

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 41

# HOUSE BILL 2204

AN ACT

AMENDING SECTIONS 20-357, 20-359, 20-376, 20-398, 20-401.07, 20-1110, 20-1591, 20-1609 AND 20-1610, ARIZONA REVISED STATUTES; RELATING TO INSURER RATES AND FORMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-357, Arizona Revised Statutes, is amended to  
3 read:

4 20-357. Filing of rating system; definition

5 A. Every insurer shall file with the director the rating systems the  
6 insurer proposes to use. As used in the rate regulatory provisions of this  
7 article, "rating systems" includes every manual of classifications, rules and  
8 rates, every rating plan, and every modification of any of the foregoing.  
9 Every filing shall have a proposed effective date and shall indicate the  
10 character and extent of the coverage contemplated. If a filing does not  
11 include the information on which the insurer supports the filing, and the  
12 director does not have sufficient information to determine whether the filing  
13 meets the rate regulatory requirements of this article, the director shall  
14 require the insurer to furnish information supporting the filing. The  
15 supporting information may include the experience or judgment of the insurer  
16 or rating organization making the filing, its interpretation of any  
17 statistical data on which it relies, the experience of other insurers or  
18 rating organizations or any other relevant factors. A filing and any  
19 supporting information shall be open to public inspection after the filing  
20 becomes effective.

21 B. A workers' compensation insurer shall satisfy its obligation to  
22 make filings by becoming a member of a licensed rating organization that  
23 makes filings and by authorizing the director to accept on its behalf filings  
24 made by the rating organization. A rating organization shall annually file  
25 with the director rates to be effective on October 1. Nothing in this  
26 subsection requires an insurer to be a member of the designated rating  
27 organization.

28 C. Each filing shall be on file for a waiting period of at least  
29 fifteen THIRTY days before it becomes effective. On written application by  
30 the insurer or rating organization making the filing, the director may  
31 authorize a filing to become effective before the waiting period expires.

32 D. On written application of the insured that states the insured's  
33 reasons and that is filed with and approved by the director, an insurer may  
34 use a rate in excess of the insurer's filed rate on the insured's risk.

35 E. An insurer shall not make or issue a contract or policy except in  
36 accordance with the filings in effect for that insurer as provided in the  
37 rate regulatory provisions of this article.

38 Sec. 2. Section 20-359, Arizona Revised Statutes, is amended to read:

39 20-359. Deviations from filed workers' compensation rates

40 A. Every insurer shall adhere to the filings made by the rating  
41 organization of which it is a member, except that any member insurer may file  
42 with the director:

43 1. A uniform percentage decrease or increase to be applied to the  
44 statewide rate portion of the rating organization's rate filing.



1 it becomes effective. The director may, upon ON written notice given within  
2 such THE THIRTY DAY WAITING period to the person making the filing, extend  
3 such THE waiting period for ~~an additional period, not to exceed UP TO fifteen~~  
4 ADDITIONAL days, to enable him THE DIRECTOR to complete the review of the  
5 filing. THE DIRECTOR MAY GRANT further extensions of such THE waiting period  
6 ~~may also be made ONLY~~ with the consent of the person making the filing. Upon  
7 ON written application by the person making the filing, the director may  
8 authorize ALL OR PART OF a filing ~~or any part thereof which he~~ THAT has BEEN  
9 reviewed to become effective before the expiration of the waiting period or  
10 any extension thereof OF THE WAITING PERIOD.

11 E. Except in the case of rates filed under subsection F of ~~this~~  
12 section, a filing which THAT has become effective shall be deemed to meet the  
13 requirements of this article.

14 F. When the director finds that any rate for a particular kind or  
15 class of risk cannot practicably be filed before it is used, or that any  
16 contract or kind of title insurance, by reason of rarity or peculiar  
17 circumstances, does not lend itself to advance determination and filing of  
18 rates, he THE DIRECTOR may, ~~under such rules as he may prescribe,~~ permit such  
19 THE rate to be used without a previous filing and waiting period.

20 G. The director shall not have the power to regulate, or require the  
21 filing of, rates or fees for reinsurance policies, contracts or agreements,  
22 for policies, contracts or agreements of excess coinsurance or for account  
23 servicing and subdivision trust services.

