

1 AN ACT

2 RELATING TO INSURANCE; CHANGING THE TERMS "INSURANCE AGENT",  
3 "INSURANCE BROKER" AND "INSURANCE SOLICITOR" TO "INSURANCE  
4 PRODUCER"; INTRODUCING INSURANCE PRODUCER LICENSE RENEWAL AND  
5 FEE REQUIREMENTS; INTRODUCING LICENSING AND FEE REQUIREMENTS  
6 FOR INDEPENDENT REVIEW ORGANIZATIONS; INTRODUCING FILING FEES  
7 FOR CONTINUING EDUCATION PROVIDERS; INTRODUCING PENALTY FOR  
8 LATE NOTIFICATION OF CHANGE OF NAME OR ADDRESS; REVISING  
9 FEES; INCREASING CAPITAL, SURPLUS AND DEPOSIT REQUIREMENTS;  
10 CHANGING DEFINITIONS AND CLASSIFICATIONS OF INSURANCE;  
11 CHANGING INSURANCE LICENSING PROVISIONS; REQUIRING ADJUSTERS  
12 TO FULFILL CONTINUING EDUCATION REQUIREMENTS; REQUIRING  
13 APPLICANTS FOR AN ADJUSTER LICENSE TO PASS AN EXAMINATION;  
14 AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE  
15 NEW MEXICO INSURANCE CODE.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 59A-5-16 NMSA 1978 (being Laws 2007,  
19 Chapter 282, Section 1) is amended to read:

20 "59A-5-16. CAPITAL FUNDS, DEPOSITS, REQUIRED FOR  
21 CERTIFICATE OF AUTHORITY.--

22 A. To qualify for certificate of authority to  
23 transact any one kind or combination of kinds of insurance in  
24 this state, an insurer shall possess:

25 (1) if a stock insurer, paid-in capital

1 stock and, when first so authorized, surplus all as shown in  
2 Schedule I of this section; or

3 (2) if a mutual, reciprocal or Lloyds  
4 insurer, basic capital surplus, including guaranty funds, if  
5 any, and additional unassigned surplus when first so  
6 authorized, as required under Schedule I of this section.

7 B. Except that an insurer that on January 1, 1985,  
8 having applied for a certificate on or before February 15,  
9 1984, held a valid and subsisting certificate of authority to  
10 transact insurance in this state may, if a domestic insurer,  
11 continue to be so authorized until December 31, 1995, so long  
12 as otherwise qualified therefor and possessing paid-in  
13 capital stock, if a stock insurer, or basic capital surplus,  
14 if a mutual, reciprocal or Lloyds insurer, not less than that  
15 required of the insurer by the laws of this state in force on  
16 January 1, 1986; and if a foreign insurer, may so continue to  
17 be so authorized, if otherwise qualified therefor, while  
18 possessing such capital funds (paid-in capital stock and  
19 surplus if a stock insurer, and surplus if a mutual or  
20 reciprocal insurer) until December 31, 1990. At the  
21 expiration of such period, as applicable, the insurer shall  
22 meet the basic capital requirements of this section as set  
23 forth in Schedule I of this section in order to maintain its  
24 certificate of authority. Upon a change in the control of  
25 either a domestic insurer or foreign insurer, the insurer

1 shall, within one year from effective date of such change of  
 2 control, meet the capital funds requirements of Schedule I of  
 3 this section as though a newly authorized insurer, but this  
 4 sentence shall not act to extend the otherwise applicable  
 5 time period. For the purposes of this subsection, "control"  
 6 shall have the meaning ascribed in Section 59A-37-2 NMSA  
 7 1978.

8 C. The capital funds required for authority to  
 9 transact insurance in this state shall be based upon all the  
 10 kinds of insurance the insurer transacts, wherever transacted  
 11 or to be transacted.

12 D. This section shall not apply as to domestic  
 13 Lloyds plan insurers as identified in Chapter 59A, Article 38  
 14 NMSA 1978 except as stated in that article.

15 E. The capital requirements of this section are  
 16 set forth in the following schedule:

17 Schedule I  
 18 NEW MEXICO

19 Minimum Capital, Surplus and Deposit Requirements

20 Property/Casualty Insurer

21 Premium Volume:	Under \$5	\$5 to \$10	\$10 to \$25	Over \$25
	Million	Million	Million	Million
	23 Number of Kinds of Insurance			
	1	2		
24 Basic Capital	500,000	600,000	800,000	900,000
				1,000,000

1	Additional					
2	Surplus	500,000	600,000	same as	same as	same as
3				Under	Under	Under
4				\$5 Million	\$5 Million	\$5 Million
5	General Deposit	200,000	300,000	500,000	500,000	500,000
6	Special Deposit	200,000	300,000	same as	same as	same as
7				Under	Under	Under
8				\$5 Million	\$5 Million	\$5 Million

9 Life/Health Insurer

10	Premium Volume:		Under \$5	\$5 to \$10	\$10 to \$25	Over \$25
11			Million	Million	Million	Million
12	Basic Capital		600,000	700,000	800,000	900,000
13	Additional Surplus		400,000	400,000	400,000	400,000
14	General Deposit		200,000	200,000	200,000	200,000
15	Special Deposit		200,000	200,000	200,000	200,000

16 Notes: Premium Volume means the insurer's worldwide direct premiums  
 17 earned (if Property/Casualty) or received (if Life/Health) during  
 18 the previous calendar year.

19 Kinds of insurance pertains to the general kinds of insurance  
 20 that property/casualty insurers are authorized to transact. The  
 21 following groups or single kinds of insurance shall be counted as  
 22 one kind of insurance when calculating the amount of required  
 23 Basic Capital, Additional Surplus, General Deposit and Special  
 24 Deposit:  
 25 Casualty;

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Property; and

Title.

When determining Basic Capital and Additional Surplus amounts, the kinds of Insurance shall be based on the insurer's actual or requested transaction authority Worldwide.

When determining General Deposit and Special Deposit amounts, the kinds of Insurance shall be based on the insurer's actual or requested transaction authority in New Mexico.

"Basic Capital" means paid-in capital stock (if a stock insurer) or basic capital surplus (if a mutual, reciprocal or Lloyds insurer). General Deposit or Special Deposit funds are included within, and are not additional to, required Basic Capital and Additional Surplus. General Deposit amounts shown above are not applicable to alien insurers."

SECTION 2. Section 59A-6-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 101, as amended) is amended to read:

"59A-6-1. FEE SCHEDULE.--The superintendent shall collect the following fees:

A. insurer's certificate of authority -

(1) filing application for certificate of authority, and issuance of certificate of authority, including filing of all charter documents, financial statements, service of process, power of attorney, examination reports and other documents included with and part of the application

. . . . . \$1,000.00

1                   (2) annual continuation of certificate of  
2 authority, per kind of insurance. . . . . 200.00

3                   (3) reinstatement of certificate of  
4 authority (Section 59A-5-23 NMSA 1978). . . . . 150.00

5                   (4) amendment to certificate of  
6 authority.. . . . 200.00

7                   B. charter documents - filing amendment to any  
8 charter document (as defined in Section 59A-5-3  
9 NMSA 1978). . . . . 10.00

10                   C. annual statement of insurer, filing. . . 200.00

11                   D. service of process, acceptance by  
12 superintendent and issuance of certificate of service.. 10.00

13                   E. producer licenses and appointments -

14                         (1) filing application for original producer  
15 license and issuance of license.. . . . 30.00

16                         (2) biennial continuation of license. 60.00

17                         (3) appointment of producer -

18                                 (a) filing appointment, per kind of  
19 insurance, each insurer.. . . . 20.00

20                                 (b) annual continuation of appointment,  
21 per kind of insurance, each insurer.. . . . 20.00

22                         (4) temporary license filing  
23 application.. . . . 30.00

24                   F. agency business entity license and  
25 affiliations -

1                   (1) filing application for original agency  
 2 business entity license and issuance of license.. . . . 30.00  
 3                   (2) biennial continuation of license. 60.00  
 4                   (3) filing of individual affiliation . 20.00  
 5                   (4) annual continuation of individual  
 6 affiliation.. . . . . 20.00  
 7                   G. insurance vending machine license -  
 8                   (1) filing application for original license  
 9 and issuance of license, each machine.. . . . 25.00  
 10                   (2) biennial continuation of license, each  
 11 machine.. . . . . 50.00  
 12                   H. examination for license, application for  
 13 examination conducted directly by the superintendent, each  
 14 grouping of kinds of insurance to be covered by the  
 15 examination as provided by the superintendent's rules, and  
 16 payable as to each instance of examination. . . . . 75.00  
 17                   I. surplus lines insurer - filing application for  
 18 qualification as eligible surplus lines insurer.. . . 1,000.00  
 19                   J. surplus lines broker license -  
 20                   (1) filing application for original license  
 21 and issuance of license.. . . . . 100.00  
 22                   (2) biennial continuation of license. . . .  
 23 . . . . . 200.00  
 24                   K. surplus lines brokerage business entity license  
 25 and affiliations -

1 (1) filing application for original surplus  
2 lines brokerage business entity license and issuance of  
3 license . . . . . 100.00

4 (2) filing of individual affiliation. 20.00

5 (3) annual continuation of individual  
6 affiliation.. . . . 20.00

7 L. adjuster license -

8 (1) filing application for original license  
9 and issuance of license.. . . . 30.00

10 (2) biennial continuation of  
11 license.. . . . 60.00

12 M. insurance consultant license -

13 (1) filing application for original license  
14 and issuance of license . . . . . 50.00

15 (2) application examination. . . . . 75.00

16 (3) biennial continuation of license. 100.00

17 N. viatical settlements license -

18 (1) providers -

19 (a) filing application for original  
20 license and issuance of license . . . . . 1,000.00

21 (b) biennial continuation of  
22 license . . . . . 400.00

23 (2) brokers -

24 (a) filing application for original  
25 license and issuance of license . . . . . 100.00

1 (b) biennial continuation of  
2 license . . . . . 200.00

3 (3) brokerages -

4 (a) filing application for original  
5 business entity license and issuance of license . . . . 100.00

