
44 enrollees.

1 7. A copy of the form of the group contract, if any, that is to be
2 issued to employers, unions, trustees or other organizations.

3 8. Financial statements showing the applicant's assets, liabilities
4 and sources of financial support. If the applicant's financial affairs are
5 audited by independent certified public accountants, a copy of the
6 applicant's most recent regular certified financial statement shall be deemed
7 to satisfy this requirement unless the director determines that additional
8 or more recent financial information is required for the proper
9 administration of this article.

10 9. A description of the proposed method of marketing the plan, a
11 financial plan that includes a three-year projection of the initial operating
12 results anticipated, and a statement as to the sources of working capital as
13 well as any other sources of funding.

14 10. A power of attorney duly executed by the applicant, if not
15 domiciled in this state, appointing the director and the director's
16 successors in office, and duly authorized deputies, as the true and lawful
17 attorney of the applicant in and for this state, upon whom all lawful process
18 in any legal action or proceeding against the health care services
19 organization on a cause of action arising in this state may be served.

20 11. A statement reasonably describing the geographic area or areas to
21 be served, as approved by the director.

22 12. The fee prescribed by section 20-167 ~~respecting issuance of a~~
23 ~~certificate of authority to a hospital or medical service corporation.~~

24 13. A PLAN FOR THE RISK OF INSOLVENCY AS PRESCRIBED IN SECTION 20-1069.

25 ~~13.~~ 14. Such other information as the director may require.

26 B. Within ten days following any significant modification of
27 information previously furnished pursuant to subsection A of this section,
28 a health care services organization shall file a notice of the modification
29 with the director.

30 C. Unless preempted under federal law or unless federal law imposes
31 greater requirements than this section, this section applies to a provider
32 sponsored health care services organization.

33 Sec. 12. Section 20-1054, Arizona Revised Statutes, is amended to
34 read:

35 20-1054. Issuance of certificate of authority

36 A. Issuance of a certificate of authority shall be granted within the
37 time prescribed in section 20-216 by the director if the director is
38 satisfied that the following conditions are met:

39 1. The persons responsible for conducting the affairs of the health
40 care services organization are competent and trustworthy and are
41 professionally capable of providing or arranging for the provision of health
42 and medical services being offered.

43 2. The health care services organization constitutes an appropriate
44 mechanism to achieve an effective health care plan, in accordance with rules

1 that are adopted by the director and that include at least the basic health
2 care services.

3 3. The health care services organization is financially responsible
4 and may reasonably be expected to meet its obligations to enrollees and
5 prospective enrollees. In making this determination, the director may
6 consider:

7 (a) The financial soundness of the health care plan's arrangements for
8 health care services and the schedule of charges used in connection
9 therewith.

10 (b) Any agreement with an insurer, a hospital or a medical service
11 corporation, a government or any other organization for insuring the payment
12 of the cost of health care services or the provision for automatic
13 applicability of an alternative coverage in the event of discontinuance of
14 the plan.

15 (c) Any agreement with providers for the provision of health care
16 services.

17 4. Each officer responsible for conducting the affairs of the health
18 care services organization has filed with the director, subject to the
19 director's approval, a fidelity bond in the amount of fifty thousand dollars.

20 ~~B. A certificate of authority prescribed by subsection A of this~~
21 ~~section shall expire at midnight on June 30 next following the date of~~
22 ~~issuance or previous renewal. If the health care services organization~~
23 ~~remains in compliance with this article and has paid the fee prescribed by~~
24 ~~section 20-167 respecting renewal of a certificate of authority to a hospital~~
25 ~~and medical service corporation, its certificate shall be renewed.~~

26 C. B. Unless preempted under federal law or unless federal law
27 imposes greater requirements than this section, this section applies to a
28 provider sponsored health care services organization.

29 Sec. 13. Section 20-1059, Arizona Revised Statutes, is amended to
30 read:

31 20-1059. Annual report to director

32 A. Every health care services organization annually on or before March
33 31 shall file with the director a report covering its activities for the
34 preceding calendar year and verified by at least two principal officers of
35 the corporation.

36 B. The report shall be on a form prescribed by the director and shall
37 include:

38 1. A financial statement of the organization, including its balance
39 sheet and receipts and disbursements for the preceding year certified by an
40 independent public accountant.

41 2. Any material changes in the information submitted pursuant to
42 section 20-1053.

43 3. The number of persons enrolled during the year, the number of
44 enrollees as of the end of the year and the number of enrollments terminated
45 during the year.

