

Senate Engrossed House Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

**CHAPTER 251
HOUSE BILL 2279**

AN ACT

AMENDING SECTIONS 20-265, 20-381 AND 20-465, ARIZONA REVISED STATUTES;
RELATING TO THE TRANSACTION OF INSURANCE BUSINESS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-265, Arizona Revised Statutes, is amended to
3 read:

4 20-265. Motor vehicle insurance; premium and fee comparisons
5 and complaint ratios

6 The department of insurance shall compile ~~premium~~ comparisons OF
7 PREMIUM AND FEES CHARGED AT POLICY INCEPTION and complaint ratios for
8 motor vehicle insurance policies that insure six or fewer motor
9 vehicles. The ~~premium~~ comparisons shall reflect premiums AND FEES
10 ASSOCIATED WITH THE INCEPTION OF A POLICY for not fewer than five
11 hypothetical insureds for urban areas and five hypothetical insureds for
12 rural areas. The department of insurance shall forward copies of the
13 ~~premium~~ comparisons OF PREMIUM AND FEES CHARGED AT POLICY INCEPTION and
14 complaint ratios to the department of transportation. The director of the
15 department of transportation in consultation with the director of the
16 department of insurance shall make the copies available to the public.
17 The department of insurance may include in the premium comparison
18 information consumer information that describes the nature of bodily
19 injury coverage, property damage coverage, collision coverage,
20 comprehensive coverage, medical payment coverage, uninsured motorist
21 coverage and underinsured motorist coverage.

22 Sec. 2. Section 20-381, Arizona Revised Statutes, is amended to
23 read:

24 20-381. Definitions

25 In this article, unless the context otherwise requires:

26 1. "Advisory organization" means any person other than a single
27 insurer who assists insurers or rate service organizations in the making
28 of rates by compiling and furnishing loss or expense statistics or other
29 statistical information and data, or by the submission of recommendations
30 as to rates, forms or supplementary rate information. Advisory
31 organization does not include a joint underwriting association, any
32 actuarial or legal consultant, any employee of an insurer or insurers
33 under common control or management or their employees or manager.

34 2. "Loss cost adjustment" means that portion of a rate filed by an
35 insurer with the director that includes the insurer's general expenses,
36 total product expenses, taxes, licenses and fee expenses and underwriting
37 profit and contingencies. Loss cost adjustment does not include loss
38 adjustment expenses or prospective loss costs.

39 3. "Loss cost modification factor" means that rating factor filed
40 by an insurer with the director for the purpose of modifying the rate
41 service organization's prospective loss cost filing.

42 4. "Prospective loss costs" means the historical aggregate losses
43 and loss adjustment expenses filed by a rate service organization with the
44 director on which a portion of a rate is based, adjusted through actuarial
45 trending to a future point in time and developed to their ultimate values.

1 5. "Rate" means that cost of insurance per exposure unit whether
2 expressed as a single number or as a prospective loss cost with an
3 adjustment to account for the treatment of expenses, profit and individual
4 insurer variation in loss experience before any application of individual
5 risk variations based on loss or expense considerations. Rate does not
6 include the minimum premium.

7 6. "Rate service organization" means any person other than a single
8 insurer who assists insurers by compiling and furnishing loss or expense
9 statistics and recommending, making or filing rates, forms or
10 supplementary rate information. Rate service organization does not
11 include a joint underwriting association, any actuarial or legal
12 consultant, any employee of an insurer or insurers under common control or
13 management, or their employees or manager.

14 7. "Supplementary rate information" means any manual or plan of
15 rates, statistical plan, classification, rating schedule, minimum premium,
16 ~~policy fee~~ SCHEDULE OF FEES, INCLUDING MEMBERSHIP FEES CHARGED BY A
17 RECIPROCAL OR MUTUAL INSURER, rating rule, rate related underwriting rule
18 and any other information used by an insurer in making rates.
19 Supplementary rate information does not include the final rate pages that
20 combine the prospective loss costs with the loss cost adjustments.

21 Sec. 3. Section 20-465, Arizona Revised Statutes, is amended to
22 read:

23 20-465. Fees; insurance producers; definition

24 A. An ~~insurer and~~ insurance producer shall not charge or receive
25 any fee or service charge in addition to the premium ~~charged for services~~
26 ~~customarily provided in CONNECTION WITH the transaction of insurance, for~~
27 ~~motor vehicle insurance policies that insure six or fewer motor vehicles.~~

28 ~~B. An insurer and insurance producer may charge and receive a fee~~
29 ~~for services not customarily provided in the transaction of insurance if~~
30 ~~the fee is filed with the director and the following conditions exist:~~

31 ~~1. The services performed by the insurer or insurance producer are~~
32 ~~in excess of those normally performed for insureds. UNLESS BOTH OF THE~~
33 ~~FOLLOWING APPLY:~~

