





**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

The rulemaking does not diminish a previous grant of authority granted to the Division.

**8. The preliminary summary of the economic, small business, and consumer impact:**

Pursuant to A.R.S. § 41-1055(A)(1):

- The rulemaking is not designed to change any conduct of service companies not already required by statute. Instead, the rule clarifies statutory terms that are vague, itemizes what an applicant must submit when applying for a permit or a renewal of a permit while allowing for the late-renewal of a permit, defines the term of a permit, provides guidance on meeting the financial responsibility requirements of A.R.S. § 20-1095.04, and notifies service companies of the provisions the Division will be reviewing in policy form filings.
- The purpose of notifying service companies about policy forms is to promote more understandable forms which should allow consumers to make more informed decisions when entering into service contracts. Having informed consumers should reduce the complaints received by the Division about service company contracts and the time and attention that service companies must expend when responding to these complaints.

Pursuant to A.R.S. § 41-1055(A)(2):

- The costs incurred by service companies are not expected to impact revenues or payroll expenditures. Instead, the costs incurred are compliance costs incurred during the permitting process and forms approval process. Having more understandable policy forms should reduce costs to service companies incurred when responding to complaints filed with the Division.
- Industry groups have not articulated any costs as of this juncture. The Division believes that it has selected an alternative that imposes the least burden and costs to persons regulated by the rule. However, industry groups are invited to provide the Division with any incurred cost information that may be helpful to the Division when formulating its Economic Impact Statement.

Pursuant to A.R.S. § 41-1055(A)(3):

- The employee listed in Item 9 may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Mary E. Kosinski  
Address: Department of Insurance and Financial Institutions  
100 N. 15th Ave., Suite 261  
Phoenix, AZ 85007-2630  
Telephone: (602) 364-3476  
Email: [mary.kosinski@difi.az.gov](mailto:mary.kosinski@difi.az.gov)

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No hearing is currently scheduled. Persons who wish to request an oral proceeding on this rulemaking should make a written request to the person listed in item 9. Requests must be received within 30 days of the publication of this Notice of Proposed Rulemaking. A.R.S. § 41-1023(C). If requested, the oral proceeding will be conducted at least 30 days after the receipt of any such request. The Division will publish a Notice of Oral Proceeding in the *Administrative Register*, notifying parties of the date and time of the proceeding. All oral proceedings are currently being conducted virtually.

In lieu of an oral proceeding, interested parties may submit public comments to: [public\\_comments@difi.az.gov](mailto:public_comments@difi.az.gov)

If no one requests an oral proceeding, the public comment period will close at 11:59 p.m. on the 30th day after the publication date of this Notice of Proposed Rulemaking. If anyone requests an oral proceeding, the public comment period will close at 11:59 p.m. on the date of the oral proceeding.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

No other matters prescribed by statute are applicable to the Division or to any specific rule or class of rules.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

A.R.S. § 20-1095.01 requires a service company to obtain a permit from the Division before it can issue service contracts. The rule does not require a permit. Instead, the rule notifies applicants about applying for the permit, the term of the permit, how to comply with the financial requirements for obtaining a permit, and how to renew the permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

No federal law is applicable to the subject of the rule.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No formal analysis has been submitted to the Division that compares the rule's impact of the competitiveness of business in this state to the impact of business in other states.



**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

The rule does not incorporate any materials by reference.

**13. The full text of the rule follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 4. TYPES OF INSURANCE COMPANIES**

Section  
R20-6-407. Service Companies

**ARTICLE 4. TYPES OF INSURANCE COMPANIES**

**R20-6-407. Service Companies**

A. Scope. This rule shall apply to all service companies except those ~~which that~~ are exempt under A.R.S. § 20-1095.02.