24 Sec. 4. Section 20-398, Arizona Revised Statutes, is amended to read:  
25 20-398. Policy forms; approval or disapproval; exemption

26 A. Except for fidelity, surety or guaranty bonds or industrial  
27 insurance as provided in section 20-400.10 and except as to inland marine  
28 risks which THAT by general custom of the business are not written according  
29 to manual rates or rating plans, no policy form applying to insurance on  
30 risks or operations covered by this article may be delivered or issued for  
31 delivery unless it THE FORM has been filed with the director and either the  
32 director has ~~approved it~~ , WITHIN THIRTY DAYS, ISSUED AN ORDER AFFIRMATIVELY  
33 APPROVING OR DISAPPROVING THE FORM or, ~~thirty days have~~ THE THIRTY DAY PERIOD  
34 HAS elapsed and the director has not disapproved it THE FORM as ambiguous,  
35 misleading or deceptive. ON WRITTEN NOTICE GIVEN WITHIN THE THIRTY DAY  
36 PERIOD TO THE PERSON MAKING THE FILING, THE DIRECTOR MAY EXTEND THE PERIOD  
37 FOR UP TO FIFTEEN ADDITIONAL DAYS TO ENABLE THE DIRECTOR TO COMPLETE THE  
38 REVIEW OF THE FILING.

39 B. The director may, by order, exempt from the requirements of this  
40 section, for as long as the director deems proper, any insurance document or  
41 form ~~or type thereof~~ as specified in such THE order, to which, in the  
42 director's opinion, this section may not practicably be applied, or the  
43 filing and approval of which are, in the director's opinion, not desirable  
44 or necessary for the protection of the public.

1           Sec. 5. Section 20-401.07, Arizona Revised Statutes, is amended to  
2 read:

3           20-401.07. Premium receipts tax on industrial insureds  
4                                   contracting with unauthorized insurer; definitions

5           A. Every industrial insured under a contract procured from an  
6 unauthorized insurer shall pay to the director before March 1 next succeeding  
7 the calendar year in which the insurance was so effectuated, continued or  
8 renewed a premium receipts tax of three per cent of the gross premiums, less  
9 premiums returned on account of cancellation or reduction of premium, charged  
10 for insurance on subjects resident, located or to be performed in this state.  
11 Such insurance, whether procured through negotiation or an application, in  
12 whole or in part occurring or made within or outside of this state, or for  
13 which premiums in whole or in part are remitted directly or indirectly from  
14 within or outside of this state, shall be deemed to be insurance effectuated  
15 or continued in this state. If a contract covers risks or exposures only  
16 partly in this state, the tax payable shall be computed on the portions of  
17 the premium which THAT are properly allocable to the risks or exposures  
18 located in this state. Proration of premium taxes due from an industrial  
19 insured under a contract procured from an unauthorized insurer having  
20 property in states other than Arizona shall be determined by rules adopted  
21 by the director using the following criteria where applicable:

- 22           1. Percentage of physical assets in Arizona.  
23           2. Percentage of employee payroll in Arizona.  
24           3. Percentage of sales in Arizona.  
25           4. Percentage of taxable income reportable in Arizona.

26           B. For purposes of this section:

27           1. "Industrial insured" means an insured that APPLIES FOR OR PROCURES  
28 ANY INSURANCE THAT IS SUBJECT TO ARTICLE 4.1 OF THIS CHAPTER THROUGH THE USE  
29 OF A RISK MANAGER AND THAT meets at least two of the following criteria:

30           ~~(a) Applies for or procures any insurance that is subject to article~~  
31 ~~4.1 of this chapter through the use of a risk manager.~~

32           ~~(b)~~ (a) Has aggregate annual gross premiums for insurance on all  
33 property and casualty risks that are subject to article 4.1 of this chapter  
34 totaling at least five ONE hundred thousand dollars as of the preceding  
35 fiscal year end of the industrial insured.

36           ~~(c)~~ (b) Possesses a net worth of over fifty TEN million dollars as  
37 of the preceding fiscal year end of the industrial insured as verified by a  
38 certified public accountant.