1 4. ~~Any other information relating to the performance of the health~~
2 ~~care services organization as is necessary to enable the director to carry~~
3 ~~out the director's duties under this article~~ OF ITS FINANCIAL CONDITION,
4 TRANSACTIONS AND AFFAIRS AS OF THE PRECEDING DECEMBER 31 AS PRESCRIBED IN
5 SECTIONS 20-223 AND 20-234 AND SHALL PAY THE ANNUAL RENEWAL FEE PRESCRIBED
6 IN SECTION 20-167.

7 ~~C.~~ B. Unless preempted under federal law or unless federal law
8 imposes greater requirements than this section, this section applies to a
9 provider sponsored health care services organization.

10 C. A HEALTH CARE SERVICES ORGANIZATION THAT FAILS TO TIMELY FILE THE
11 ANNUAL REPORT REQUIRED UNDER SUBSECTION A OF THIS SECTION IS SUBJECT TO THE
12 PENALTIES PRESCRIBED IN SECTION 20-223.

13 Sec. 14. Section 20-1065, Arizona Revised Statutes, is amended to
14 read:

15 20-1065. Suspension or revocation of certificate of authority;
16 civil penalties

17 A. The director may suspend or revoke any certificate of authority
18 issued to a health care services organization under this article if the
19 director finds that any of the following conditions exists:

20 1. The health care services organization is operating significantly
21 in contravention of its basic organizational documents or in a manner
22 contrary to that described in, and reasonably inferred from, any other
23 information submitted under section 20-1053.

24 2. The health care services organization issues evidences of coverage
25 which THAT do not comply with the requirements of section 20-1057.

26 3. The health care plan does not provide or arrange for basic health
27 care services as determined by the director of the department of insurance,
28 with advice from the director of the department of health services.

29 4. The health care services organization can no longer be expected to
30 meet its obligations to enrollees or prospective enrollees.

31 5. The health care services organization, or any authorized person on
32 its behalf, has advertised or merchandised its services in an A MATERIALLY
33 untrue, misleading, deceptive or unfair manner.

34 6. The health care services organization has failed to substantially
35 comply with this article OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE.

36 7. The health care services organization is in unsound condition or
37 in such condition as to render its further transaction of business in this
38 state hazardous to its enrollees or to the residents of this state.

39 B. ~~When~~ IF the certificate of authority of a health care services
40 organization is suspended, the health care services organization shall not
41 enroll, during the period of such suspension, any additional enrollees except
42 newborn children or other newly acquired dependents of existing enrollees and
43 shall not engage in any advertising or solicitation whatsoever.

1 C. ~~When~~ IF the certificate of authority of a health care services
2 organization is revoked, the organization shall proceed, immediately
3 following the effective date of the order of revocation, to conclude its
4 affairs and shall conduct no further business except as may be essential to
5 the orderly conclusion of solicitation. The director, by written order, may
6 permit such further operation of the organization as the director may find
7 to be in the best interest of enrollees to the end that enrollees shall be
8 afforded the greatest practical opportunity to obtain continuing health care
9 coverage.

10 D. Notwithstanding subsections B and C of this section, a health care
11 services organization ~~which~~ THAT has had its certificate of authority denied,
12 suspended or revoked is entitled to a hearing pursuant to title 41, chapter
13 6, article 10 and, except as provided in section 41-1092.08, subsection H,
14 is entitled to judicial review pursuant to title 12, chapter 7, article 6.

15 E. If, after a hearing, the director finds grounds pursuant to
16 subsection A of this section to suspend or revoke a health care services
17 organization's certificate of authority, the director may impose, in lieu of
18 or in addition to that suspension or revocation, the following civil
19 penalties that shall be remitted to the state treasurer for deposit, PURSUANT
20 TO SECTIONS 35-146 AND 35-147, in the state general fund:

21 1. For AN unintentional ~~violations~~ VIOLATION, not more than one
22 thousand dollars for each violation and not more than an aggregate of ten
23 thousand dollars in any six month period.

24 2. For AN intentional ~~violations~~ VIOLATION, not more than five
25 thousand dollars for each violation and not more than an aggregate of fifty
26 thousand dollars in any six month period.

27 F. Unless preempted under federal law or unless federal law imposes
28 greater requirements than this section, this section applies to a provider
29 sponsored health care services organization.

30 Sec. 15. Section 20-1068, Arizona Revised Statutes, is amended to
31 read:

32 20-1068. Statutory construction and relationship to other laws

33 A. Except as they relate to an insurer or a hospital or medical
34 service corporation, the provisions of this title are applicable to health
35 care services organizations only as provided in this article, chapter 1 of
36 this title, chapter 2, article 12 of this title, chapter 3, articles 1 and
37 2 of this title, sections 20-223, 20-233, 20-234, 20-261, 20-261.01,
38 20-261.02, 20-261.03, 20-261.04, 20-1133, 20-1135, 20-1379 and 20-1380,
39 section 20-1408, subsections C through K, chapter 6, article 16 of this title
40 and chapters 11, 15, 17, 20 and 21 of this title.

