

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 28

HOUSE BILL 2148

AN ACT

AMENDING SECTIONS 20-342, 20-382, 20-1549 AND 20-1551, ARIZONA REVISED
STATUTES; RELATING TO MORTGAGE GUARANTY INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-342, Arizona Revised Statutes, is amended to
3 read:

4 20-342. Scope and application of article

5 A. This article does not apply to:

- 6 1. Life insurance.
- 7 2. Disability insurance.
- 8 3. Reinsurance, except joint reinsurance as provided in section
9 20-369.

10 4. Mortgage guaranty insurance.

11 5. Insurance against loss of or damage to aircraft, their hulls,
12 accessories and equipment, or against liability, other than employers'
13 liability, arising out of the ownership, maintenance or use of aircraft.

14 6. Insurance of vessels or craft, their cargoes, marine builders'
15 risks, marine protection and indemnity, or other risks commonly insured under
16 marine, as distinguished from inland marine, insurance policies.

17 7. Insurance risks described in section 20-382, subsection A,
18 paragraph ~~9~~ 8.

19 B. Rates for the types of insurance included in section 20-382 are
20 only subject to sections 20-381 through 20-399.

21 C. This section and sections 20-341 and 20-356 through 20-374 apply
22 to workers' compensation and employers' liability insurance incident to and
23 written in connection with workers' compensation on risks or operations in
24 this state.

25 D. This section and sections 20-341 and 20-361 through 20-379 apply
26 to title insurance on risks located in this state and to escrow services
27 performed by a title insurer or title insurance agent as defined in section
28 20-1562. Those sections are designated as the title insurance rate
29 regulatory provisions of this article and are the only sections of this
30 article that apply to title insurance.

31 Sec. 2. Section 20-382, Arizona Revised Statutes, is amended to read:

32 20-382. Scope of application

33 A. This article applies to all insurance on risks or on operations in
34 this state, except:

35 1. Reinsurance, other than joint reinsurance to the extent stated in
36 section 20-391.

37 2. Any policy of insurance against loss or damage to or legal
38 liability in connection with property located outside this state, any motor
39 vehicle or aircraft principally garaged and used outside this state or any
40 activity wholly carried on outside this state.

41 3. Insurance of vessels or craft, their cargoes, marine builders'
42 risks, marine protection and indemnity or other risks commonly insured under
43 marine, as distinguished from inland marine, insurance policies.

44 4. Disability or life insurance.

45 5. Annuities.

1 ~~6. Mortgage guaranty insurance.~~

2 ~~7. 6. Workers' compensation and employers' liability insurance~~
3 ~~written in connection with workers' compensation.~~

4 ~~8. 7. Title insurance.~~

5 ~~9. 8. Rates developed by an insurer to be applied individually to the~~
6 ~~insurance policies of risks, other than medical malpractice risks and~~
7 ~~industrial insured risks pursuant to section 20-400.10, for which no rate~~
8 ~~service organization has published a rate or loss costs in this or any other~~
9 ~~state and for which insufficient similar exposure units and loss experience~~
10 ~~data exist to develop statistically credible rates for the risk and no~~
11 ~~homogeneous rating class exists in which the risk could reasonably be~~
12 ~~placed. With respect to each type of risk covered by this subsection, the~~
13 ~~insurer shall annually certify by January 30 to the director for the~~
14 ~~preceding calendar year, on a form acceptable to the director, that the~~
15 ~~insurer did not have when the risks were written credible experience to~~
16 ~~establish a rating class for the specific types of risks. The insurer or~~
17 ~~rate service organization on the insurer's behalf shall file a rate for the~~
18 ~~specific risks with the director pursuant to section 20-385 when either of~~
19 ~~the following occurs:~~

20 (a) The insurer's written premiums for any specific risk covered by
21 this subsection exceed twenty-five per cent of the insurer's total annual
22 written premium in this state and the insurer has issued contracts for five
23 or more homogeneous risks covered by this subsection in this state in any
24 consecutive three year period, unless an insurer demonstrates to the director
25 that its experience under this subsection does not produce sufficient data
26 to satisfy the requirements of subdivision (b) of this paragraph.

27 (b) The number of specific risks covered by this subsection and
28 written by the insurer in a specific class meet the standards set forth in
29 the actuarial standard of practice 25 applying to credibility for rate making
30 purposes as adopted by the actuarial standards board as of January 1, 1997.

31 B. This article does not apply to hospital service or medical service
32 corporations, investment companies, mutual benefit associations or fraternal
33 beneficiary associations.