6 (b) biennial continuation of  
7 license.. . . . 200.00

8 (c) filing of individual  
9 affiliation . . . . . 20.00

10 (d) annual continuation of individual  
11 affiliation . . . . . 20.00

12 O. advisory organization license -

13 (1) filing application for license and  
14 issuance of license.. . . . 100.00

15 (2) annual continuation of  
16 license.. . . . 100.00

17 P. nonprofit health care plans -

18 (1) filing application for preliminary  
19 permit and issuance of permit.. . . . 100.00

20 (2) certificate of authority, application,  
21 issuance, continuation, reinstatement, charter documents -  
22 same as for insurers

23 (3) annual statement, filing. . . . 200.00

24 Q. prepaid dental plans -

25 (1) certificate of authority, application,

1 issuance, continuation, reinstatement, charter documents -  
2 same as for insurers

3 (2) annual report, filing. . . . . 200.00

4 R. prearranged funeral insurance - application for  
5 certificate of authority, issuance, continuation,  
6 reinstatement, charter documents, filing annual statement,  
7 licensing of sales representatives - same as for insurers

8 S. premium finance companies -

9 (1) filing application for original license  
10 and issuance of license. . . . . 100.00

11 (2) annual renewal of license. . . . . 100.00

12 T. motor clubs -

13 (1) certificate of authority -

14 (a) filing application for original  
15 certificate of authority and issuance of certificate of  
16 authority . . . . . 200.00

17 (b) annual continuation of certificate  
18 of authority. . . . . 100.00

19 (2) sales representatives -

20 (a) filing application for registration  
21 or license and issuance of registration or license, each  
22 representative. . . . . 30.00

23 (b) biennial continuation of  
24 registration or license, each representative. . . . . 60.00

25 U. bail bondsmen -

1 (1) filing application for original license  
2 as bail bondsman or solicitor, and issuance of license  
3 . . . . . 30.00

4 (2) examination for license, each instance  
5 of examination. . . . . 50.00

6 (3) biennial continuation of  
7 license.. . . . 60.00

8 V. required filing of forms or rates - by all  
9 lines of business other than property or casualty -

10 (1) rates. . . . . 50.00

11 (2) major form - each new policy and each  
12 package submission, which can include multiple policy forms,  
13 application forms, rider forms, endorsement forms or amendment  
14 forms.. . . . 30.00

15 (3) incidental forms and rates - forms filed  
16 for informational purposes; riders, applications, endorsements  
17 and amendments filed individually; rate service organization  
18 reference filings; rates filed for informational  
19 purposes. . . . . 15.00

20 W. health maintenance organizations -

21 (1) filing an application for a certificate  
22 of authority. . . . . 1,000.00

23 (2) annual continuation of certificate of  
24 authority.. . . . 200.00

25 (3) filing each annual report . . . . 200.00

1	(4) filing an amendment to organizational	
2	documents requiring approval. . . . .	200.00
3	(5) filing informational amendments. .	50.00
4	X. purchasing groups and foreign risk retention	
5	groups -	
6	(1) original registration. . . . .	500.00
7	(2) annual continuation of	
8	registration. . . . .	200.00
9	(3) producer fees - same as for authorized	
10	insurers	
11	Y. third party administrators -	
12	(1) filing application for original business	
13	entity insurance administrator license . . . . .	100.00
14	(2) biennial continuation or renewal	
15	of license. . . . .	200.00
16	(3) examination for license, each	
17	examination. . . . .	75.00
18	(4) filing of annual report. . . . .	50.00
19	Z. miscellaneous fees -	
20	(1) duplicate license . . . . .	30.00
21	(2) name change . . . . .	30.00
22	(3) for each signature and seal of	
23	superintendent affixed to any instrument . . . . .	10.00
24	AA. pharmacy benefits managers -	
25	(1) filing an application for a	

1 license.. . . . . 1,000.00

2 (2) annual continuation of license, each  
3 year continued. . . . . 500.00

4 (3) filing each annual report. . . . . 200.00

5 (4) filing an amendment to organizational  
6 documents requiring approval. . . . . 200.00

7 (5) filing informational amendments. . 100.00

8 BB. independent review organizations

9 (1) filing an application for a  
10 license.. . . . . 250.00

11 (2) biennial continuation of license. 100.00

12 CC. continuing education providers

13 (1) filing an application for a course of  
14 instruction.. . . . . 80.00

15 (2) biennial continuation of course of  
16 instruction.. . . . . 40.00.

17 An insurer shall be subject to additional fees or  
18 charges, termed retaliatory or reciprocal requirements,  
19 whenever form or rate-filing fees in excess of those imposed  
20 by state law are charged to insurers in New Mexico doing  
21 business in another state or whenever a condition precedent to  
22 the right to issue policies in another state is imposed by the  
23 laws of that state over and above the conditions imposed upon  
24 insurers by the laws of New Mexico; in those cases, the same  
25 form or rate-filing fees may be imposed upon an insurer from

1 another state transacting or applying to transact business in  
2 New Mexico so long as the higher fees remain in force in the  
3 other state. If an insurer does not comply with the  
4 additional retaliatory or reciprocal requirement charges  
5 imposed under this subsection, the superintendent may refuse  
6 to grant or may withdraw approval of the tendered form or rate  
7 filing.

8 All fees are earned when paid and are not refundable."

9 SECTION 3. Section 59A-6-6 NMSA 1978 (being Laws 1984,  
10 Chapter 127, Section 106, as amended) is amended to read:

11 "59A-6-6. PREEMPTION AND IN LIEU PROVISION.--The state  
12 government of New Mexico preempts the field of taxation of  
13 insurers, nonprofit health care plans, health maintenance  
14 organizations, prepaid dental plans, prearranged funeral plans  
15 and insurance producers as such, and payment of the taxes,  
16 licenses and fees provided for in the Insurance Code shall be  
17 in lieu of all other taxes, licenses and fees of every kind  
18 now or hereafter imposed by this state or any political  
19 subdivision thereof on any of the foregoing specified  
20 entities, excepting the regular state, county and city taxes  
21 on property located in New Mexico and excepting the income tax  
22 on insurance producers. No provision of law enacted after  
23 January 1, 1985 shall be deemed to modify this provision  
24 except by express reference to this section."

25 SECTION 4. Section 59A-7-1 NMSA 1978 (being Laws 1984,

1 Chapter 127, Section 107) is amended to read:

2 "59A-7-1. DEFINITIONS NOT MUTUALLY EXCLUSIVE--INSURING  
3 POWERS--CLASSIFICATION OF INSURERS.--

4 A. It is intended that certain insurance coverages  
5 may come within more than one "kind" of insurance as defined  
6 in Chapter 59A, Article 7 NMSA 1978, and inclusion of such  
7 coverage within one definition shall not exclude it as to any  
8 other kind of insurance within the definition of which the  
9 coverage is likewise reasonably includable.

10 B. No insurer shall be authorized to transact any  
11 kind or kinds of insurance other than those defined in Chapter  
12 59A, Article 7 NMSA 1978. Insurers shall be classified as to  
13 insuring powers according to kind or kinds of insurance for  
14 which so authorized.

15 C. An insurer may apply to engage in insurance  
16 activities in one or more of the following lines of insurance:

- 17 (1) life and annuities;
- 18 (2) accident and health;
- 19 (3) property;
- 20 (4) casualty; and
- 21 (5) variable life and annuity."

22 SECTION 5. Section 59A-7-2 NMSA 1978 (being Laws 1984,  
23 Chapter 127, Section 108, as amended) is repealed and a new  
24 Section 59A-7-2 NMSA 1978 is enacted to read:

25 "59A-7-2. LIFE AND ANNUITY.--Life and annuity includes:

- 1           A. fixed annuity;
- 2           B. immediate annuity;
- 3           C. deferred annuity;
- 4           D. equity-indexed annuity;
- 5           E. endowment;
- 6           F. term life;
- 7           G. universal life;
- 8           H. whole life;
- 9           I. credit life; and
- 10          J. similar products relating to life and annuity
- 11 matters."

12           SECTION 6. Section 59A-7-3 NMSA 1978 (being Laws 1984,  
13 Chapter 127, Section 109, as amended) is repealed and a new  
14 Section 59A-7-3 NMSA 1978 is enacted to read:

15           "59A-7-3. ACCIDENT AND HEALTH INSURANCE.--Accident and  
16 health includes:

- 17           A. accident;
- 18           B. accidental death and dismemberment;
- 19           C. blanket accident and sickness;
- 20           D. credit disability;
- 21           E. critical illness;
- 22           F. dental;
- 23           G. disability income;
- 24           H. excess or stop loss;
- 25           I. home health care;

- 1 J. hospital indemnity;
- 2 K. long-term care;
- 3 L. major medical;
- 4 M. medical expense;
- 5 N. medicare supplement;
- 6 O. prescription drug;
- 7 P. sickness;
- 8 Q. specified disease;
- 9 R. vision; and
- 10 S. similar products relating to accident and
- 11 health matters."

12 SECTION 7. Section 59A-7-4 NMSA 1978 (being Laws 1984,  
13 Chapter 127, Section 110) is repealed and a new Section  
14 59A-7-4 NMSA 1978 is enacted to read:

15 "59A-7-4. PROPERTY.--Property includes:

- 16 A. aircraft cargo;
- 17 B. aircraft hull;
- 18 C. auto commercial physical damage;
- 19 D. baggage;
- 20 E. builders risk;
- 21 F. business owners;
- 22 G. cargo;
- 23 H. commercial inland marine;
- 24 I. commercial multi-peril;
- 25 J. commercial property;

- 1 K. crop;
- 2 L. crop hail;
- 3 M. difference in conditions;
- 4 N. dwelling;
- 5 O. earthquake;
- 6 P. event cancellation;
- 7 Q. extended coverages;
- 8 R. farm and ranch property;
- 9 S. fire and allied lines;
- 10 T. flood;
- 11 U. garage;
- 12 V. marine cargo;
- 13 W. marine hull;
- 14 X. ocean marine;
- 15 Y. personal inland marine;
- 16 Z. personal property;
- 17 AA. pet insurance;
- 18 BB. travel coverage; and
- 19 CC. similar products relating to property
- 20 matters."