34 ~~2. 1. The FEE OR service charge and the specific services for~~
35 ~~which the charge is made IT IS CHARGED are disclosed and agreed to in~~
36 ~~writing by the insured on a form that is approved by the director.~~

37 ~~3. 2. The amount of the FEE OR service charge is reasonably~~
38 ~~related to the cost of the service performed RENDERED AND DOES NOT~~
39 ~~DUPLICATE OR INCREASE ANY FEE OR SERVICE CHARGE INCLUDED IN THE INSURER'S~~
40 ~~RATE FILING PURSUANT TO THIS TITLE.~~

41 ~~C. After notice and a hearing, the director shall prescribe the~~
42 ~~services that are customarily provided in the transaction of insurance.~~

43 ~~D. B. If after an examination and a hearing the director~~
44 ~~determines that an insurer or insurance producer has violated subsection A~~
45 ~~of FAILED TO COMPLY WITH this section, the director may order the insurer~~

1 ~~or insurance producer to refund the fee or that part of the fee that the~~
2 ~~director determines was excessive~~ ALL OR PART OF THE FEE OR SERVICE CHARGE
3 and may impose civil penalties as set forth in section ~~20-456~~ 20-295. The
4 ~~insurer or insurance producer shall pay the costs of the examination from~~
5 monies deposited with the director pursuant to section 20-159 regardless
6 of the findings of the examination.

7 C. THIS SECTION DOES NOT RESTRICT OR PROHIBIT INSURANCE PRODUCERS
8 FROM CHARGING AND COLLECTING FEES INCLUDED IN THE INSURER'S RATE FILING
9 PURSUANT TO THIS TITLE.

10 ~~E. This section does not prohibit fees, including membership fees~~
11 ~~charged by a reciprocal or mutual insurer, if the fees are filed with the~~
12 ~~director and are included by an insurer in supplemental rate information.~~

13 D. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, AN INSURANCE
14 PRODUCER SHALL NOT CHARGE OR RECEIVE ANY FEE OR SERVICE CHARGE IN
15 CONNECTION WITH THE TRANSACTION OF LIFE, ANNUITY, LONG-TERM CARE OR
16 MEDICARE SUPPLEMENT INSURANCE.

17 ~~F. E. This section does not apply to insurers and insurance~~
18 ~~producers transacting commercial insurance. For the purposes of this~~
19 ~~subsection~~ SECTION, "commercial insurance" means insurance that insures
20 against the risks ~~resulting from the responsibilities or activities of one~~
21 ~~or more businesses, including motor vehicle insurance policies insuring~~
22 ~~seven or more motor vehicles~~ ARISING FROM BUSINESS AND COMMERCIAL ACTIVITY
23 OTHER THAN INSURANCE MAINTAINED BY A TRANSPORTATION NETWORK COMPANY DRIVER
24 UNDER A PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICY.

25 F. THIS SECTION DOES NOT APPLY TO SURPLUS LINES BROKERS TRANSACTING
26 SURPLUS LINES INSURANCE AS SET FORTH IN ARTICLE 5 OF THIS CHAPTER.

27 Sec. 4. Intent

28 It is the intent of the legislature that the only limitations on the
29 ability of insurance producers to charge or receive compensation for
30 additional services provided to insureds, whether referred to as fees or
31 any other name, are set forth in section 20-465, Arizona Revised Statutes,
32 as amended by this act. The legislature further intends that the
33 limitations set forth in section 20-465, Arizona Revised Statutes, as
34 amended by this act, apply only to insurance producers and are not
35 applicable to fees or service charges charged by insurers pursuant to the
36 applicable law.

APPROVED BY THE GOVERNOR MAY 2, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2017.

Passed the House February 9, 20 17

Passed the Senate April 18, 2017

by the following vote: 57 Ayes,

by the following vote: 28 Ayes,

1 Nays, 2 Not Voting

0 Nays, 2 Not Voting



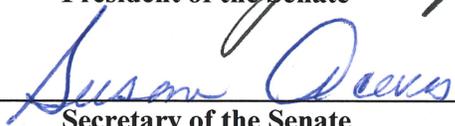
Speaker of the House Pro Tempore



President of the Senate



Chief Clerk of the House



Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2279

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

_____ April 26, 20 17,

by the following vote: _____ 54 _____ Ayes,

_____ 0 _____ Nays, _____ 6 _____ Not Voting

Speaker of the House

_____ Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ 26th _____ day of _____ April _____, 20 17,

at _____ 11:56 _____ o'clock _____ A. _____ M.

Secretary to the Governor

Approved this _____ 2nd _____ day of

_____ May _____, 20 17,

at _____ 9:54 _____ o'clock _____ A _____ M.

Governor of Arizona

H.B. 2279

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ 2 _____ day of _____ May _____, 20 17,

at _____ 12:35 _____ o'clock _____ P _____ M.

Secretary of State