B. Definitions. ~~The definitions in A.R.S. § 20-1095 apply to this rule.~~

1. ~~“Gray Market” auto means an imported motor vehicle which has not been certified for all safety, emission, and other federal and state standards prior to the arrival of the vehicle into the United States.~~  
~~“Contract Holder” has the same meaning as “consumer” as defined in A.R.S. § 20-1095(1).~~
2. ~~“Service” within the meaning of Article 11, Chapter 4, Title 20 includes reimbursement for towing, car rental, lodging or travel breakdown expenses.~~  
~~“Department” means the Arizona Department of Insurance and Financial Institutions.~~
3. ~~The “Contract Holder” means the consumer as defined in A.R.S. § 20-1095(1). “Director” means the Director of the Department.~~
4. ~~“Division” means the Division of Insurance of the Department.~~
5. ~~“Insolvent” as used in A.R.S. § 20-1095.08(3) means total liabilities are equal to or exceed total assets.~~
6. ~~“Provider” means a person who is contractually obligated to the service contract holder under the terms of a service contract “Provider” is synonymous with “service company” and “obligor” as defined in A.R.S. § 20-1095(6).~~
7. ~~“Reasonable time” or “Reasonable period of time:”~~
  - a. ~~As used in A.R.S. § 20-1095.06(C)(2), means at the time of purchase or mailed or electronically delivered but not more than two business days after the purchase date of the contract. If a service company mails the contract, it can establish proof of mailing by USPS certified mail or first class mail using intelligent barcode or another similar tracking method used or approved by the USPS. If a service company electronically delivers the contract it must be delivered consistent with the requirements of Title 44, Chapter 26.~~
  - b. ~~As used in A.R.S. § 20-1095.09(A)(4), is what an ordinary person would consider “reasonable” under the totality of the circumstances.~~
8. ~~“Solvent” as used in A.R.S. § 20-1095.03(A)(1) means total assets exceed total liabilities.~~

C. Application for a service company permit.

1. ~~Application form.~~ The application for a service company permit ~~under this rule~~ shall be on ~~the a~~ form designated by the ~~Director~~ which shall contain the following information: ~~Division and shall be transmitted through an electronic online system if such a system is designated on the Department’s website. An application must be complete and have all attachments to be considered by the Division.~~
  - a. ~~The name of applicant;~~
  - b. ~~Arizona address of applicant;~~
  - e. ~~The home office address of applicant;~~
  - d. ~~Type of entity (e.g. corporation, partnership);~~
  - e. ~~Type of equipment to be serviced;~~
  - f. ~~Fiscal year of applicant;~~
  - g. ~~A list of suspensions, revocations or other disciplinary or rehabilitative actions against the service company in this or any other jurisdiction. The application form shall be signed under oath and acknowledged by the chief executive officer, chairman of the board of directors, or other person having power of attorney, in which case the power of attorney shall be attached.~~
2. ~~The following items shall be attached to the application form and shall complete the application:~~
  - a. ~~A copy of the service company’s most recent financial statement, sworn to and certified by the owner, duly elected officers, or a certified public accountant.~~
  - b. ~~Evidence of having deposited cash or acceptable securities pursuant to A.R.S. § 20-1095.04.~~
  - e. ~~Surety bond in lieu of deposit under subparagraph (b) on a form acceptable to the Director.~~
  - d. ~~Initial nonrefundable permit fee of \$100 with each new application.~~



- e. A biographical affidavit, on a form approved by the director, for each officer, director, manager or person owning 25% or more of the service company, and for each officer, director, manager or person owning 25% or more of an entity which owns the service company.
- f. A copy of the service company's service contract, application, claim forms, brochures, and other forms used in connection with the sale.

Application. The application shall contain the following information:

- a. Applicant's full legal name;
- b. Applicant's federal employer identification number (EIN);
- c. Applicant's trade name or names, if applicable;
- d. Applicant's state of domicile;
- e. Applicant's form of business entity (corporation, limited liability company, etc.);
- f. Applicant's addresses, phone numbers, email address or addresses and website address or addresses;
- g. Name, address, and phone number or email address for each contact person of the applicant;
- h. A list of the applicant's officers, directors, managers, and persons owning 25% or more of the service company, and for each officer, director, manager, or person owning 25% or more of an entity that owns the service company;
- i. If the applicant intends to use a service contract administrator, the name and contact information for the applicant's service contract administrator;
- j. The types of items the applicant intends to cover under its service contracts;
- k. The applicant's fiscal year end date;
- l. A summary of the applicant's financial position;
- m. The name and signature of an officer of the applicant; and
- n. Any other information the Division deems necessary.