21 SECTION 8. Section 59A-7-6 NMSA 1978 (being Laws 1984,  
22 Chapter 127, Section 112) is repealed and a new Section  
23 59A-7-6 NMSA 1978 is enacted to read:

24 "59A-7-6. CASUALTY.--Casualty includes:

- 25 A. aircraft liability;

- 1 B. auto commercial liability;
- 2 C. auto private passenger liability;
- 3 D. auto warranty contract;
- 4 E. boiler and machinery;
- 5 F. burglary and theft;
- 6 G. collateral protection;
- 7 H. commercial excess/umbrella liability;
- 8 I. commercial general liability;
- 9 J. congenital defects;
- 10 K. contractual liability;
- 11 L. credit;
- 12 M. credit property;
- 13 N. creditor-placed dual/single interest;
- 14 O. crime;
- 15 P. directors and officers liability;
- 16 Q. employers liability;
- 17 R. elevator;
- 18 S. entertainment;
- 19 T. errors and omissions;
- 20 U. failure to file instrument;
- 21 V. farm and ranch liability;
- 22 W. fidelity bonds;
- 23 X. fidelity insurance;
- 24 Y. financial guaranty;
- 25 Z. gap;

1 AA. garage liability;  
2 BB. glass;  
3 CC. involuntary unemployment;  
4 DD. kidnap and ransom;  
5 EE. leakage and fire-extinguishing equipment;  
6 FF. legal liability;  
7 GG. liquor liability;  
8 HH. livestock;  
9 II. mechanical breakdown;  
10 JJ. medical malpractice;  
11 KK. mobile homes under transport;  
12 LL. money and securities;  
13 MM. motor club service contracts;  
14 NN. mortgage guaranty;  
15 OO. personal excess/umbrella liability;  
16 PP. personal effects;  
17 QQ. personal liability;  
18 RR. personal property floater;  
19 SS. pollution liability;  
20 TT. premises and operations;  
21 UU. product liability;  
22 VV. products and completed operations;  
23 WW. professional liability;  
24 XX. owners and contractors;  
25 YY. stop loss liability;

1           ZZ. surety;  
2           AAA. title;  
3           BBB. vandalism and malicious mischief;  
4           CCC. workers' compensation; and  
5           DDD. similar products relating to casualty  
6 matters."

7           SECTION 9. Section 59A-7-7 NMSA 1978 (being Laws 1984,  
8 Chapter 127, Section 113) is repealed and a new Section  
9 59A-7-7 NMSA 1978 is enacted to read:

10           "59A-7-7. VARIABLE LIFE AND ANNUITY.--Variable life and  
11 annuity includes:

- 12           A. variable deferred annuity;
- 13           B. variable immediate annuity;
- 14           C. variable life; and
- 15           D. similar products relating to variable life and  
16 annuity matters."

17           SECTION 10. Section 59A-9-12 NMSA 1978 (being Laws  
18 1984, Chapter 127, Section 145, as amended) is amended to  
19 read:

20           "59A-9-12. INVESTMENTS IN SUBSIDIARIES.--

- 21           A. An insurer either by itself or in cooperation  
22 with one or more other business entities, may organize or  
23 acquire one or more subsidiaries engaged or to be engaged in  
24 any of the following businesses:

25                   (1) an insurance business authorized by the

1 jurisdiction in which the subsidiary is incorporated;

2 (2) acting as insurance producer for its  
3 parent or for any of its parent's insurer subsidiaries;

4 (3) investing, reinvesting or trading in  
5 securities for its own account, that of its parent, any  
6 subsidiary of its parent or any affiliate or subsidiary;

7 (4) management of any investment company  
8 registered pursuant to the federal Investment Company Act of  
9 1940, as amended, including related sales and services;

10 (5) acting as a broker-dealer registered  
11 pursuant to the federal Securities Exchange Act of 1934, as  
12 amended;

13 (6) rendering investment advice to  
14 governments, government agencies, corporations or other  
15 organizations or groups;

16 (7) rendering other services related to  
17 operations of an insurance business;

18 (8) owning and managing assets that the  
19 parent corporation could itself own or manage;

20 (9) acting as administrative agent for a  
21 government instrumentality that is performing an insurance  
22 function; or

23 (10) financing insurance premiums, agents  
24 and other forms of consumer financing; and

25 (11) any other business activity determined

1 by the superintendent to be reasonably ancillary to an  
2 insurance business.

3 B. In addition to investments in common stock,  
4 preferred stock, debt obligations and other securities  
5 permitted under all other sections of Chapter 59A, Article 9  
6 NMSA 1978 an insurer may also:

7 (1) invest, in common stock, preferred  
8 stock, debt obligations and other securities of one or more  
9 subsidiaries, amounts which unless otherwise approved by the  
10 superintendent do not exceed the lesser of ten percent of the  
11 insurer's assets or fifty percent of the insurer's surplus as  
12 regards policyholders, if, after the investments, the  
13 insurer's surplus as regards policyholders will be reasonable  
14 in relation to the insurer's outstanding liabilities and  
15 adequate to its financial needs. In calculating the amount of  
16 the investments, there shall be included:

17 (a) total net money or other  
18 consideration expended and obligations assumed in the  
19 acquisition or formation of a subsidiary, including all  
20 organizational expenses and contributions to capital and  
21 surplus of the subsidiary, whether or not represented by the  
22 purchase of capital stock or the issuance of other securities;  
23 and

24 (b) all amounts expended in acquiring  
25 additional common stock, preferred stock, debt obligations and

1 other securities and all contributions to the capital and  
2 surplus of a subsidiary subsequent to its acquisition or  
3 formation;

4 (2) if the insurer's total liabilities, as  
5 calculated for annual statement purposes, are less than ten  
6 percent of assets, invest any amount in common stock,  
7 preferred stock, debt obligations and other securities of one  
8 or more subsidiaries, if, after the investment, the insurer's  
9 surplus as regards policyholders, considering the investment  
10 as if it were a disallowed asset, will be reasonable in  
11 relation to the insurer's outstanding liabilities and adequate  
12 to its financial needs;

13 (3) invest any amount in common stock,  
14 preferred stock, debt obligations and other securities of one  
15 or more subsidiaries, if each subsidiary agrees to limit its  
16 investments in any asset so that the investments will not  
17 cause the amount of the total investment of the insurer to  
18 exceed any of the investment limitations specified in  
19 Paragraph (1) of this subsection or in Chapter 59A, Article 9  
20 NMSA 1978, applicable to the insurer. For the purpose of this  
21 paragraph "the total investment of the insurer" includes:

22 (a) any direct investment by the  
23 insurer in an asset; and

24 (b) the insurer's proportionate share  
25 of any investment in an asset by any subsidiary of the

1 insurer, which shall be calculated by multiplying the amount  
2 of the subsidiary's investment by the percentage of the  
3 insurer's ownership of the subsidiary;

4 (4) with the approval of the superintendent,  
5 invest any amount in common stock, preferred stock, debt  
6 obligations or other securities of one or more subsidiaries,  
7 if, after the investment, the insurer's surplus as regards  
8 policyholders will be reasonable in relation to the insurer's  
9 outstanding liabilities and adequate to its financial needs;  
10 and

11 (5) invest any amount in the common stock,  
12 preferred stock, debt obligations or other securities of any  
13 subsidiary exclusively engaged in holding title to, or holding  
14 title to and managing or developing, real or personal  
15 property, if, after considering as a disallowed asset so much  
16 of the investment as is represented by subsidiary assets,  
17 which if held directly by the insurer would be considered as a  
18 disallowed asset, the insurer's surplus as regards  
19 policyholders will be reasonable in relation to the insurer's  
20 outstanding liabilities and adequate to its financial needs,  
21 and if, following such investment, all voting securities of  
22 such subsidiary would be owned by the insurer.

23 C. Investments in common stock, preferred stock,  
24 debt obligations or other securities of subsidiaries made  
25 pursuant to Subsection B of this section shall not be subject

1 to any of the otherwise applicable restrictions or  
2 prohibitions contained in this article applicable to the  
3 investments of the insurer.

4 D. Whether any investment made pursuant to  
5 Subsection B of this section meets the applicable requirements  
6 thereof is to be determined immediately after the investment  
7 is made, taking into account the then outstanding balance on  
8 all previous investments in debt obligations and the value of  
9 all previous equity securities as of the date they were made.

10 E. If an insurer ceases to control a subsidiary,  
11 it shall dispose of any investment made in it pursuant to this  
12 section within three years from time of the cessation of  
13 control or within such further time as the superintendent may  
14 prescribe, unless at any time after the investment is made,  
15 the investments meet the requirements for investment under any  
16 other section of the Insurance Code, and the insurer has so  
17 notified the superintendent."

18 SECTION 11. Section 59A-11-1 NMSA 1978 (being Laws  
19 1984, Chapter 127, Section 180) is amended to read:

20 "59A-11-1. SCOPE OF ARTICLE.--

21 A. Chapter 59A, Article 11 NMSA 1978 provides  
22 procedures for licensing insurance producers, surplus line  
23 brokers and adjusters; agents of prepaid dental plans; agents  
24 of nonprofit health care plans; bail bondsmen and their  
25 solicitors; registration of motor club representatives;

1 licensing of insurance securities salespersons; and  
2 applications for, qualifying examinations, and issuance of,  
3 duration, continuation, and termination of all such licenses  
4 and registrations. For the purposes of that article, all such  
5 licenses and registrations are referred to as "licenses".

6 B. Chapter 59A, Article 11 NMSA 1978 shall also  
7 apply to all additional categories of persons operating in  
8 insurance fields and related fields as administrators,  
9 consultants, appraisers, or in whatever similar capacity,  
10 under laws now or hereafter enacted, the licensing and  
11 supervision of whom is delegated to the superintendent.

12 C. Definitions, requirement of licenses,  
13 qualifications for license, and other requirements and  
14 provisions as to insurance producers, adjusters, bail bondsmen  
15 and their solicitors, motor club representatives, and other  
16 categories referred to in Subsection B of this section, shall  
17 be as provided in subsequent articles in the Insurance Code  
18 now or hereafter respectively dealing with such categories;  
19 provided that "insurance producer" means a person required to  
20 be licensed under the laws of this state to sell, solicit or  
21 negotiate insurance."

