ARIZONA PROPERTY & CASUALTY INSURANCE GUARANTY FUND

Version in effect until July 1, 2015

CITATION & EFFECTIVE DATE

Ariz. Rev. Stat. Ann. §20-661 et. seq. (1977), 1977 Ariz. Sess. Laws, ch. 130, §2; 8/27/77.

MODEL OR SIMILAR ACT

Yes

COVERED CLAIMS

COVERED LINES OF BUSINESS

All kinds of insurance except life, title, surety, disability, credit, mortgage guarantee, workers' compensation, ocean marine insurance, warranty, any kind of surplus lines insurance and any policy of insurance issued to an industrial insured pursuant to §20-400.10 and any new types of coverages approved or permitted after the effective date, August 27, 1977. Worker's compensation claims of insolvent insurers paid by Arizona competitive state fund.

UNEARNED PREMIUM

is covered, subject to a $25 deductible per claim up to a maximum of $10,000.

COVERED CLAIM

is an unpaid claim, including one for unearned premium, under a covered policy of an insolvent insurer, and the claimant or insured is a resident of the state at the time of the insured event or the property from which the claim arises is permanently located in the state. Guaranty fund is obligated to the extent of covered claims existing prior to the determination of insolvency or arising within thirty days thereafter. The fund may by resolution bar known claims, whether liquidated or unliquidated, not filed within four months from the date of notice to creditors.

ASSESSMENTS

SEPARATE ACCOUNTS

* + 1. Automobile
    2. All Others

MAXIMUM ANNUAL %

1% per account.

$200 per member insurer per year assessment for operating expenses is permitted.

RECOUPMENT PROVISION

Premium tax offset allowed for 1992, 13%; 1993, 11%; 1994, 13%; beginning in 1995, 20% of assessment per year for five years, beginning with year of assessment. In no event may the total amount of offset exceed 100% of assessment

BASE YEAR

Year preceding year of assessment

LIMITS ON CLAIMS

DEDUCTIBLE OR MINIMUM PER CLAIM

$25 for unearned premium claims, $100 for all other.

MAXIMUM PER CLAIM

$300,000 per claim, with $10,000 limit for unearned premium claims

NET WORTH PROVISION

No

OTHER

NONCOVERED CLAIMS

Amounts due any reinsurer, insurer, insurance pool, or underwriting association as subrogation recoveries or otherwise, nor shall it include any obligations of the insolvent insurer arising out of any reinsurance contracts. Workers’ Compensation claims of insolvent insurers are the responsibility of the Industrial Commission,

Covered claim also does not include taxable costs, attorney's fees, interest or adjustment expenses incurred prior to the determination of insolvency.

CLAIMS COVERED BY OTHER INSURANCE AND OTHER GUARANTY ASSOCIATIONS

Any person having a claim against an insurer under any provision in an insurance policy that is also a covered claim shall be required to exhaust first all rights under any such policy. Any amount payable on a covered claim shall be reduced by the amount of any recovery under such insurance policy. Any recovery pursuant to this article shall be reduced by the amount of the recovery under the claimant's insurance policy. A member insurer or other insurer, which pays such insurer's own policy, shall have no right of subrogation or recovery against the insured of an insolvent insurer. Any person having a claim that may be covered by more than one guaranty association or who is insured under more than one policy shall first exhaust coverage from the association of the place of residence of the insured, or, if it is a first party claim for damage to property with a permanent location, shall first exhaust coverage from the association of the location of the property, or shall first exhaust coverage under such other policy. Any recovery made from this guaranty fund shall be reduced by the amount of the recovery from any other association or from any other insurance policy. Where more than one policy may be applicable, a policy issued by the insolvent insurer shall be deemed to be excess coverage. The claimant shall be required to exhaust all rights under other applicable coverage or coverages. Any recovery pursuant to this article shall be reduced by the amount of the recovery under the claimant’s insurance policy. Any amount payable on a covered claim shall be reduced by the amount of such recovery under other applicable insurance.