3. Application attachments. The applicant shall include the following as part of the application:

- a. A copy of the service company's most recent financial statement, including an income statement and a balance sheet, verified by a certified public accountant.
- b. Evidence of compliance with the financial security requirements of A.R.S. § 20-1095.03(A)(3).
- c. A biographical affidavit, on a form approved by the Division, for each officer, director, manager, or person owning 25% or more of the service company, and for each officer, director, manager, or person owning 25% or more of an entity that owns the service company.
- d. A list of subcontractors who are under common ownership or control or are affiliated with the applicant. If required by the type of work being performed, all subcontractors must be licensed.
- e. A list of any actions taken against the applicant and a list of actions taken against any of the owners, officers, managers, or directors of the applicant in any jurisdiction by a regulatory agency or state attorney general.

4. Application fee. At the time of filing the application, the applicant shall pay the nonrefundable application fee prescribed by A.R.S. § 20-167 and fixed by the Division.

D. ~~Deposit. A service company providing a deposit of cash or alternatives to cash pursuant to A.R.S. § 20-1095.04 shall maintain the deposit in the amount required and such deposit shall not be encumbered. The deposit shall not be released except pursuant to one of the following:~~

- 1. ~~The service company provides a bond or mechanical reimbursement policy which covers the outstanding service contract liabilities.~~
- 2. ~~All outstanding service contracts and liabilities thereunder have been assumed by a service company, in good standing, with the approval of the director, acknowledged by the assuming service company's administrator and acknowledged by endorsement by the mechanical reimbursement insurer or surety.~~
- 3. ~~Evidence satisfactory to the director that:~~
  - a. ~~All outstanding service contracts and liabilities have expired or been cancelled in accordance with the service contract terms;~~
  - b. ~~That all claims have been settled;~~
  - c. ~~That there is no reason to believe there are any unreported claims; and~~
  - d. ~~That the service company is financially able and agrees to be financially responsible for any valid unreported claims.~~

Term of the service company permit.

- 1. Term of permit. A service company permit shall have a term that begins on the date that the Division either grants or renews a service company permit and expires at midnight on the last day of the month, three months after the service company's fiscal year-end date.
- 2. The Division is not required to issue a paper copy of the service company permit.
- 3. Expiration of a service company permit.
  - a. Unless the Division receives an application and full payment of fees for renewal prior to the end of the service company permit term, the service company permit expires.
  - b. A service company whose permit term has expired shall not offer, extend, or renew a service contract.



c. A service company whose permit has expired shall continue to fulfill the obligations of its in-force contracts and shall maintain the security required under A.R.S. § 20-1095.03(3) until such time that all of the service company’s contractual obligations to contract holders are fulfilled.

E. The service contract, approval of forms:

1. ~~Each service company holding a service company permit or applying for such permit shall submit all contract, claim and application forms, brochures and other advertising material to the Director for approval not less than 30 days prior to the proposed effective date thereof. No form, brochure or other printed material may be used until approved by the Director or has been on file with the Director more than 30 days.~~
2. ~~No service contract shall be approved unless it contains a provision permitting the cancellation of the contract. The cancellation provision shall provide for a pro rata refund after deducting for administrative expenses associated with the cancellation. No claim incurred or paid shall be deducted from the amount to be returned. The cancellation provision shall not contain both cancellation penalty and a cancellation fee.~~
3. ~~No service contract or application shall be approved unless it:~~
  - a. ~~Is written in nontechnical, readily understood language, using words with common everyday meanings;~~
  - b. ~~Provides for the performance of services within a reasonable period of time of the request for such services by the holder of the contract;~~
  - c. ~~Discloses on the face of the application and the contract:~~
    - i. ~~The name, address and telephone number of the service company;~~
    - ii. ~~The name, address and telephone number of the service contract administrator, if any;~~
    - iii. ~~The name of the individual who sold the service contract.~~
  - d. ~~Clearly, conspicuously and plainly states:~~
    - i. ~~The services to be performed by the service company and the terms and conditions of such performance;~~
    - ii. ~~The service fee or deductible charge, if any, to be charged, or applied, for service calls and/or each covered repair.~~
    - iii. ~~Each of the systems, products, appliances and components covered by the contract;~~
    - iv. ~~The period during which the contract will remain in effect;~~
    - v. ~~All limitations respecting the performance of services, including any restrictions as to time periods when services may be required or will be performed;~~
    - vi. ~~The cost of the service contract;~~
    - vii. ~~Those specific items or components which are excluded from coverage in large bold type;~~
    - viii. ~~The conditions, if any, under which the service contract or coverage may be reinstated after coverage has been voided by acts or omissions by the service contract holder;~~
    - ix. ~~The material acts or omissions by the contract holder which cancel or void coverage;~~
4. ~~No service contract shall be approved if:~~
  - a. ~~The coverage may be cancelled or voided due to acts or omissions of the service company, its assignees or subcontractors for their failure to provide correct information of their failure to perform the services or repairs provided in a timely, competent, workmanlike manner;~~
  - b. ~~Parts or components repaired or replaced under the service contract are excluded;~~
  - c. ~~The contract can be cancelled or voided by the service company or its representatives for the following reasons including but not limited to:~~
    - i. ~~Pre-existing conditions;~~
    - ii. ~~Prior use or unlawful acts relating to the product;~~
    - iii. ~~Misrepresentation by either the service company or its subcontractors;~~
    - iv. ~~Ineligibility for the program, including gray market, high performance and GM diesel autos.~~