22 SECTION 12. Section 59A-11-4 NMSA 1978 (being Laws  
23 1984, Chapter 127, Section 183) is amended to read:

24 "59A-11-4. TEMPORARY LICENSES.--

25 A. Where temporary license is otherwise provided

1 for in the Insurance Code as to a particular category of  
2 licensee, application therefor shall be made in the same  
3 manner as applies to permanent license under Chapter 59A,  
4 Article 11 NMSA 1978 with such modification therein as the  
5 superintendent may prescribe, and without payment of  
6 examination fee.

7 B. The superintendent may issue a temporary  
8 insurance producer license for a period not to exceed one  
9 hundred eighty days without requiring an examination if the  
10 superintendent deems that the temporary license is necessary  
11 for the servicing of an insurance business in accordance with  
12 the Insurance Code."

13 SECTION 13. Section 59A-11-6 NMSA 1978 (being Laws  
14 1984, Chapter 127, Section 185) is amended to read:

15 "59A-11-6. EXAMINATION OF APPLICANT.--Where an  
16 applicant for a license is required to take and pass an  
17 examination prior to issuance of a license, the examination  
18 shall be subject to the following provisions:

19 A. the examination shall be made available to  
20 applicants for particular licenses at least once each month at  
21 places within New Mexico designated by the superintendent;

22 B. the examination shall require answers of the  
23 applicant to questions asked. If the applicant requests, the  
24 examination shall be administered in the Spanish language;

25 C. all examinations shall be conducted and graded

1 in a fair and impartial manner and without unfair  
2 discrimination as between individuals examined;

3 D. a grade of not less than seventy is a passing  
4 grade;

5 E. an individual who has failed to pass an  
6 examination may take another examination at any subsequent  
7 scheduled examination date, except that an individual who has  
8 taken and failed to pass four of the same examinations shall  
9 not be entitled to take another examination until after six  
10 months after the date of the last examination failed;

11 F. an examination application fee, in the amount  
12 stated in Section 59A-6-1 NMSA 1978, or as provided for under  
13 Subsection H of this section, shall be paid for each  
14 examination;

15 G. the superintendent may cause to be prepared and  
16 made available to applicants a manual showing the general type  
17 and scope of the examination for any license for which  
18 examination is required;

19 H. the superintendent may make arrangements,  
20 including contracting with an outside testing service, for  
21 administering examinations and collecting the nonrefundable  
22 fee set forth in Section 59A-6-1 NMSA 1978;

23 I. examinations shall be developed and conducted  
24 under rules promulgated by the superintendent;

25 J. each individual applying for an examination

1 shall submit a nonrefundable fee as prescribed by the  
2 superintendent as set forth in Section 59A-6-1 NMSA 1978;

3 K. an individual who fails to appear for the  
4 examination as scheduled or fails to pass the examination  
5 shall reapply for an examination and remit all required fees  
6 and forms before being rescheduled for another examination;  
7 and

8 L. a resident individual applying for an insurance  
9 producer license shall pass a written examination unless  
10 exempt pursuant to Section 59A-12-16 NMSA 1978. The  
11 examination shall test the knowledge of the individual  
12 concerning the lines of authority for which application is  
13 made, the duties and responsibilities of an insurance producer  
14 and the insurance laws and rules of this state."

15 SECTION 14. Section 59A-11-8 NMSA 1978 (being Laws  
16 1984, Chapter 127, Section 187, as amended) is amended to  
17 read:

18 "59A-11-8. ISSUANCE OR REFUSAL TO ISSUE OR RENEW  
19 LICENSE.--

20 A. If the superintendent finds that the  
21 application is complete, that the applicant has passed all  
22 required examinations and is otherwise qualified for the  
23 license applied for, the superintendent shall promptly issue,  
24 or permit the issuance of, the license.

25 B. If the superintendent denies an application for SB 108  
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1 initial issuance or renewal of a license, the superintendent  
2 shall notify the applicant in writing and advise the applicant  
3 of the reason for the denial.

4 C. Within thirty days of the date of issuance of  
5 the denial of an application for initial issuance or renewal  
6 of a license, the applicant may request in writing a hearing  
7 on the denial. The hearing shall be held within thirty days  
8 and shall be held pursuant to the requirements of the  
9 Insurance Code.

10 D. The license of a business entity may be  
11 suspended, revoked or refused if the superintendent finds  
12 after hearing that an individual licensee's violation was  
13 known or should have been known by one or more of the  
14 partners, officers or managers acting on behalf of the  
15 partnership or corporation and the violation was neither  
16 reported to the superintendent nor corrective action taken."

17 SECTION 15. Section 59A-11-9 NMSA 1978 (being Laws  
18 1984, Chapter 127, Section 188) is amended to read:

19 "59A-11-9. LICENSE CONTENTS--NUMBER REQUIRED.--

20 A. The license issued by the superintendent under  
21 Chapter 59A, Article 11 NMSA 1978 shall contain the licensee's  
22 name, business address, personal identification number, date  
23 of issue, lines of authority, expiration date and any other  
24 information the superintendent requires.

25 B. The license of an insurance producer shall not

1 specify the name of any particular insurer or underwriter's  
2 department by which the licensee is appointed, and the  
3 licensee may represent as agent under the one license as many  
4 insurers or underwriter's departments as may appoint the  
5 licensee as agent under the Insurance Code subject to Section  
6 59A-11-13 NMSA 1978 as to certain life or health insurance  
7 producers having unsettled debit balances with an insurer  
8 previously represented.

9 C. The license of a business entity shall also  
10 record the name of each individual authorized to exercise the  
11 license powers. The superintendent may require the names of  
12 each individual to be registered with the office of  
13 superintendent of insurance."

14 SECTION 16. Section 59A-11-10 NMSA 1978 (being Laws  
15 1984, Chapter 127, Section 189, as amended) is amended to  
16 read:

17 "59A-11-10. CONTINUATION, EXPIRATION OF LICENSE.--

18 A. The term of the license shall be perpetual,  
19 contingent upon payment of fees and completion of any  
20 continuing education requirements.

21 B. Individual licenses shall renew and continue on  
22 a biennial basis on the last day of the licensee's month of  
23 birth. Business entity licenses shall renew and continue on a  
24 biennial basis on March 1 of the biennial year; except for  
25 those types of business entity licenses that, pursuant to

1 Section 59A-6-1 NMSA 1978, renew and continue on an annual  
2 basis, in which case those licenses shall renew and continue  
3 on March 1 of every year. Business entity affiliations shall  
4 renew and continue on an annual basis on March 1 of every  
5 year.

6 C. Any license referred to in this section that is  
7 not so continued shall be deemed to have terminated as of  
8 midnight on the last day of the licensee's month of birth if  
9 an individual license and as of midnight of March 1 if a  
10 business entity license; except that the superintendent may  
11 effectuate a request for continuation received within thirty  
12 days thereafter if accompanied by a continuation fee equal to  
13 one hundred fifty percent of the continuation fee otherwise  
14 required.

15 D. If the superintendent has reason to believe  
16 that the competence of any licensee, or individual designated  
17 to exercise license powers, is questionable, the  
18 superintendent may require as condition of continuation of the  
19 license or license powers that the licensee or individual take  
20 and pass a written examination as required under the Insurance  
21 Code of new individual applicants for the same license.

22 E. This section shall not apply as to temporary  
23 licenses, which shall be for such duration and subject to  
24 extension as provided in the respective sections of the  
25 Insurance Code by which such licenses are authorized.

1 F. All licenses and appointments of an insurer or  
2 other principal that ceases to be authorized to transact  
3 business in this state shall automatically terminate without  
4 notice as of date of such cessation.

5 G. A license shall terminate upon death of the  
6 licensee, if an individual, or dissolution, if a corporation,  
7 or change in partners, if a partnership; provided that, in the  
8 case of a partnership, the license may be continued for a  
9 reasonable period while application for new license is being  
10 made or pending, as provided by rule."

11 SECTION 17. Section 59A-11-12 NMSA 1978 (being Laws  
12 1984, Chapter 127, Section 191) is amended to read:

13 "59A-11-12. APPOINTMENT OF INSURANCE PRODUCER--  
14 CONTINUATION.--

15 A. An insurance producer shall not act as an agent  
16 of an insurer unless the insurance producer becomes an  
17 appointed insurance producer of that insurer. An insurance  
18 producer who is not acting as an agent of an insurer is not  
19 required to become appointed.

20 B. To appoint an insurance producer as its agent,  
21 the appointing insurer shall file in a format approved by the  
22 superintendent a notice of appointment within fifteen days  
23 from the date the agency contract is executed or the first  
24 insurance application is submitted. An insurer may also elect  
25 to appoint an insurance producer to all or some insurers

1 within the insurer's holding company system or group by the  
2 filing of a single appointment request.

3 C. Upon receipt of the notice of appointment, the  
4 superintendent shall verify within a reasonable time not to  
5 exceed thirty days that the insurance producer is eligible for  
6 appointment. If the insurance producer is determined to be  
7 ineligible for appointment, the superintendent shall notify  
8 the insurer within five days of its determination.

9 D. An insurer shall pay a filing appointment fee  
10 in the amount and method of payment set forth in Section  
11 59A-6-1 NMSA 1978 for each insurance producer appointed by the  
12 insurer.

13 E. An insurer shall remit in a manner prescribed  
14 by the superintendent a continuation of appointment fee in the  
15 amount set forth in Section 59A-6-1 NMSA 1978.

16 F. Appointments shall be continuous subject to  
17 payment of any applicable fees. Fees shall be calculated as  
18 of a date certain."

19 SECTION 18. Section 59A-11-13 NMSA 1978 (being Laws  
20 1984, Chapter 127, Section 192, as amended) is amended to  
21 read:

22 "59A-11-13. INSURANCE PRODUCERS' RIGHTS--  
23 CANCELLATION.--

24 A. No insurer shall terminate a contract  
25 appointing an individual as an independent insurance producer

1 without giving the insurance producer written notice of the  
2 termination, including the specific reason for such action, at  
3 least one hundred eighty days prior to the termination.