If damages against uninsured motorists are recoverable by the claimant from such claimant's own insurer, such recoverable damages shall reduce the amount of any recovery pursuant to this article if the full amount of such uninsured motorist coverage has been exhausted. Such claimant shall have no claim against the insured of the insolvent carrier or the fund if the full amount of uninsured motorist coverage was not recovered by such claimant. A member insurer shall have no right of subrogation against the insured of the insolvent carrier or against the fund for any amount paid by such insurer under uninsured motorist coverage. A member insurer may file a claim for such subrogation payments under uninsured motorist coverage against the ancillary or domiciliary receiver of the insolvent insurer.

TERMINATION PROVISION

None

MISCELLANEOUS

Insolvent insurer is defined as an insurer licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred and against whom an order of liquidation with a finding of insolvency has been entered after the effective date of this amendment to this section by a court of competent jurisdiction in the insurer’s state of domicile or by this state pursuant to section 20-623 and the order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.

Guaranty fund is established within department of insurance. Guaranty fund board manages guaranty fund subject to the powers of the insurance director.

Notice of claims to the receiver is deemed notice to the guaranty fund.

Insurance director is obligated to immediately make available to the guaranty fund such assets of the insolvent insurer which are not required for payment of any claim accorded a higher priority.

The fund shall receive the proceeds of any amounts recoverable on reinsurance contracts or treaties entered into by the insolvent insurer that cover any of the liabilities incurred by the insolvent insurer under covered lines of business.

If a covered claim arises out of two or more policies to which this article applies, a recovery under one policy reduces the amount that is payable under the other policy. The fund is not liable for the payment of more than one policy on a covered claim.

No cause of action shall arise against the fund, any member insurer, the association or its employees or agents, the board of directors, or the director or representatives of the director for any action taken pursuant to this chapter.

All proceedings against an insolvent insurer or any party to be defended by an insolvent insurer shall be stayed for six months from the date the insolvency is determined or an ancillary proceeding is instituted, whichever is later. Court may lengthen or shorten stay on showing of good cause.

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MODEL OR SIMILAR ACT

Yes

COVERED CLAIMS

COVERED LINES OF BUSINESS

All kinds of insurance except life, title, surety, disability, credit, mortgage guarantee, ocean marine insurance, warranty, any kind of surplus lines insurance and any policy of insurance issued to an industrial insured pursuant to §20-400.10 and any new types of coverages approved or permitted after the effective date, August 27, 1977. Worker's compensation claims of insolvent insurers paid by Arizona competitive state fund.

UNEARNED PREMIUM

is covered, subject to a $25 deductible per claim up to a maximum of $10,000.

COVERED CLAIM

is an unpaid claim, including one for unearned premium, under a covered policy of an insolvent insurer, and the claimant or insured is a resident of the state at the time of the insured event or the property from which the claim arises is permanently located in the state. Guaranty fund is obligated to the extent of covered claims existing prior to the determination of insolvency or arising within thirty days thereafter.

A covered claim shall not include a claim filed with the fund after the earlier of 1. Eighteen months after the date of the order of liquidation, 2. The final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer. Notwithstanding this provision a covered claim for workers’ compensation shall include claims filed that meet the requirements of section 20-667, subsection A and the statutory filing requirements of section 23-1061 (workers compensation code.).

ASSESSMENTS

SEPARATE ACCOUNTS

* + 1. Automobile
    2. Workers’ compensation
    3. All Others

MAXIMUM ANNUAL %

1% per account.

$200 per member insurer per year assessment for operating expenses is permitted.

RECOUPMENT PROVISION

Premium tax offset allowed for 1992, 13%; 1993, 11%; 1994, 13%; beginning in 1995, except for premium taxes and assessments collected pursuant to title 23, chapter 6 (workers compensation code) 20% of assessment per year for five years, beginning with year of assessment. In no event may the total amount of offset exceed 100% of assessment

BASE YEAR

Year preceding year of assessment

LIMITS ON CLAIMS

DEDUCTIBLE OR MINIMUM PER CLAIM

$25 for unearned premium claims, $100 for all other.

MAXIMUM PER CLAIM

$300,000 per claim, with $10,000 limit for unearned premium claims. No limit for workers compensation claims.

NET WORTH PROVISION

No

OTHER

NONCOVERED CLAIMS

Amounts due any reinsurer, insurer, insurance pool, or underwriting association as subrogation recoveries or otherwise, nor shall it include any obligations of the insolvent insurer arising out of any reinsurance contracts. Workers’ Compensation claims of insolvent insurers are the responsibility of the Industrial Commission,

Covered claim also does not include taxable costs, attorney's fees, interest or adjustment expenses incurred prior to the determination of insolvency.

