House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 149

HOUSE BILL 2547

AN ACT

AMENDING SECTION 20-1652, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 120, SECTION 1; AMENDING SECTION 20-1652, ARIZONA REVISED STATUTES; RELATING TO INSURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 20-1652, Arizona Revised Statutes, as amended by Laws 2003, chapter 120, section 1, is amended to read:

20-1652. Grounds for valid notice of cancellation

A. After a policy has been in effect for sixty days or, if the policy is a renewal, effective immediately, no notice of cancellation may be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following:

1. Nonpayment of premium.

2. Conviction of the named insured of a crime arising out of acts increasing the hazard insured against.

3. Acts or omissions by the insured or the insured's representative constituting fraud or material misrepresentation in obtaining the policy, continuing the policy, or presenting a claim under the policy.

4. Discovery of grossly negligent acts or omissions by the insured substantially increasing any of the hazards insured against.

5. Substantial change in the risk assumed by the insurer, since the policy was issued, except to the extent that the insurer should reasonably have forseen the change or contemplated the risk in writing the contract.

6. A determination by the director of insurance that the continuation of the policy would place the insurer in violation of the insurance laws of this state.

7. Failure of the insured to take reasonable steps to eliminate or reduce any conditions in or on the insured premises that contributed to a loss in the past or will increase the probability of future losses.

B. In the event of nonrenewal based on condition of the premises, the insured shall be given thirty days' notice to remedy the identified conditions. In the event that the identified conditions are remedied, coverage shall be renewed. In the event that the identified conditions are not satisfactorily remedied, the insured shall be given an additional thirty days, upon payment of premium, to cure the defective condition. Any insured who believes nonrenewal under this subsection is arbitrary or capricious may utilize the appeal procedures set forth in section 20-1633.

C. If an insurer uses for underwriting purposes information from a report provided by, or database maintained by, an insurance support organization, as defined in section 20-2102, or consumer reporting agency, as defined in section 20-2102, related to the premises that is the subject of the application or to the person applying for insurance, the insurer shall obtain that information as soon as practicable on application by a person for insurance coverage and before the issuance of a binder of insurance coverage. Failure of the insurer to timely obtain the information required by this subsection precludes the insurer from declining insurance coverage or terminating a binder of insurance coverage based on the information. This subsection does not apply to a policy renewal.

D. This section does not affect the provisions of section 20-1120.

E. After thirty days from the application by an insured for insurance coverage, no declination ~~or termination~~ of insurance coverage OR TERMINATION OF A BINDER shall be based on information from a consumer report, including a consumer report provided by, or database maintained by, an insurance support organization, as defined in section 20-2102, or consumer reporting agency, as defined in section 20-2102, related to the premises that is the subject of the application or to the person applying for insurance. Notwithstanding any other law, an insurer may decline or terminate insurance coverage based on the condition of the premises as determined through a physical inspection of the premises.

Sec. 2. Section 20-1652, Arizona Revised Statutes, as amended by section 1 of this act, is amended to read:

20-1652. Grounds for valid notice of cancellation; inquiries; definitions

A. After a policy has been in effect for sixty days or, if the policy is a renewal, effective immediately, no notice of cancellation may be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following:

1. Nonpayment of premium.

2. Conviction of the named insured of a crime arising out of acts increasing the hazard insured against.

3. Acts or omissions by the insured or the insured's representative constituting fraud or material misrepresentation in obtaining the policy, continuing the policy~~,~~ or presenting a claim under the policy.

4. Discovery of grossly negligent acts or omissions by the insured substantially increasing any of the hazards insured against.

5. Substantial change in the risk assumed by the insurer, since the policy was issued, except to the extent that the insurer should reasonably have forseen the change or contemplated the risk in writing the contract.

6. A determination by the director of insurance that the continuation of the policy would place the insurer in violation of the insurance laws of this state.

7. Failure of the insured to take reasonable steps to eliminate or reduce any conditions in or on the insured premises that contributed to a loss in the past or will increase the probability of future losses.

B. In the event of nonrenewal based on condition of the premises, the insured shall be given thirty days' notice to remedy the identified conditions. In the event that the identified conditions are remedied, coverage shall be renewed. In the event that the identified conditions are not satisfactorily remedied, the insured shall be given an additional thirty days, upon payment of premium, to cure the defective condition. Any insured who believes nonrenewal under this subsection is arbitrary or capricious may utilize the appeal procedures set forth in section 20-1633.

C. If an insurer uses for underwriting purposes information from a report provided by, or database maintained by, an insurance support

organization~~, as defined in section 20-2102,~~ or consumer reporting agency~~, as defined in section 20-2102,~~ related to the premises that is the subject of the application or to the person applying for insurance, the insurer shall obtain that information as soon as practicable on application by a person for insurance coverage and before the issuance of a binder of insurance coverage. Failure of the insurer to timely obtain the information required by this subsection precludes the insurer from declining insurance coverage or terminating a binder of insurance coverage based on the information. This subsection does not apply to a policy renewal.

D. This section does not affect the provisions of section 20-1120.

E. After thirty days from the application by an insured for insurance coverage, no declination of insurance coverage or termination of a binder shall be based on information from a consumer report, including a consumer report provided by, or database maintained by, an insurance support organization~~, as defined in section 20-2102,~~ or consumer reporting agency~~, as defined in section 20-2102,~~ related to the premises that is the subject of the application or to the person applying for insurance. Notwithstanding any other law, an insurer may decline or terminate insurance coverage based on the condition of the premises as determined through a physical inspection of the premises.

F. AN INSURER SHALL NOT CONSIDER AS A CLAIM ANY INQUIRY BY AN INSURED INTO WHETHER A POLICY WILL COVER A LOSS OR ABOUT THE TYPE OR LEVEL OF COVERAGE. AN INSURER SHALL NOT USE SUCH AN INQUIRY, REGARDLESS OF THE SOURCE OF THE INFORMATION THAT AN INQUIRY WAS MADE, AS A BASIS FOR DECLINING, NONRENEWING OR CANCELING INSURANCE COVERAGE OR A BINDER OF INSURANCE COVERAGE. AN INSURER SHALL NOT SUBMIT TO ANY INSURANCE SUPPORT ORGANIZATION OR CONSUMER REPORTING AGENCY THAT A MERE INQUIRY WAS MADE TO THE INSURER AS TO THE TERMS OR COVERAGE OF A POLICY OF INSURANCE. AN INQUIRY INTO COVERAGE ON A PROPERTY INSURANCE POLICY IS NOT A CLAIM ACTIVITY UNLESS AN ACTUAL CLAIM IS FILED BY THE INSURED THAT RESULTS IN AN INVESTIGATION OF THE CLAIM BY THE INSURER.

G. FOR THE PURPOSES OF THIS SECTION:

1. "CONSUMER REPORTING AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-2102.

2. "INSURANCE SUPPORT ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-2102.

Sec. 3. Retroactivity

Section 20-1652, Arizona Revised Statutes, as amended by section 1 of this act, applies retroactively to from and after December 31, 2003.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.