Service company permit renewal and late-renewal.

1. Timely renewal. A service company seeking to renew its permit shall file with the Division a renewal application, consisting of the renewal application form, all required attachments and the renewal fee after the end of its fiscal year but before the expiration of its permit term. A service company shall transmit the renewal application through an electronic online system if such a system is designated on the Department’s website. A renewal application must be complete, have all required attachments and the renewal fee to be considered as having been received by the Division.
2. Renewal form. A service company shall use the renewal form designated by the Division. The renewal shall contain the following information:
  - a. Service company name appearing on the permit, and the service company’s Arizona license number and EIN;
  - b. Any additions or deletions to the service company’s trade name or names, addresses, phone numbers and website addresses;
  - c. Any changes to the service company’s contact person or persons or service contract administrator, or their contact information;
  - d. Any changes to the types of items the service company intends to cover under its service contracts; and
  - e. Any other information the Division deems necessary.
3. Renewal attachments. The service company shall attach the following to the renewal:
  - a. A copy of the service company’s financial statement as of the end of the service company’s most recently completed fiscal year, including an income statement and a balance sheet, verified by a certified public accountant.
  - b. Evidence of continuing compliance with the financial security requirements of A.R.S. § 20-1095.03(A)(3).
  - c. Any additions or deletions to the officers, directors, managers, or persons owning 25% or more of the service company, or to an entity that owns the service company since the last report to the Division.