CLAIMS COVERED BY OTHER INSURANCE AND OTHER GUARANTY ASSOCIATIONS

Any person having a claim against an insurer under any provision in an insurance policy that is also a covered claim shall be required to exhaust first all rights under that policy. Any amount payable on a covered claim shall be reduced by the amount of any recovery under such insurance policy. Any recovery pursuant to this article shall be reduced by the amount of the recovery under the claimant's insurance policy. A member insurer or other insurer, which pays such insurer's own policy, shall have no right of subrogation or recovery against the insured of an insolvent insurer. A claimant for workers’ compensation benefits shall have all rights and obligations conferred under title 23, chapter 6 Any person having a claim that may be covered by more than one guaranty association or who is insured under more than one policy shall first exhaust coverage from the association of the place of residence of the insured, or, if it is a first party claim for damage to property with a permanent location, shall first exhaust coverage from the association of the location of the property, or shall first exhaust coverage under such other policy, and if it’s a workers’ compensation claim, recovery shall be sought from the guaranty fund or its equivalent of the place of residence of the claimant. Any recovery made from this guaranty fund shall be reduced by the amount of the recovery from any other association or from any other insurance policy. Where more than one policy may be applicable, a policy issued by the insolvent insurer shall be deemed to be excess coverage. The claimant shall be required to exhaust all rights under other applicable coverage or coverages. Any recovery pursuant to this article shall be reduced by the amount of the recovery under the claimant’s insurance policy. Any amount payable on a covered claim shall be reduced by the amount of such recovery under other applicable insurance.

Except for workers’ compensation claims, if damages against uninsured motorists are recoverable by the claimant from the claimant's own insurer, the recoverable damages shall reduce the amount of any recovery pursuant to this article if the full amount of such uninsured motorist coverage has been exhausted. The claimant shall have no claim against the insured of the insolvent carrier or the fund if the full amount of uninsured motorist coverage was not recovered by such claimant. A member insurer shall have no right of subrogation against the insured of the insolvent carrier or against the fund for any amount paid by the insurer under uninsured motorist coverage. A member insurer may file a claim for subrogation payments under uninsured motorist coverage against the ancillary or domiciliary receiver of the insolvent insurer.

TERMINATION PROVISION

None

MISCELLANEOUS

Insolvent insurer is defined as an insurer licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred and against whom an order of liquidation with a finding of insolvency has been entered after September 19, 2007 by a court of competent jurisdiction in the insurer’s state of domicile or by this state pursuant to section 20-623 and the order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order. For purposes of the workers’ compensation insurance account, an « insolvent insurer » also includes any insolvent insurer against which an order of liquidation with a finding of insolvency has been entered on, before or after the effective date of this section.

Guaranty fund is established within department of insurance and financial institutions. Guaranty fund board manages guaranty fund subject to the powers of the insurance director.

Notice of claims to the receiver is deemed notice to the guaranty fund.

Insurance director is obligated to immediately make available to the guaranty fund such assets of the insolvent insurer which are not required for payment of any claim accorded a higher priority.

The fund shall receive the proceeds of any amounts recoverable on reinsurance contracts or treaties entered into by the insolvent insurer that cover any of the liabilities incurred by the insolvent insurer under covered lines of business.

If a covered claim arises out of two or more policies to which this article applies, a recovery under one policy reduces the amount that is payable under the other policy. The fund is not liable for the payment of more than one policy on a covered claim.

No cause of action shall arise against the fund, any member insurer, the association or its employees or agents, the board of directors, or the director or representatives of the director for any action taken pursuant to this chapter.

All proceedings against an insolvent insurer or any party to be defended by an insolvent insurer shall be stayed for six months from the date the insolvency is determined or an ancillary proceeding is instituted, whichever is later. Court may lengthen or shorten stay on showing of good cause. This provision does not apply to proceedings in which the insolvent insurer is a party to a proceeding before the industrial commission regarding employee benefits under title 23, chapter 6 (workers compensation code). Except that on showing of good cause the Industrial commission shall grant up to a ninety-day continuance of any scheduled hearing to allow the fund to assume the defense and investigate the claim.