39           ~~(d)~~ (c) Has net revenues or sales exceeding ~~one hundred~~ TWENTY-FIVE  
40 million dollars as of the preceding fiscal year end of the industrial insured  
41 as verified by a certified public accountant.

42           ~~(e)~~ (d) Has more than ~~five hundred~~ EIGHTY full-time employees or  
43 equivalent per individual company or one thousand HUNDRED full-time employees  
44 or equivalent per holding company system as of the date the policy is issued.

1           2. "Risk manager" means a full-time employee of the industrial insured  
2 or a third party consultant who is retained by the industrial insured, who  
3 provides skilled services in loss prevention, loss reduction, risk and  
4 insurance coverage analysis and the purchase of insurance and who possesses  
5 at least one of the following qualifications:

6           (a) A baccalaureate or higher degree in risk management that is issued  
7 by an accredited college or university.

8           (b) A designation as a chartered property and casualty underwriter  
9 that is issued by an insurance institute.

10          (c) A designation as a certified insurance counselor that is issued  
11 by a society of certified insurance counselors.

12          (d) A designation as an associate in risk management that is issued  
13 by an insurance institute.

14          (e) A designation as a certified risk manager that is issued by a  
15 national alliance for insurance education and research.

16          (f) A designation as a fellow in risk management that is issued by a  
17 global risk management institute.

18          (g) Any other similar qualification that, before the employee or  
19 consultant applies for or procures any insurance that is subject to article  
20 4.1 of this chapter, the director determines is sufficient, other than a  
21 license as an insurance producer pursuant to article 3 of this chapter.

22          Sec. 6. Section 20-1110, Arizona Revised Statutes, is amended to read:  
23 20-1110. Approval of forms

24          A. Any life or disability insurance policy form, life or disability  
25 insurance application form where written application is required and is to  
26 be made a part of the policy and printed rider or endorsement form, shall not  
27 be delivered or issued for delivery in this state by a life or disability  
28 insurer unless it has been filed with and approved by the director. The  
29 director may also require that proof of death or loss forms shall be filed  
30 with and approved by the director.

31          B. This section shall not apply to policies, riders, endorsements or  
32 forms of unique character designed for and used with ~~relation to~~ FOR  
33 insurance upon ON a particular subject, or that relate to the manner of  
34 distribution of benefits or to the reservation of rights and benefits under  
35 life or disability insurance policies, and are used at the request of the  
36 individual policyholder, contract holder or certificate holder.

37          C. Every such filing shall be made not less than thirty days in  
38 advance of any such delivery. ~~At the expiration of the thirty days~~ The form  
39 ~~so filed shall be deemed~~ IS approved THIRTY DAYS AFTER FILING unless prior  
40 ~~thereto it has been affirmatively approved or disapproved by order of the~~  
41 ~~director. Approval of the form by the director shall constitute a waiver of~~  
42 ~~any unexpired portion of the waiting period.~~ HAS, WITHIN THE THIRTY DAY  
43 PERIOD, ISSUED AN ORDER AFFIRMATIVELY APPROVING OR DISAPPROVING THE  
44 FORM. The director may extend by not more than an additional thirty FIFTEEN  
45 days the period within which the director may affirmatively approve or

1 disapprove FOR REVIEW OF the form, by giving notice of the extension before  
2 expiration of the initial thirty day period. ~~At the expiration of any period~~  
3 ~~as so extended, and in the absence of prior affirmative approval or~~  
4 ~~disapproval, the form shall be deemed approved.~~ The director may at any  
5 time, after notice and for cause shown, withdraw the director's approval.

6 D. Any order of the director disapproving the form or withdrawing a  
7 previous approval shall state the grounds therefor REASONS FOR THE ACTION.