- d. A biographical affidavit, on a form approved by the Division, for each new person identified in subsection (3)(c).
  - e. Any additions or deletions to the subcontractors that are under common ownership or control or are affiliated with the service company since the last report to the Division. If required by the type of work being performed, all subcontractors must be licensed.
  - f. Any actions taken against the service company or any of the owners, officers, or directors of the service company in any jurisdiction by a regulatory agency or state attorney general not previously reported to the Division.
  4. Renewal fee. At the time of filing the renewal, the service company shall pay a nonrefundable renewal fee as prescribed by A.R.S. § 20-167 and fixed by the Division.
  5. Late-renewed application and fee.
    - a. Late-renewal period. A service company whose permit term has expired may file a renewal application up to 90 days after the expiration of the permit term. After the 90-day period, a renewal application will not be accepted by the Division and the service company must file a service company permit application with the Division pursuant to subsection (C) of this Section.
    - b. A service company whose permit term has expired shall not offer, extend, or renew a service contract until the permit is renewed or a new permit is issued by the Division.
    - c. Fee. In addition to the nonrefundable renewal fee required under subsection (E)(4) of this Section, the service company shall pay a nonrefundable additional fee of \$25 per day starting the calendar day after the permit term expiration and ending on the date the service company files a complete renewal application.
    - d. Term of a late-renewed permit. The term of a late-renewed permit shall begin on the date the Division renews the permit and shall end on the last day of the permit term.
- F. ~~Disapproval of contracts, applications or advertising. The director may disapprove any service contract, application or advertising material that is in violation of this rule by issuing an order specifying in what respect the service contract, application or advertising material violates this rule. Any person aggrieved by such an order can demand a hearing thereon in accordance with A.R.S. § 20-1095.09.~~
- Deposits of cash or alternatives to cash.
1. Contracts issued, renewed, or extended on or after August 3, 2018. For any contract that a service company issues, extends, or renews from and after August 3, 2018, a service company may not satisfy the financial responsibility requirements of A.R.S. § 20-1095.04 by means of providing a deposit of cash or alternatives to cash.
  2. Contracts issued, renewed, or extended before August 3, 2018. If a service company provided a deposit of cash or alternatives to cash covering service contracts that were issued, last extended, or last renewed prior to August 3, 2018, the service company shall maintain the deposit in the amount required to cover those contracts and the deposit shall not be encumbered.
  3. Release of deposits of cash or alternatives to cash. As it relates to financial responsibility requirements fulfilled by a deposit of cash or alternatives to cash, the Director shall only release the deposit upon one of the following:
    - a. The service company provides a surety bond or mechanical reimbursement policy that covers the outstanding service contract liabilities secured by the cash or alternatives to cash.
    - b. The Division has approved the assumption of outstanding service contracts and liabilities by another service company that has acknowledged the assumption of the outstanding contracts and that shall provide each affected contract holder an endorsement issued by the mechanical reimbursement insurer or surety.
    - c. The service company provides evidence satisfactory to the Division that:
      - i. The outstanding service contracts and liabilities have expired or have been cancelled in accordance with the service contract terms;
      - ii. All claims under the service contracts have been settled; and
      - iii. The service company is financially able and agrees to be financially responsible for any valid unreported claims.
- G. Permit expiration; renewal.
1. ~~Each permit issued pursuant to this rule shall expire at midnight on the last day of the service company's fiscal year. Thereafter, the service company shall have 90 days in which to file its completed renewal application including its certified financial statement and pay the renewal fee of \$100. A permit shall remain in effect upon the service company's timely payment of the renewal fee, timely filing of its annual financial statement and completed renewal application. An incomplete application will not be considered received until it is complete.~~
  2. ~~Any late filing of the renewal application, financial report or late payment of the renewal fee shall be subject to a late fee of \$25 per day. Such late fee shall not release the service company of liability for other violations of these rules or other laws.~~
- Filing of forms.
1. Contracts to be submitted for approval. A service company shall submit contracts for the Division's approval according to A.R.S. § 20-1095.06. A service company is not required to submit advertisements or marketing materials for approval by the Division but shall abide by the provisions of Title 20, Chapter 2 - Article 6, Chapter 4 - Article 11, and this Section regarding misrepresentations in the sales of service contracts.
  2. Requirements for approval. No service contract form shall be approved unless it:
    - a. Complies with A.R.S. § 20-1095.06;



- b. Itemizes each of the systems, products and appliances covered by the contract and, in bold-faced type, preferably in a larger font, the specific items or components of those systems, products, and appliances which are excluded from coverage. Any item or component not specifically excluded from a covered system, product or appliance is covered;
  - c. States the service fee or deductible charge, if any, to be charged, or applied, for service calls and/or each covered repair;
  - d. Specifies in clear and easily understood language the specific circumstances under which a contract holder may engage a subcontractor who is not recommended by the service company without becoming financially responsible under the contract and whether pre-authorization is required prior to engaging a subcontractor who is not recommended by the service company;
  - e. Specifies in clear and easily understood language the service company's financial responsibilities to the contract holder when any of the systems, products or appliances covered by the contract cannot be replaced or repaired;
  - f. Notifies the contract holder that the denial of a claim can be appealed if the contract holder can produce a home inspection report, maintenance records, or other evidence that show the contract holder was not aware, at the time of contracting, of any preexisting condition that would be the basis for the denial of the claim;
  - g. If applicable, states the conditions under which the service contract or coverage may be reinstated;
  - h. States the dates of coverage under the service contract including any delay in coverage that differs from the purchase date of the contract which would extend the coverage term of the contract and any terms that govern renewal of the service contract; and
  - i. States that the administrative expenses may not exceed \$75 or 10% of the purchase price of the service contract, whichever is less, when providing a pro rata refund upon cancellation of the service contract before the end of the coverage period of the service contract.
3. Disapproval of contracts. The Division may disapprove any service contract that is in violation of Title 20, Chapter 4 - Article 11, or this subsection (G). The service company may request a hearing to appeal the disapproval according to A.R.S. § 20-161.