41 B. Unless preempted under federal law or unless federal law imposes
42 greater requirements than this section, this section applies to a provider
43 sponsored health care services organization.

1 Sec. 16. Section 20-1069, Arizona Revised Statutes, is amended to
2 read:

3 20-1069. Contingency for insolvency; plan; contents; definition

4 A. Each health care services organization shall have a plan for the
5 risk of insolvency that is CONTINUOUSLY ~~approved by~~ ACCEPTABLE TO the
6 director and that provides for funding of all of the following:

7 1. Continuation of benefits for the duration of the contract period
8 under the enrollee's health care plan or for sixty days from the date
9 insolvency is declared, whichever is longer.

10 2. Continuation of benefits to enrollees who are confined on the date
11 of insolvency in an inpatient facility until their discharge.

12 B. Entitlement to continuation of benefits under subsection A is
13 contingent on timely payment of the premium by the enrollee or by the
14 enrollee's representative to the health care services organization or its
15 agent, administrator, conservator or receiver.

16 C. Each plan for the risk of insolvency shall include both:

17 1. An actuarial memorandum describing the basis on which the actuary
18 concludes that the plan for the risk of insolvency will meet the requirements
19 of subsection A.

20 2. A certification of a qualified actuary that to the best of the
21 actuary's knowledge and judgment the rates charged will support the benefits
22 outlined under the evidence of coverage and that the plan for the risk of
23 insolvency satisfies the requirements of subsection A.

24 D. Unless preempted under federal law or unless federal law imposes
25 greater requirements than this section, this section applies to a provider
26 sponsored health care services organization.

27 E. As soon as practicable after commencement of a delinquency
28 proceeding, the receiver shall submit a report to the court concerning the
29 adequacy of the plan for the risk of insolvency, including an analysis of the
30 amount of funds available under the plan and the costs of continuation of
31 benefits as required under subsection A. The receiver shall update the
32 report with reasonable frequency as directed by the court.

33 F. If at any time the receiver determines that the plan for the risk
34 of insolvency is inadequate to pay the cost of continuation of benefits as
35 required under subsection A, the receiver shall immediately notify the court
36 and contract providers.

37 G. For purposes of this section, "continuation of benefits" includes
38 benefits provided by contract providers, noncontract providers and employee
39 providers on staff with the health care services organization, subject to any
40 authorization procedures applicable before the declaration of insolvency.

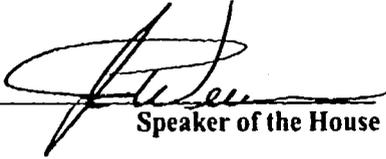
APPROVED BY THE GOVERNOR MAY 2, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2002.

Passed the House April 29, 2002

by the following vote: 51 Ayes,

5 Nays, 4 Not Voting

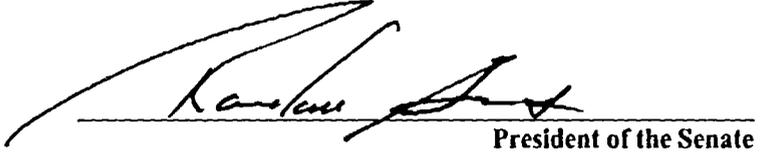

Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate February 13, 2002

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting


President of the Senate

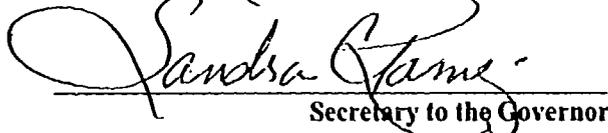
Charmine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002,

at 11:27 o'clock A M.


Secretary to the Governor

Approved this 2 day of

May, 2002,

at 10:12 o'clock P M.

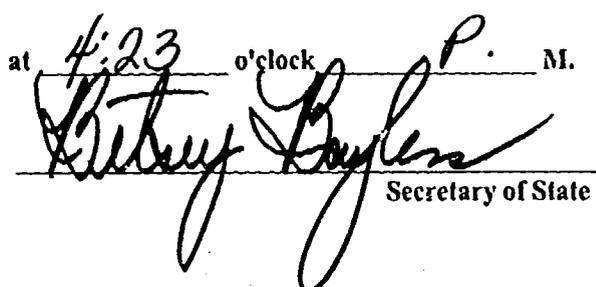

Governor of Arizona

S.B. 1134

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2002,

at 4:23 o'clock P M.

Secretary of State