4 B. Notwithstanding the provisions of Subsection A  
5 of this section, no insurer may cancel a written agreement  
6 with an insurance producer with respect to property or  
7 casualty insurance because of an adverse loss-ratio experience  
8 on that insurance producer's book of business during any three  
9 full consecutive calendar years if:

10 (1) the insurer required the insurance  
11 producer to submit the application for underwriting approval,  
12 all material information on the application was fully  
13 completed and the insurance producer had not omitted or  
14 altered any information provided by the applicant; or

15 (2) the insurer accepted without prior  
16 approval policies issued by the insurance producer, if all  
17 material information on the application or on the insurer's  
18 copy of any policy issued by the insurance producer was fully  
19 completed and the insurance producer had not omitted or  
20 altered any information provided by the applicant.

21 C. The provisions of Subsection A or B of this  
22 section shall not apply to termination of a contract for  
23 insolvency, abandonment, gross or willful misconduct, failure  
24 to pay over to the company money due to the company under  
25 existing agency or company contract after receipt of a written

1 demand therefor, fraud or intentional misrepresentation by the  
2 insurance producer, either to the insurer or to an insured, or  
3 after the insurance producer's license is revoked or otherwise  
4 terminated by the superintendent.

5 D. For one year following termination for any  
6 reason other than those set forth in Subsection C of this  
7 section, the insurance producer may renew, for a term of one  
8 year, any policies of the insurer in force at termination if  
9 the insureds meet current underwriting standards. The  
10 insurance producer shall earn a commission for such renewals  
11 at a rate not less than the rate in effect prior to  
12 termination.

13 E. For the purposes of this section:

14 (1) "independent insurance producer" means  
15 an insurance producer that is not an employee of an insurer  
16 and represents more than one insurer;

17 (2) "one insurer" includes any group of  
18 insurance companies under substantially the same management  
19 and control;

20 (3) "insurer" means any insurance company  
21 authorized to transact property or casualty insurance business  
22 in this state; and

23 (4) "policies" means all kinds of insurance,  
24 except life, health, annuities and credit life and health.

25 F. An individual who has suffered damages as a

1 result of a violation of this section is granted a right to  
2 bring an action in district court to recover damages,  
3 including reasonable costs and attorney fees, if approved by  
4 the court.

5 G. An insurer or authorized representative of the  
6 insurer that terminates the appointment, employment contract  
7 or other insurance business relationship with an insurance  
8 producer shall notify the superintendent within thirty days  
9 following the effective date of the termination in the format  
10 prescribed by the superintendent, if the reason for  
11 termination is one of the reasons set forth in Section  
12 59A-11-14 NMSA 1978 or the insurer has knowledge that the  
13 insurance producer was found by a court, government body or  
14 self-regulatory organization authorized by law to have engaged  
15 in any of the activities in Section 59A-11-14 NMSA 1978. Upon  
16 the written request of the superintendent, the insurer shall  
17 provide additional information, documents, records or other  
18 data pertaining to the termination or activity of the  
19 insurance producer.

20 H. An insurer or authorized representative of the  
21 insurer that terminates the appointment, employment or  
22 contract with an insurance producer for any reason not set  
23 forth in Section 59A-11-14 NMSA 1978 shall notify the  
24 superintendent within thirty days following the effective date  
25 of the termination, in the format prescribed by the

1 superintendent. Upon written request of the superintendent,  
2 the insurer shall provide additional information, documents,  
3 records or other data pertaining to the termination.

4 I. The insurer or the authorized representative of  
5 the insurer shall promptly notify the superintendent in the  
6 format prescribed by the superintendent if, upon further  
7 review or investigation, the insurer discovers additional  
8 information that would have been reportable to the  
9 superintendent in accordance with Subsection G of this section  
10 had the insurer then known of its existence.

11 J. The insurer shall provide a copy of the  
12 notification of termination or cancellation to the insurance  
13 producer.

14 (1) Within fifteen days after making the  
15 notification required by Subsections G, H and I of this  
16 section, the insurer shall mail a copy of the notification to  
17 the insurance producer at the insurance producer's last known  
18 address. If the insurance producer is terminated for any of  
19 the reasons listed in Section 59A-11-14 NMSA 1978, the insurer  
20 shall provide a copy of the notification to the insurance  
21 producer at the insurance producer's last known address by  
22 certified mail, return receipt requested, postage prepaid or  
23 by overnight delivery using a nationally recognized carrier.

24 (2) Within thirty days after the insurance  
25 producer has received the original or additional notification

1 of termination, the insurance producer may file written  
2 comments concerning the substance of the notification with the  
3 superintendent. The insurance producer shall, by the same  
4 means, simultaneously send a copy of the comments to the  
5 reporting insurer, and the comments shall become a part of the  
6 superintendent's file and accompany every copy of a report  
7 distributed or disclosed for any reason about the insurance  
8 producer subject to the conditions provided in Subsection K of  
9 this section.

10 K. The documents and materials related to  
11 termination or cancellation of an insurance producer's  
12 appointment shall be deemed confidential as follows:

13 (1) any documents, materials or other  
14 information in the control or possession of the office of  
15 superintendent of insurance that is furnished by an insurer,  
16 insurance producer or an employee or agent thereof acting on  
17 behalf of the insurer or insurance producer, or obtained by  
18 the superintendent in an investigation pursuant to this  
19 section, shall be confidential and shall not be subject to the  
20 Inspection of Public Records Act. Nothing in this section  
21 shall be construed as a grant of privilege or confidentiality  
22 or a bar to production of that information by an insurer or  
23 the insurance producer in a civil suit, whether or not the  
24 superintendent is a party; provided that the superintendent  
25 may use the documents, materials or other information in a

1 regulatory or legal action brought in the course of the  
2 superintendent's official duties. The documents, materials or  
3 other information shall not be made public by the  
4 superintendent or any other person, except to insurance  
5 departments of other states, unless the superintendent  
6 determines that the interests of the policyholders,  
7 shareholders or public will be served by the publication of  
8 them, in which case the superintendent may publish all or any  
9 part of them in the manner the superintendent deems  
10 appropriate;

11 (2) in order to assist in the performance of  
12 the superintendent's duties, the superintendent may:

13 (a) share documents, materials or other  
14 information, including the confidential documents, materials  
15 or information subject to this section, with other state,  
16 federal and international regulatory agencies, with the  
17 national association of insurance commissioners, its  
18 affiliates or subsidiaries and with state, federal and  
19 international law enforcement authorities; provided that the  
20 recipient agrees to maintain the confidentiality of the  
21 documents, materials or other information;

22 (b) receive documents, materials or  
23 information, including otherwise confidential documents,  
24 materials or information from the national association of  
25 insurance commissioners, its affiliates or subsidiaries and

1 from regulatory and law enforcement officials of other foreign  
2 or domestic jurisdictions, and shall maintain as confidential  
3 or privileged any document, material or information received  
4 with notice or the understanding that it is confidential or  
5 privileged under the laws of the jurisdiction that is the  
6 source of the document, material or information; and

7 (c) enter into agreements governing  
8 sharing and use of information consistent with this  
9 subsection. The language in this subsection assumes the  
10 recipient has the authority to protect the applicable  
11 confidentiality or privilege, but does not address the  
12 verification of that authority that would presumably occur in  
13 the context of a broader information-sharing agreement;

14 (3) no waiver of any privilege or claim of  
15 confidentiality in the documents, materials or information  
16 shall occur as a result of disclosure to the superintendent  
17 under this section or as a result of sharing as authorized in  
18 this section; and

19 (4) nothing in this subsection shall  
20 prohibit the superintendent from releasing final adjudicated  
21 actions, including for-cause terminations that are open to  
22 public inspection pursuant to the Inspection of Public Records  
23 Act, to a database or other clearinghouse service maintained  
24 by the national association of insurance commissioners, its  
25 affiliates or subsidiaries of the national association of

1 insurance commissioners.

2 L. An insurer, the authorized representative of  
3 the insurer or insurance producer that fails to report as  
4 required under the provisions of this section or that is found  
5 by a court of competent jurisdiction to have reported with  
6 actual malice may, after notice and hearing, have its license  
7 or certificate of authority suspended or revoked and may be  
8 fined in accordance with the Insurance Code."

9 SECTION 19. Section 59A-11-14 NMSA 1978 (being Laws  
10 1984, Chapter 127, Section 193, as amended) is amended to  
11 read:

12 "59A-11-14. SUSPENSION, REVOCATION, REFUSAL TO CONTINUE  
13 LICENSE--GROUNDS.--

14 A. In addition to a reason provided under other  
15 provisions of the Insurance Code as to particular licenses,  
16 the superintendent may place on probation, suspend, revoke or  
17 refuse to issue or renew a license issued under Chapter 59A,  
18 Article 11 NMSA 1978 for any of the following reasons:

19 (1) providing incorrect, misleading,  
20 incomplete or materially untrue information in the license  
21 application;

22 (2) violating any insurance law or violating  
23 any regulation, subpoena or order of the superintendent or of  
24 another state's superintendent or commissioner of insurance;

25 (3) obtaining or attempting to obtain a

1 license through misrepresentation or fraud;

2 (4) improperly withholding, misappropriating  
3 or converting any money or properties received in the course  
4 of doing insurance business;

5 (5) intentionally misrepresenting the terms  
6 of an actual or proposed insurance contract or application for  
7 insurance;

8 (6) having been convicted of a felony;

9 (7) having admitted or been found to have  
10 committed any insurance unfair trade practice or fraud;

11 (8) using fraudulent, coercive or dishonest  
12 practices, or demonstrating incompetence, untrustworthiness or  
13 financial irresponsibility in the conduct of business in this  
14 state or elsewhere;

15 (9) having an insurance producer license, or  
16 its equivalent, denied, suspended or revoked in any other  
17 state, province, district or territory;

18 (10) forging another's name to an  
19 application for insurance or to any document related to an  
20 insurance transaction;

21 (11) improperly using notes or any other  
22 reference material to complete an examination for an insurance  
23 license;

24 (12) knowingly accepting insurance business  
25 from an individual who is not licensed;

1 (13) failing to comply with an  
2 administrative or court order imposing a child support  
3 obligation;

4 (14) failing to pay state income tax or  
5 comply with any administrative or court order directing  
6 payment of state income tax;

7 (15) any cause for which issuance of the  
8 license could have been refused had it then existed and been  
9 known to the superintendent;

10 (16) failure to pass an examination required  
11 by the superintendent, subsequent to issue of license, under  
12 Subsection D of Section 59A-11-10 NMSA 1978;

13 (17) aiding, abetting or assisting another  
14 person to violate a provision of the Insurance Code; or

15 (18) the interests of the insureds or the  
16 public are not being properly served under the license.