34 Sec. 3. Section 20-1549, Arizona Revised Statutes, is amended to read:
35 20-1549. Policy forms and premium rates filed

36 A. A person MORTGAGE GUARANTY INSURER shall file all policy forms,
37 endorsements and rates a mortgage guaranty insurer proposes to use with the
38 director PURSUANT TO CHAPTER 2, ARTICLE 4.1. With respect to owner-occupied,
39 single-family dwellings, the mortgage guaranty insurance policy shall provide
40 that the borrower shall not be liable to the insurance company for any
41 deficiency arising from a foreclosure sale.

42 ~~B. Each rate filing shall be on file for a waiting period of fifteen~~
43 ~~days before it becomes effective. Each policy form or endorsement filing~~
44 ~~shall be on file for a waiting period of thirty days before the insurer may~~
45 ~~deliver or issue for delivery in this state the policy form or endorsement.~~

1 ~~C.~~ B. Each mortgage guaranty insurance company shall adopt, print and
2 make available a schedule of premium charges for mortgage guaranty insurance
3 policies. Premium charges made pursuant to the provisions of this article
4 shall not be deemed to be interest or other charges under any other provision
5 of law limiting interest or other charges in connection with mortgage
6 loans. The schedule shall show the entire amount of premium charge for each
7 type of mortgage guaranty insurance policy issued by the insurance company.

8 Sec. 4. Section 20-1551, Arizona Revised Statutes, is amended to read:
9 20-1551. Rebates, commissions and charges

10 A. A mortgage guaranty insurance company shall not pay or cause to be
11 paid either directly or indirectly, to any owner, purchaser, lessor, lessee,
12 mortgagee or prospective mortgagee of the real property which secures the
13 authorized real estate security or which is the fee of an insured lease, or
14 any interest in such lease, or any person who is acting as an agent,
15 representative, attorney or employee of such owner, purchaser or mortgagee,
16 any commission, or any part of its premium charges or any other consideration
17 as an inducement for or as compensation on any mortgage guaranty insurance
18 business.

19 B. In connection with the placement of any mortgage guaranty
20 insurance, a mortgage guaranty insurance company shall not cause or permit
21 any commission, fee, remuneration or other compensation to be paid to or
22 received by any insured lender or lessor, any subsidiary or affiliate of any
23 insured, any officer, director or employee of any insured or any member of
24 such person's immediate family, any corporation, partnership, trust, trade
25 association in which any insured is a member or other entity in which any
26 insured or any such officer, director or employee or any member of such
27 person's immediate family has a financial interest, or any designee, trustee,
28 nominee or other agent or representative of any of the foregoing.

29 C. A mortgage guaranty insurance company shall not make any rebate of
30 any portion of the premium charge shown by the schedule required by section
31 20-1549, subsection ~~C.~~ B. A mortgage guaranty insurance company shall not
32 quote any rate or premium charge to any person which is different than that
33 currently available to others for the same type of coverage. The amount by
34 which any premium charge is less than that called for by the current schedule
35 of premium charges is an unlawful rebate.

36 D. Notwithstanding section 20-451, section 20-452, section 20-1553,
37 subsection B or any other provision of this section, a mortgage guaranty
38 insurance company may enter into an agreement with a mortgage lender or an
39 affiliate of a mortgage lender to provide financial incentives to the
40 mortgage lender for the performance of the mortgage loans insured by the
41 mortgage guaranty insurance company. The agreement to provide financial
42 incentives to mortgage lenders shall not take effect unless it is filed with
43 the director and either approved or not disapproved within thirty days after
44 being filed. The director's disapproval shall be in writing and shall

1 specify the reason for the disapproval. The director shall approve the
2 agreement upon finding that:

3 1. The agreement is not contrary to other applicable law.

4 2. The agreement is supported by information that establishes that the
5 mortgage guaranty insurer's rates filed pursuant to section 20-1549,
6 subsection B are not inadequate when considered in conjunction with the
7 financial incentives of the agreement.

8 E. The director may after notice and hearing suspend or revoke the
9 certificate of authority of any mortgage guaranty insurance company, or in
10 the director's discretion, issue a cease and desist order to any mortgage
11 guaranty insurance company which pays any commission or makes any unlawful
12 rebate in willful violation of the provisions of this article. In the event
13 of the issuance of a cease and desist order, the director may, after notice
14 and hearing, suspend or revoke the certificate of authority of any mortgage
15 guaranty insurance company which does not comply with the terms of such
16 certificate.

APPROVED BY THE GOVERNOR APRIL 7, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2003.

Passed the House February 3, 2003

Passed the Senate April 1, 2003

by the following vote: 57 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Blunett
President of the Senate

Norman L. Joyce
Chief Clerk of the House

Chermin Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2 day of April, 2003

at 12:40 o'clock P M.

Sandra James
Secretary to the Governor

Approved this 7 day of

April, 2003,

at 2⁰⁰ o'clock P M.

J. N. R. [Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of April, 2003,

at 4:27 o'clock P M.

Janice K. Brewer
Secretary of State

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