

House Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 135

# **HOUSE BILL 2110**

AN ACT

AMENDING SECTIONS 20-487, 20-698 AND 20-1098.15, ARIZONA REVISED STATUTES;  
RELATING TO RISK RETENTION GROUPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-487, Arizona Revised Statutes, is amended to  
3 read:

4 20-487. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accredited state" means a state in which the insurance department  
7 or other regulatory agency has qualified as meeting the minimum financial  
8 regulatory standards that are adopted and established by the national  
9 association of insurance commissioners.

10 2. "Control" or "controlled" has the same meaning as ~~provided~~  
11 PRESCRIBED in section 20-481.

12 3. "Controlled insurer" means a licensed insurer who is controlled by  
13 a producer.

14 4. "Controlling producer" means a producer who controls, directly or  
15 indirectly, an insurer.

16 5. "Licensed insurer" or "insurer" means a person, firm, association  
17 or corporation that is duly licensed to transact property or casualty  
18 insurance business in this state. For the purposes of this article, licensed  
19 insurer or insurer does not include a:

20 ~~(a) Risk retention group as defined in the superfund amendments and~~  
21 ~~reauthorization act of 1986 (42 United States Code section 9601), the risk~~  
22 ~~retention act (15 United States Code sections 3901, 3902, 3903, 3905 and~~  
23 ~~3906) and chapter 14, article 1 of this title.~~

24 ~~(b)~~ (a) Residual market pool and joint underwriting authority or  
25 association.

26 ~~(c)~~ (b) Captive insurer. For the purposes of this subdivision,  
27 "captive insurer" means an insurance company, OTHER THAN A RISK RETENTION  
28 GROUP AS DEFINED IN SECTION 20-1098 OR 20-2401, that is owned by another  
29 organization and whose exclusive purpose is to insure risks to member  
30 organizations or group members and their affiliates.

31 6. "Producer" means an insurance producer or any other person, firm,  
32 association or corporation when, for any compensation, commission or other  
33 thing of value, the person, firm, association or corporation acts or aids in  
34 any manner in soliciting, negotiating or procuring the making of an insurance  
35 contract on behalf of an insured other than the person, firm, association or  
36 corporation.

37 Sec. 2. Section 20-698, Arizona Revised Statutes, is amended to read:

38 20-698. Annual audited financial reports

39 A. For the year ending December 31, 2010 and for each year thereafter,  
40 every insurer ~~having direct premiums written in this state of one million~~  
41 ~~dollars or more in any calendar year and more than one thousand policyholders~~  
42 ~~or certificate holders of direct written policies nationwide at the end of~~  
43 ~~the calendar year~~ is subject to the requirements of the national association  
44 of insurance commissioners annual financial reporting model regulation for  
45 that calendar year. Every ~~insurer~~ ONLY INSURERS having direct premiums

1 written ~~in this state~~ of less than one million dollars NATIONWIDE in any  
2 calendar year and less than one thousand policyholders or certificate holders  
3 of direct written policies nationwide at the end of the calendar year ~~is~~ ARE  
4 exempt from the requirements of the national association of insurance  
5 commissioners annual financial reporting model regulation for that calendar  
6 year, unless the director makes a specific finding that compliance is  
7 necessary for the director to carry out statutory responsibilities. Insurers  
8 that assumed premiums pursuant to contracts or treaties of reinsurance of one  
9 million dollars or more are not exempt.

10 B. The director may determine whether, consistent with the  
11 requirements of the national association of insurance commissioners annual  
12 financial reporting model regulation:

13 1. A foreign or alien insurer may be exempt from ~~this article~~  
14 COMPLIANCE WITH ANY OR ALL OF THE ANNUAL FINANCIAL REPORTING REQUIREMENTS if  
15 the director finds its domiciliary jurisdiction has a substantially similar  
16 law in effect and the insurer has filed its audited financial report and  
17 other required communications with the director as otherwise required by this  
18 article.

19 2. An insurer is required to file an audited financial report earlier  
20 than June 1, with ninety days' advanced notice to the insurer.

21 3. An extension of the June 1 filing date will be granted for  
22 thirty-day periods.

23 4. An exception will be granted to the rotation requirement for a lead  
24 audit partner for an insurer.

25 5. An individual meets the qualifications as an independent certified  
26 public accountant for the purposes of this article.

27 6. A financial or organizational hardship exemption will be granted to  
28 allow a qualified independent certified public accountant to perform nonaudit  
29 services for an insurer having direct written and assumed premiums of less  
30 than one hundred million dollars in any calendar year.

31 7. An insurer may file consolidated or combined audited financial  
32 statements in lieu of a separate annual audited financial statement if the  
33 insurer is part of a group of insurance companies that uses a pooling or one  
34 hundred per cent reinsurance agreement that affects the solvency and  
35 integrity of the insurer's reserves and the insurer cedes all of its direct  
36 and assumed business to the pool.

37 8. An insurer will be granted a hardship waiver of the audit committee  
38 requirements regarding independent audit committee members.

39 9. An insurer will be granted a financial or organizational hardship  
40 exemption from compliance with any or all of the annual financial reporting  
41 requirements.

1           Sec. 3. Section 20-1098.15, Arizona Revised Statutes, is amended to  
2 read:

3           20-1098.15. Applicability

4           A. Chapter 2, article 6 of this title relating to unfair trade  
5 practices and frauds applies to captive insurers, except to the extent the  
6 director determines the nature of captive insurance renders particular  
7 portions PROVISIONS of chapter 2, article 6 of this title inappropriate.

8           B. All other provisions of this title that are not inconsistent with  
9 this article apply to captive insurers, except to the extent the director  
10 determines the nature of captive insurance renders particular provisions of  
11 this title inappropriate.

12           C. A captive insurer that is formed as a corporation is subject to the  
13 applicable provisions of title 10, except as otherwise prescribed in this  
14 article.

15           D. A captive insurer that is formed as a limited liability company is  
16 subject to the applicable provisions of title 29, except as otherwise  
17 prescribed in this article.

18           E. The provisions of article 1 of this chapter relating to mergers,  
19 consolidations, conversions, mutualizations and redomestications apply in  
20 determining the procedures to be followed by captive insurers in carrying out  
21 those transactions, except that the director may waive or modify the  
22 requirements for a public notice and hearing prescribed in section 20-731.

23           F. CHAPTER 2, ARTICLE 8 OF THIS TITLE RELATING TO INSURANCE HOLDING  
24 COMPANY SYSTEMS APPLIES TO RISK RETENTION GROUPS AS DEFINED IN SECTION  
25 20-1098 OR 20-2401.

APPROVED BY THE GOVERNOR APRIL 18, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2011.

Passed the House February 8, 20 11

by the following vote: 59 Ayes,

0 Nays,                      Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

Passed the Senate April 12, 20 11

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

Charmain Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

12 day of April, 20 11

at 3:30 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 18<sup>th</sup> day of

April

at 9:45 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13<sup>th</sup> day of April, 20 11

at 12:19 o'clock                      M.

[Signature]  
Secretary of State

H.B. 2110