17 B. The superintendent may require a criminal  
18 history background investigation of an applicant or a current  
19 license holder by means of fingerprint checks by the  
20 department of public safety and the federal bureau of  
21 investigation, at the expense of the applicant or license  
22 holder, using the applicant's or license holder's fingerprints  
23 or other identifying information. The information shall be  
24 used by the superintendent solely in determining whether to  
25 suspend, revoke or refuse to continue a license."

1 SECTION 20. Section 59A-11-15 NMSA 1978 (being Laws  
2 1984, Chapter 127, Section 194) is repealed and a new Section  
3 59A-11-15 NMSA 1978 is enacted to read:

4 "59A-11-15. PROCEDURE FOR SUSPENSION, REVOCATION OR  
5 REFUSAL TO CONTINUE LICENSE.--

6 A. If the superintendent denies an initial or  
7 renewal application for a license, the superintendent shall  
8 notify the applicant in writing and advise the applicant of  
9 the reason for the denial or non-renewal of the application.  
10 Within thirty days of the date of issuance of the denial of  
11 application for initial issuance or renewal of a license, the  
12 applicant may request in writing a hearing on the denial. The  
13 hearing shall be held within ninety days and shall be held  
14 otherwise pursuant to Section 59A-4-15 NMSA 1978.

15 B. In addition to or in lieu of any applicable  
16 denial, suspension or revocation of a license, a person may,  
17 after hearing, be subject to an administrative fine according  
18 to Section 59A-1-18 NMSA 1978.

19 C. The superintendent shall retain the authority  
20 to enforce the provisions of and impose any penalty or remedy  
21 authorized by this section against any person who is under  
22 investigation for or charged with a violation of this section  
23 even if the person's license or registration has been  
24 surrendered or has lapsed by operation of law.

25 D. The state shall participate in the national

1 association of insurance commissioners attachment warehouse  
2 personal information capture system alerts or another  
3 appropriate mechanism to monitor actions against existing  
4 licensees and take necessary action, when warranted based on  
5 the information obtained through such notifications."

6 SECTION 21. A new section of Chapter 59A, Article 11  
7 NMSA 1978 is enacted to read:

8 "DUTY TO REPORT.--

9 A. A licensee shall report to the superintendent  
10 any administrative action taken against the licensee in  
11 another jurisdiction or by another governmental agency in this  
12 state within thirty days of the final disposition of the  
13 matter. The report shall include a copy of the order, consent  
14 to order or other relevant legal documents.

15 B. Within thirty days of the initial pretrial  
16 hearing date, a licensee shall report to the superintendent  
17 any criminal prosecution of the licensee taken in any  
18 jurisdiction. The report shall include a copy of the initial  
19 complaint filed, the order resulting from the hearing and any  
20 other relevant legal documents."

21 SECTION 22. A new section of Chapter 59A, Article 11  
22 NMSA 1978 is enacted to read:

23 "RECIPROCITY.--

24 A. The superintendent shall waive any requirements  
25 for a nonresident license applicant with a valid license from

1 the applicant's home state, except the requirements imposed by  
2 Section 23 of this 2016 act, if the applicant's home state  
3 awards nonresident licenses to residents of this state on the  
4 same basis.

5 B. A nonresident licensee's satisfaction of the  
6 nonresident licensee's home state's continuing education  
7 requirements shall constitute satisfaction of the continuing  
8 education requirements if the nonresident licensee's home  
9 state recognizes the satisfaction of its continuing education  
10 requirements imposed upon licensees from New Mexico on the  
11 same basis."

12 SECTION 23. A new section of Chapter 59A, Article 11  
13 NMSA 1978 is enacted to read:

14 "NONRESIDENT LICENSE--REQUIREMENTS.--

15 A. Unless denied a license pursuant to Section  
16 59A-11-14 NMSA 1978, a nonresident person shall receive a  
17 nonresident license if:

18 (1) the person is currently licensed as a  
19 resident in good standing in the person's home state;

20 (2) the person has submitted the proper  
21 request for licensure and has paid the fees required by  
22 Section 59A-6-1 NMSA 1978;

23 (3) the person has submitted or transmitted  
24 to the superintendent the application for licensure that the  
25 person submitted to the person's home state or a completed

1 uniform application; and

2 (4) the person's home state awards  
3 nonresident licenses to residents of this state on the same  
4 basis.

5 B. The superintendent may verify an applicant's  
6 insurance producer licensing status through the insurance  
7 producer database maintained by the national association of  
8 insurance commissioners, its affiliates or subsidiaries.

9 C. A nonresident licensee who moves from one state  
10 to another state or a resident licensee who moves from this  
11 state to another state shall file a change of address and  
12 provide certification from the new resident state within  
13 thirty days of the change of legal residence.

14 D. Notwithstanding any other provision of this  
15 section, a person licensed as a surplus lines producer in the  
16 person's home state shall receive a nonresident surplus lines  
17 producer license pursuant to Subsection A of this section.  
18 Except as provided in Subsection A of this section, nothing in  
19 this section otherwise amends or supersedes any provision of  
20 Chapter 59A, Article 14 NMSA 1978.

21 E. Notwithstanding any other provision of this  
22 section, a person licensed as a limited lines credit insurance  
23 or other type of limited lines producer in the person's home  
24 state shall receive a nonresident limited lines producer  
25 license, pursuant to Subsection A of this section, granting

1 the same scope of authority as granted under the license  
2 issued by the producer's home state. For the purposes of this  
3 subsection, limited lines insurance is any authority granted  
4 by the home state that restricts the authority of the license  
5 to less than the total authority prescribed in the associated  
6 major lines pursuant to Subsection C of Section 59A-7-1 NMSA  
7 1978."

8 SECTION 24. Section 59A-11A-7 NMSA 1978 (being Laws  
9 1989, Chapter 97, Section 7) is amended to read:

10 "59A-11A-7. PAYMENT FROM INSURERS OR INSURANCE  
11 PRODUCERS FOR SALE OF INSURANCE PROHIBITED--PENALTY.--

12 A. No insurance consultant serving any person,  
13 firm, association, organization or corporation not engaged in  
14 the insurance business, for compensation paid or to be paid by  
15 the person served, shall directly or indirectly receive any  
16 part of any commission or compensation paid by any insurer or  
17 insurance producer of any insurer in connection with the sale  
18 or writing of any insurance that is within the subject matter  
19 of any such service.

20 B. Any person who violates any provision of  
21 Subsection A of this section is guilty of a misdemeanor and  
22 upon conviction shall be punished by a fine of not more than  
23 five hundred dollars (\$500) or by imprisonment in the county  
24 jail for a definite term of not less than thirty days or more  
25 than ninety days or both."

1 SECTION 25. Section 59A-12-1 NMSA 1978 (being Laws  
2 1984, Chapter 127, Section 201) is amended to read:

3 "59A-12-1. PURPOSE AND SCOPE OF ARTICLE.--Chapter 59A,  
4 Article 12 NMSA 1978, in conjunction with Chapter 59A, Article  
5 11 NMSA 1978, governs the qualifications and procedures for  
6 the licensing of insurance producers. Chapter 59A, Article 12  
7 NMSA 1978 does not apply to surplus lines brokers that are  
8 licensed pursuant to Chapter 59A, Article 14 NMSA 1978 and  
9 that sell, solicit or negotiate insurance in this state solely  
10 for placement with eligible surplus lines insurers, except as  
11 provided in Sections 22 and 23 of this 2016 act."

12 SECTION 26. Section 59A-12-2 NMSA 1978 (being Laws  
13 1984, Chapter 127, Section 202) is repealed and a new Section  
14 59A-12-2 NMSA 1978 is enacted to read:

15 "59A-12-2. DEFINITIONS.--As used in Chapter 59A,  
16 Article 12 NMSA 1978:

17 A. "affiliate" means a person that controls, is  
18 controlled by or is under common control with the insurance  
19 producer;

20 B. "business entity" means a corporation,  
21 association, partnership, limited liability company, limited  
22 liability partnership or other legal entity;

23 C. "home state" means the District of Columbia and  
24 any state or territory of the United States in which an  
25 insurance producer maintains the insurance producer's

1 principal place of residence or principal place of business  
2 and is licensed to act as an insurance producer;

3 D. "insurance" means any of the lines of authority  
4 in Chapter 59A, Article 7 NMSA 1978;

5 E. "insurance producer" means a person required to  
6 be licensed under the laws of this state to sell, solicit or  
7 negotiate insurance;

8 F. "insurer" means every person engaged as  
9 principal and as indemnitor, surety or contractor in the  
10 business of entering into contracts of insurance;

11 G. "license" means a document issued by the  
12 superintendent authorizing a person to act as an insurance  
13 producer for the lines of authority specified in the document.  
14 The license itself does not create any authority, actual,  
15 apparent or inherent, in the holder to represent or commit an  
16 insurance carrier;

17 H. "limited line credit insurance" includes credit  
18 life, credit disability, credit property, credit unemployment,  
19 involuntary unemployment, mortgage life, mortgage guaranty,  
20 mortgage disability, guaranteed automobile protection  
21 insurance and any other form of insurance offered in  
22 connection with an extension of credit that is limited to  
23 partially or wholly extinguishing that credit obligation;

24 I. "limited line credit insurance producer" means  
25 a person who sells, solicits or negotiates one or more forms

1 of limited line credit insurance coverage to individuals  
2 through a master, corporate, group or individual policy;

3 J. "limited lines insurance" means those lines of  
4 insurance referred to in Section 59A-12-18 NMSA 1978 or any  
5 other line of insurance that the superintendent deems  
6 necessary to recognize for the purposes of complying with  
7 Subsection E of Section 23 of this 2016 act;

8 K. "limited lines producer" means a person  
9 authorized by the superintendent to sell, solicit or negotiate  
10 limited lines insurance;

11 L. "negotiate" means the act of conferring  
12 directly with or offering advice directly to a purchaser or  
13 prospective purchaser of a particular contract of insurance  
14 concerning any of the substantive benefits, terms or  
15 conditions of the contract; provided that the person engaged  
16 in that act either sells insurance or obtains insurance from  
17 insurers for purchasers;

18 M. "sell" means to exchange a contract of  
19 insurance by any means, for money or its equivalent, on behalf  
20 of an insurer;

21 N. "solicit" means attempting to sell insurance or  
22 asking or urging a person to apply for a particular kind of  
23 insurance from a particular insurer;

24 O. "terminate" means to cancel the relationship  
25 between an insurance producer and the insurer or to terminate

1 an insurance producer's authority to transact insurance;

2 P. "uniform application" means the current version  
3 of the national association of insurance commissioners uniform  
4 application for resident and nonresident insurance producer  
5 licensing; and

6 Q. "uniform business entity application" means the  
7 current version of the national association of insurance  
8 commissioners uniform business entity application for resident  
9 and nonresident business entities."