8 E. A life or disability insurer shall not issue or deliver any  
9 advertising matter or sales material to any person in this state until the  
10 life or disability insurer files the advertising matter or sales material  
11 with the director. This subsection does not require a life or disability  
12 insurer to have the prior approval of the director to issue or deliver the  
13 advertising matter or sales material. If the director finds that the  
14 advertising matter or sales material, in whole or in part, is false,  
15 deceptive or misleading, the director may issue an order disapproving the  
16 advertising matter or sales material, directing the life or disability  
17 insurer to cease and desist from issuing, circulating, displaying or using  
18 the advertising matter or sales material within a period of time specified  
19 by the director but not less than ten days and imposing any penalties  
20 prescribed in this title. At least five days before issuing an order  
21 pursuant to this subsection, the director shall provide the life or  
22 disability insurer with a written notice of the basis of the order to provide  
23 the life or disability insurer with an opportunity to cure the alleged  
24 deficiency in the advertising matter or sales material within a single five  
25 day period for the particular advertising matter or sales material at issue.  
26 The life or disability insurer may appeal the director's order pursuant to  
27 title 41, chapter 6, article 10. Except as otherwise provided in this  
28 subsection, a life or disability insurer may obtain a stay of the  
29 effectiveness of the order as prescribed in section 20-162. If the director  
30 certifies in the order and provides a detailed explanation of the reasons in  
31 support of the certification that continued use of the advertising matter or  
32 sales material poses a threat to the health, safety or welfare of the public,  
33 the order may be entered immediately without opportunity for cure and the  
34 effectiveness of the order is not stayed pending the hearing on the notice  
35 of appeal but the hearing shall be promptly instituted and determined.

36 F. The director may, by order, exempt from the requirements of this  
37 section for so long as the director deems proper any insurance document or  
38 form ~~or type~~ as specified in such THE order, to which, in the director's  
39 opinion, this section may not practicably be applied, or the filing and  
40 approval of which are, in the director's opinion, not desirable or necessary  
41 for the protection of the public.

42 G. This section shall apply also to any such form used by domestic  
43 insurers for delivery in a jurisdiction outside this state, if the insurance  
44 supervisory official of such THAT jurisdiction informs the director that such  
45 THE form is not subject to approval or disapproval by such THAT official, and

1 upon ON the director's order requiring the form to be submitted to the  
2 director for the purpose. The applicable same standards shall apply to such  
3 THESE forms as apply to forms for domestic use.

4 Sec. 7. Section 20-1591, Arizona Revised Statutes, is amended to read:

5 20-1591. Forms of policies and other contracts of title  
6 insurance; approval or disapproval

7 A. Every title insurer shall file with the director all forms of title  
8 policies and other contracts of title insurance before ~~the same shall be~~  
9 ~~issued. Any such filing may be made by~~ ISSUANCE OF ANY POLICY OR CONTRACT.  
10 A title insurance rating organization ~~in~~ MAY MAKE FILINGS ON behalf of all  
11 of its members or subscribers. ~~In no event shall any~~ A title insurer SHALL  
12 NOT issue any such form of policy or contract until thirty days after it  
13 shall have THE POLICY OR CONTRACT HAS been filed with the director. ~~unless~~  
14 ~~it shall have received earlier approval by the director. Unless the director~~  
15 ~~shall disapprove a form of title policy or contract of title insurance within~~  
16 ~~thirty days from the date of its filing, such filing shall be deemed to have~~  
17 ~~been approved. A POLICY OR CONTRACT IS APPROVED THIRTY DAYS AFTER FILING~~  
18 UNLESS THE DIRECTOR HAS, WITHIN THE THIRTY DAY PERIOD, ISSUED AN ORDER  
19 AFFIRMATIVELY APPROVING OR DISAPPROVING THE FORM. ON WRITTEN NOTICE GIVEN  
20 WITHIN THE THIRTY DAY PERIOD TO THE PERSON MAKING THE FILING, THE DIRECTOR  
21 MAY EXTEND THE PERIOD FOR UP TO FIFTEEN ADDITIONAL DAYS TO ENABLE THE  
22 DIRECTOR TO COMPLETE THE REVIEW OF THE FILING.

23 B. Forms of title policies and other contracts of insurance, as used  
24 in this section, shall specifically exclude:

- 25 1. Reinsurance contracts or agreements,
- 26 2. All specific defects in title that may be ascertained from an  
27 examination of the risk and excepted in such reports, binders or policies,  
28 together with any affirmative assurance of the title insurer with respect to  
29 such THE defects whether given by endorsement or otherwise, and
- 30 3. Such further exceptions from coverage by reason of limitations upon  
31 ON the examination of the risk imposed by an applicant for insurance or  
32 through failure of an applicant for insurance to provide the date requisite  
33 to a judgment of insurability.