10 SECTION 27. Section 59A-12-3 NMSA 1978 (being Laws  
11 1984, Chapter 127, Section 203) is amended to read:

12 "59A-12-3. "BROKER" AND "SERVICE REPRESENTATIVE"  
13 DEFINED.--For the purpose of the Insurance Code:

14 A. a "broker" is a type of insurance producer who,  
15 not being an agent of the insurer, as an independent  
16 contractor and on behalf of the insured solicits, negotiates  
17 or procures insurance or annuity contracts or renewal or  
18 continuation thereof for insureds or prospective insureds  
19 other than the broker. "Broker" does not include a surplus  
20 line broker, as defined in Chapter 59A, Article 14 NMSA 1978;  
21 and

22 B. "service representative" means an individual,  
23 regularly employed on salary by an insurer, group of insurers  
24 or managing general agent, who assists insurance producers in  
25 soliciting, negotiating and effectuating insurance for such

1 insurer, group or managing general agent and, in conduct of  
2 their business, receives no part of the commission on  
3 insurance written. A service representative is not required  
4 to be licensed, nor shall the service representative  
5 independently solicit or negotiate insurance or annuity  
6 contracts."

7 SECTION 28. Section 59A-12-4 NMSA 1978 (being Laws  
8 1984, Chapter 127, Section 205, as amended by Laws 1999,  
9 Chapter 272, Section 5 and also by Laws 1999, Chapter 289,  
10 Section 6) is amended to read:

11 "59A-12-4. LICENSE REQUIRED.--A person shall not sell,  
12 solicit or negotiate insurance in this state for any class or  
13 classes of insurance unless the person is licensed for that  
14 line of insurance in accordance with the Insurance Code."

15 SECTION 29. Section 59A-12-7 NMSA 1978 (being Laws  
16 1984, Chapter 127, Section 208) is repealed and a new Section  
17 59A-12-7 NMSA 1978 is enacted to read:

18 "59A-12-7. EXEMPTIONS FROM LICENSE REQUIREMENTS.--

19 A. Nothing in Chapter 59A, Article 12 NMSA 1978  
20 shall be construed to require an insurer to obtain an  
21 insurance producer license. In this section, the term  
22 "insurer" does not include an insurer's officers, directors,  
23 employees, subsidiaries or affiliates.

24 B. A license as an insurance producer shall not be  
25 required of the following:

1                   (1) an officer, director or employee of an  
2 insurer or of an insurance producer; provided that the  
3 officer, director or employee does not receive any commission  
4 on policies written or sold to insure risks residing, located  
5 or to be performed in this state and:

6                   (a) the officer's, director's or  
7 employee's activities are executive, administrative,  
8 managerial, clerical or a combination of these, and are only  
9 indirectly related to the sale, solicitation or negotiation of  
10 insurance;

11                   (b) the officer's, director's or  
12 employee's function relates to underwriting, loss control,  
13 inspection or the processing, adjusting, investigating or  
14 settling of a claim on a contract of insurance; or

15                   (c) the officer, director or employee  
16 is acting in the capacity of a special agent or agency  
17 supervisor assisting insurance producers where the person's  
18 activities are limited to providing technical advice and  
19 assistance to licensed insurance producers and do not include  
20 the sale, solicitation or negotiation of insurance;

21                   (2) a person who receives no commission and  
22 who secures and furnishes information for the purpose of group  
23 life insurance, group property and casualty insurance, group  
24 annuities, group or blanket accident and health insurance, or  
25 enrolls individuals, issues certificates or otherwise assists

1 in administering plans, or performs administrative services  
2 related to mass marketed property and casualty insurance;

3 (3) an employer or association or its  
4 officers, directors, employees or the trustees of an employee  
5 trust plan, to the extent that the employers, officers,  
6 employees, director or trustees are engaged in the  
7 administration or operation of a program of employee benefits  
8 for the employer's or association's own employees or the  
9 employees of its subsidiaries or affiliates, which program  
10 involves the use of insurance issued by an insurer, as long as  
11 the employers, associations, officers, directors, employees or  
12 trustees are not in any manner compensated, directly or  
13 indirectly, by the company issuing the contract;

14 (4) employees of insurers or organizations  
15 employed by insurers who are engaging in the inspection,  
16 rating or classification of risks, or in the supervision of  
17 the training of insurance producers and who are not  
18 individually engaged in the sale, solicitation or negotiation  
19 of insurance;

20 (5) a person whose activities in this state  
21 are limited to advertising without the intent to solicit  
22 insurance in this state through communications in printed  
23 publications or other forms of electronic mass media whose  
24 distribution is not limited to residents of the state;  
25 provided that the person does not sell, solicit or negotiate

1 insurance that would insure risks residing, located or to be  
2 performed in this state;

3 (6) person who is not a resident of this  
4 state who sells, solicits or negotiates a contract of  
5 insurance for commercial property and casualty risks to an  
6 insured with risks located in more than one state insured  
7 under that contract; provided that that person is otherwise  
8 licensed as an insurance producer to sell, solicit or  
9 negotiate that insurance in the state where the insured  
10 maintains its principal place of business and the contract of  
11 insurance insures risks located in that state; or

12 (7) a salaried full-time employee who  
13 counsels or advises the employee's employer relative to the  
14 insurance interests of the employer or of the subsidiaries or  
15 business affiliates of the employer; provided that the  
16 employee does not sell or solicit insurance or receive a  
17 commission."

18 SECTION 30. Section 59A-12-11 NMSA 1978 (being Laws  
19 1984, Chapter 127, Section 212) is amended to read:

20 "59A-12-11. NO LICENSE WHERE SHARES OR INTEREST USED AS  
21 INDUCEMENT TO INSURANCE.--The superintendent shall not license  
22 as an insurance producer, or permit any such license to  
23 continue, if the superintendent finds that the licensee did,  
24 or that the applicant for license intends to offer, give or  
25 sell stock or other ownership or participating interest in the

1 agency or brokerage as inducement to or in connection with  
2 purchase of insurance."

3 SECTION 31. Section 59A-12-12 NMSA 1978 (being Laws  
4 1984, Chapter 127, Section 213, as amended by Laws 1999,  
5 Chapter 272, Section 8 and also by Laws 1999, Chapter 289,  
6 Section 9) is repealed and a new Section 59A-12-12 NMSA 1978  
7 is enacted to read:

8 "59A-12-12. APPLICATION AND GENERAL QUALIFICATIONS FOR  
9 INDIVIDUAL INSURANCE PRODUCER LICENSE.--

10 A. An individual applying for a resident insurance  
11 producer license shall apply to the superintendent on the  
12 uniform application and declare under penalty of refusal,  
13 suspension or revocation of the license that the statements  
14 made in the application are true, correct and complete to the  
15 best of the applicant's knowledge and belief.

16 B. Before approving the application, the  
17 superintendent shall:

18 (1) confirm that the applicant:

19 (a) is at least eighteen years of age;

20 (b) has not committed any act that is a  
21 ground for denial, suspension or revocation under the  
22 Insurance Code;

23 (c) has paid the fees set forth in  
24 Section 59A-6-1 NMSA 1978;

25 (d) has successfully passed the

1 examinations for the lines of authority for which the  
2 application is made, if such examination is required; and

3 (e) is in compliance with other  
4 applicable qualifications and requirements of the Insurance  
5 Code;

6 (2) review the applicant's answers to the  
7 standard background questions on the uniform application;

8 (3) obtain the applicant's fingerprints; and

9 (4) conduct state and federal criminal  
10 background checks on the applicant.

11 C. The superintendent may require any documents  
12 reasonably necessary to verify the information contained in an  
13 application. The superintendent may obtain fingerprints from  
14 licensed resident insurance producers from whom fingerprints  
15 were not obtained at the time of application or when adding  
16 additional lines of authority to their license.

17 D. Each insurer that sells, solicits or negotiates  
18 any form of limited line credit insurance shall provide to  
19 each individual whose duties will include selling, soliciting  
20 or negotiating limited line credit insurance a program of  
21 instruction approved by the superintendent."

22 SECTION 32. Section 59A-12-13 NMSA 1978 (being Laws  
23 1984, Chapter 127, Section 214) is amended to read:

24 "59A-12-13. SPECIAL REQUIREMENTS, TITLE INSURANCE  
25 PRODUCERS.--

1           A. The superintendent shall not issue or permit to  
2 continue an insurance producer license for title insurance  
3 except for an applicant or a licensee who, in addition to  
4 other applicable qualifications and requirements, owns,  
5 operates or controls an abstract plant consisting of a set of  
6 records in which an entry has been made of all documents or  
7 matters that under law impart constructive notice of matters  
8 affecting title to real property or any interest therein or  
9 encumbrance thereon, which have been filed or recorded in the  
10 county for which such title plant is maintained for a period  
11 of not less than twenty years immediately prior to date of  
12 application for license. Such records shall consist of:

13                   (1) an index or indices in which notations  
14 of or references to any documents that describe property  
15 affected thereby are posted, entered or otherwise included,  
16 according to the property described therein, or copies or  
17 briefs of all documents that describe the property affected  
18 thereby that are sorted and filed according to such property;  
19 and

20                   (2) an index or indices in which all other  
21 such documents are posted, entered or otherwise included,  
22 according to the name or names of the parties whose title to  
23 real property or any interest therein or encumbrances thereon  
24 is affected.