34 Sec. 8. Section 20-1609, Arizona Revised Statutes, is amended to read:

35 20-1609. Filing, approval and disapproval of forms

36 A. ~~Each policy, certificate of insurance, application for insurance,~~  
37 ~~endorsement and rider that relates to credit life insurance or credit~~  
38 ~~disability insurance and is delivered or issued for delivery in this state~~  
39 ~~shall be filed with the director and shall not be issued or used until~~  
40 ~~expiration of thirty days thereafter unless the director gives written~~  
41 ~~approval. A PERSON SHALL NOT USE OR ISSUE FOR DELIVERY IN THIS STATE A~~  
42 POLICY, CERTIFICATE OF INSURANCE, APPLICATION FOR INSURANCE, ENDORSEMENT OR  
43 RIDER THAT RELATES TO CONSUMER CREDIT INSURANCE UNLESS THE DIRECTOR HAS  
44 APPROVED THE FORM. A PERSON SHALL FILE EACH FORM WITH THE DIRECTOR AT LEAST  
45 THIRTY DAYS BEFORE USING THE FORM. UNLESS THE DIRECTOR ISSUES AN ORDER

1 AFFIRMATIVELY APPROVING OR DISAPPROVING THE FORM WITHIN THIRTY DAYS AFTER THE  
2 FILING, THE FORM IS DEEMED APPROVED. ON WRITTEN NOTICE GIVEN WITHIN THE  
3 THIRTY DAY PERIOD TO THE PERSON MAKING THE FILING, THE DIRECTOR MAY EXTEND  
4 THE PERIOD FOR UP TO FIFTEEN ADDITIONAL DAYS TO ENABLE THE DIRECTOR TO  
5 COMPLETE THE REVIEW OF THE FILING.

6 B. The director shall, ~~within thirty days after the filing of any~~  
7 ~~policy, certificate of insurance, application for insurance, endorsement and~~  
8 ~~rider, disapprove any such form FILED PURSUANT TO SUBSECTION A if in the~~  
9 ~~director's opinion the form contains provisions that are unjust, unfair,~~  
10 ~~inequitable, misleading, AMBIGUOUS OR deceptive, or that encourage~~  
11 ~~misrepresentations of the coverage or which THAT are contrary to any~~  
12 ~~provision of this title or of any rule adopted pursuant to this title.~~

13 C. If the director disapproves any form or determines that approval  
14 once given should be withdrawn, he shall not issue the form and THE DIRECTOR  
15 shall notify the insurer. In the notice the director shall specify OF the  
16 reason for the decision and advise the insurer of the hearing procedure  
17 prescribed by title 41, chapter 6, article 10.

18 D. ~~With respect to any group policy of credit life insurance or credit~~  
19 ~~disability insurance which has been delivered in this state before June 23,~~  
20 ~~1961 or has been or is delivered to another state before or after June 23,~~  
21 ~~1961, the insurer shall be required to file with the director its schedule~~  
22 ~~of applicable premium rates and the group certificate. A group certificate~~  
23 ~~shall be approved by the director if it conforms with the requirements~~  
24 ~~specified in section 20-1608, subsection C and if the schedule of premium~~  
25 ~~rates applicable to the insurance evidenced by the certificate is not in~~  
26 ~~excess of the insurer's schedule of premium rates filed with the director,~~  
27 ~~provided any premium rate in effect on existing group policies may be~~  
28 ~~continued until the first policy anniversary date following June 23, 1961.~~

29 Sec. 9. Section 20-1610, Arizona Revised Statutes, is amended to read:  
30 20-1610. Premiums for consumer credit insurance; approval or  
31 disapproval of rates

32 A. ~~The amount charged to a debtor for CONSUMER credit life insurance~~  
33 ~~or credit disability insurance neither CHARGE TO THE DEBTOR shall NOT exceed~~  
34 ~~the premium for the particular coverage that is specified in the INSURER'S~~  
35 ~~RATE schedule of rates then on file with the director. nor, If the premium~~  
36 ~~be IS less than that specified in the RATE schedule, THE INSURER shall it~~  
37 ~~exceed CHARGE the LESSER amount actually charged by the insurer.~~

38 B. ~~Each schedule of premium rates and revision thereof pertaining to~~  
39 ~~the sale or provision in Arizona of any credit life insurance or credit~~  
40 ~~disability insurance shall be filed with the director by each insurer~~  
41 ~~engaging in these transactions and shall not be used until the expiration of~~  
42 ~~thirty days thereafter unless the director shall give written approval. A~~  
43 ~~PERSON SHALL NOT USE IN THIS STATE A SCHEDULE OF PREMIUM RATES OR ANY~~  
44 ~~REVISION OF THE SCHEDULE FOR CONSUMER CREDIT INSURANCE UNLESS THE DIRECTOR~~  
45 ~~HAS APPROVED THE SCHEDULE OR REVISION. A PERSON SHALL FILE EACH SCHEDULE OR~~

1 REVISION WITH THE DIRECTOR AT LEAST THIRTY DAYS BEFORE USING THE SCHEDULE OR  
2 REVISION. UNLESS THE DIRECTOR ISSUES AN ORDER AFFIRMATIVELY APPROVING OR  
3 DISAPPROVING THE SCHEDULE OR REVISION WITHIN THIRTY DAYS AFTER FILING THE  
4 SCHEDULE OR REVISION, THE SCHEDULE OR REVISION IS DEEMED APPROVED. ON  
5 WRITTEN NOTICE GIVEN WITHIN THE THIRTY DAY PERIOD TO THE PERSON MAKING THE  
6 FILING, THE DIRECTOR MAY EXTEND THE PERIOD FOR UP TO FIFTEEN ADDITIONAL DAYS  
7 TO ENABLE THE DIRECTOR TO COMPLETE THE REVIEW OF THE SCHEDULE OR REVISION.  
8 The director shall disapprove the schedule OR REVISION if in the director's  
9 opinion the premium rates charged or to be charged are excessive in relation  
10 to benefits that may be awarded. In determining whether to disapprove the  
11 schedule OR REVISION the director shall accord due consideration to past and  
12 prospective loss experience within and outside ~~Arizona~~ THIS STATE, to  
13 underwriting practice and judgment and to all other factors relevant to the  
14 relationship between premium rates and benefits.

15 C. If the director disapproves any schedule of premium rates or  
16 determines that approval once given should be withdrawn, the director shall  
17 so notify the insurer and thereafter the schedule shall not be used. The  
18 notice issued by the director shall specify the reason for the decision and  
19 advise the insurer of the hearing procedure prescribed by title 41, chapter  
20 6, article 10.

21 D. Premiums in accordance with a schedule of rates filed with and  
22 approved by the director for CONSUMER credit life insurance or ~~credit~~  
23 ~~disability~~ insurance shall be deemed not interest or as an amount in excess  
24 of permitted charges in connection with a loan or credit transaction, and any  
25 gain or advantage to a creditor arising from a premium or commission in the  
26 sale or provision of this insurance shall be deemed not interest or charges.

APPROVED BY THE GOVERNOR APRIL 17, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2002.

Passed the House February 12, 2002

Passed the Senate April 10, 2002

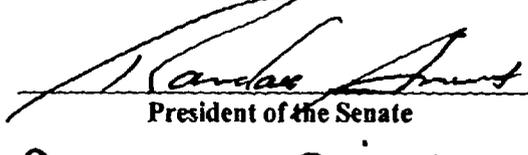
by the following vote: 59 Ayes,

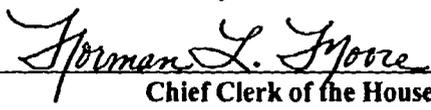
by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

11 day of April, 2002

at 2:50 o'clock P. M.

  
Secretary to the Governor

Approved this 17<sup>th</sup> day of

April, 2002

at 4:26 o'clock P. M.

  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18<sup>th</sup> day of April, 2002

at 2:22 o'clock P. M.

  
Secretary of State

H.B. 2204