25           B. A license to issue title insurance shall permit SB 108  
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1 the licensee to issue policies only on property located in the  
2 county or counties for which the licensee has the necessary  
3 abstract plant."

4 SECTION 33. Section 59A-12-15 NMSA 1978 (being Laws  
5 1984, Chapter 127, Section 216, as amended by Laws 1999,  
6 Chapter 272, Section 9 and also by Laws 1999, Chapter 289,  
7 Section 10) is amended to read:

8 "59A-12-15. LICENSING BUSINESS ENTITIES.--

9 A. A business entity acting as an insurance  
10 producer is required to obtain an insurance producer license.  
11 Application shall be made using the uniform business entity  
12 application. Before approving the application, the  
13 superintendent shall confirm that:

14 (1) the business entity has paid the fees  
15 set forth in Section 59A-6-1 NMSA 1978;

16 (2) the business entity has designated a  
17 licensed insurance producer responsible for the business  
18 entity's compliance with the insurance laws of this state; and

19 (3) a licensee who is to exercise license  
20 powers shall be affiliated by submitting an application. The  
21 application must be submitted with payment as required in  
22 Section 59A-6-1 NMSA 1978.

23 B. The application shall be signed on behalf of  
24 the applicant by an authorized partner or corporate officer,  
25 and under oath if required by the superintendent.

1           C. The application form may require the following  
2 information about the applicant:

3                   (1) if the applicant is a partnership, the  
4 name, residence, proof of identity, business record and  
5 reputation, business experience of each partner and any other  
6 information required by the superintendent;

7                   (2) if the applicant is a corporation, the  
8 name, residence, proof of identity, business record and  
9 reputation, business experience of each officer, member of the  
10 board of directors, controlling stockholder and any other  
11 information required by the superintendent;

12                   (3) evidence satisfactory to the  
13 superintendent that transaction of business proposed to be  
14 transacted under the license applied for is within the  
15 partnership agreement, if the applicant is a partnership, or  
16 within the corporate powers, if the applicant is a  
17 corporation; and

18                   (4) such further information concerning the  
19 applicant, appointment of the applicant, partners, corporate  
20 officers, directors and stockholders, as the superintendent  
21 may require.

22           D. If the applicant is a partnership, each  
23 individual who is not a general partner and who is to exercise  
24 license powers, and if the applicant is a corporation, each  
25 individual, whether or not an officer, director, stockholder

1 or in other relationship to the corporation, who is to  
2 exercise the license powers, shall file an application as  
3 though for an individual license for the same kind of business  
4 as that applied for by the partnership or corporation.

5 E. The application shall be accompanied by payment  
6 of the application filing fee, fee for any examination  
7 required under the Insurance Code to be taken and passed prior  
8 to licensing and by any bond otherwise required for the  
9 license applied for. A license application filing fee is  
10 required for each individual who is to exercise the license  
11 powers of a corporation, or license powers of a partnership if  
12 not a general partner therein.

13 F. The business entity shall comply with all other  
14 licensing and registration requirements to do business in the  
15 state."

16 SECTION 34. Section 59A-12-16 NMSA 1978 (being Laws  
17 1984, Chapter 127, Section 217, as amended) is amended to  
18 read:

19 "59A-12-16. EXAMINATION FOR LICENSE.--

20 A. A resident individual applying for an insurance  
21 producer license shall, prior to issuance of license,  
22 personally take and pass a written examination. The  
23 examination shall test the knowledge of the individual  
24 concerning the lines of authority for which application is  
25 made, the duties and responsibilities of an insurance producer

1 and the insurance laws and rules of this state. Examinations  
2 required by this section shall be developed and conducted  
3 under rules prescribed by the superintendent.

4 B. The superintendent may contract with an outside  
5 testing service for administering examinations and collecting  
6 the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

7 C. Each individual applying for an examination  
8 shall remit a nonrefundable fee as prescribed by the  
9 superintendent as set forth in Section 59A-6-1 NMSA 1978.

10 D. An individual who fails to appear for the  
11 examination as scheduled or fails to pass the examination  
12 shall reapply for an examination and remit all required fees  
13 and forms before being rescheduled for another examination.

14 E. No examination shall be required:

15 (1) for renewal or continuance of an  
16 existing license, except as provided in Subsection D of  
17 Section 59A-11-10 NMSA 1978;

18 (2) of an applicant for limited license as  
19 provided in Section 59A-12-18 NMSA 1978;

20 (3) of applicants with respect to life and  
21 annuities or accident and health insurances who hold the  
22 chartered life underwriter (C.L.U.) designation by the  
23 American college of life underwriters;

24 (4) of applicants with respect to property  
25 and casualty insurance who hold the designation of chartered

1 property and casualty underwriter (C.P.C.U.) designation by  
2 the American institute of property and casualty underwriters;

3 (5) of applicants for temporary license as  
4 provided for in Section 59A-12-19 NMSA 1978;

5 (6) of an applicant for a license covering  
6 the same kind or kinds of insurance as to which licensed in  
7 this state under a similar license within five years preceding  
8 date of application for the new license, unless the previous  
9 license was suspended, revoked or continuation thereof refused  
10 by the superintendent; or

11 (7) of an applicant for insurance producer  
12 license, if the applicant took and passed a similar  
13 examination in a state in which already licensed, subject to  
14 Section 59A-5-33 NMSA 1978.

15 F. An individual who applies for an insurance  
16 producer license in this state who was previously licensed for  
17 the same lines of authority in another state shall not be  
18 required to take an examination. This exemption is only  
19 available if the person is currently licensed in that state or  
20 if the application is received within ninety days of the  
21 cancellation of the applicant's previous license and if the  
22 prior state issues a certification that, at the time of  
23 cancellation, the applicant was in good standing in that state  
24 or the state's insurance producer database records, maintained  
25 by the national association of insurance commissioners, its

1 affiliates or subsidiaries, indicate that the insurance  
2 producer is or was licensed in good standing for the line of  
3 authority requested.

4 G. A person licensed as an insurance producer in  
5 another state who moves to this state shall apply within  
6 ninety days of establishing legal residence to become a  
7 resident insurance producer. No examination shall be required  
8 of that person to obtain any line of authority previously held  
9 in the prior state except where the superintendent determines  
10 otherwise by rule."

11 SECTION 35. Section 59A-12-17 NMSA 1978 (being Laws  
12 1984, Chapter 127, Section 218, as amended) is amended to  
13 read:

14 "59A-12-17. SCOPE OF LICENSE.--

15 A. Unless denied licensure pursuant to Sections  
16 59A-11-8 and 59A-11-14 NMSA 1978, a person who has met the  
17 requirements of Sections 59A-12-12 and 59A-12-15 NMSA 1978  
18 shall be issued an insurance producer license. An insurance  
19 producer may receive qualification for a license in one or  
20 more of the following lines of authority:

21 (1) life insurance coverage on human lives,  
22 including benefits of endowment and annuities, and may include  
23 benefits in the event of death or dismemberment by accident  
24 and benefits for disability income;

25 (2) accident and health or sickness

1 insurance coverage for sickness, bodily injury or accidental  
2 death and may include benefits for disability income;

3 (3) property insurance coverage for the  
4 direct or consequential loss or damage to property of every  
5 kind;

6 (4) casualty insurance coverage against  
7 legal liability, including that for death, injury or  
8 disability or damage to real or personal property;

9 (5) variable life and variable annuity  
10 products insurance coverage provided under variable life  
11 insurance contracts and variable annuities;

12 (6) personal lines property and casualty  
13 insurance coverage sold to individuals and families for  
14 primarily noncommercial purposes;

15 (7) limited line credit insurance; and

16 (8) any other line of insurance permitted  
17 under state laws.

18 B. A licensee as to variable annuities or similar  
19 contracts deemed to constitute securities shall also possess  
20 license as a security salesman under other applicable state  
21 laws.

22 C. An insurance producer license shall remain in  
23 effect unless revoked or suspended as long as the fee set  
24 forth in Section 59A-6-1 NMSA 1978 is paid and education  
25 requirements for resident insurance producers are met by the

1 due date.

2 D. An insurance producer who allows the insurance  
3 producer's license to lapse may, within twelve months from the  
4 due date of the renewal fee, reinstate the same license  
5 without the necessity of passing a written examination.

6 However, a penalty in the amount of double the unpaid renewal  
7 fee shall be required for any renewal fee received after the  
8 due date.

9 E. A licensed insurance producer who is unable to  
10 comply with license renewal procedures due to military service  
11 or some other extenuating circumstance may request a waiver of  
12 those procedures. The insurance producer may also request a  
13 waiver of any examination requirement or any other fine or  
14 sanction imposed for failure to comply with renewal  
15 procedures.

16 F. The license shall contain the licensee's name,  
17 address and personal identification number, the date of  
18 issuance, the lines of authority, the expiration date and any  
19 other information the superintendent deems necessary.

20 G. Licensees shall inform the superintendent in  
21 the format prescribed by the superintendent of a change of  
22 address within thirty days of the change. Failure to timely  
23 inform the superintendent of a change in legal name or address  
24 shall result in a penalty of fifty dollars (\$50.00).

25 H. The superintendent may contract with non-

1 governmental entities, including the national association of  
2 insurance commissioners or any affiliates or subsidiaries that  
3 the national association of insurance commissioners oversees,  
4 to perform any ministerial functions, including the collection  
5 of fees, related to insurance producer licensing that the  
6 superintendent and the nongovernmental entity may deem  
7 appropriate."

8 SECTION 36. Section 59A-12-18 NMSA 1978 (being Laws  
9 1984, Chapter 127, Section 219, as amended) is amended to  
10 read:

11 "59A-12-18. LIMITED LINES.--

12 A. The superintendent may issue a limited  
13 insurance producer license to individual applicants employed  
14 full time by a vendor of merchandise or other property, or by  
15 a financial institution making consumer loans on terms with  
16 respect to which credit life insurance, credit disability  
17 insurance, credit property insurance or credit involuntary  
18 unemployment insurance under a master, corporate, group or  
19 individual policy is customarily required of or offered to the  
20 purchaser or borrower, covering only that credit life, credit  
21 disability, credit property or credit involuntary unemployment  
22 insurance.

23 B. The superintendent may issue a limited  
24 insurance producer license to vendors in accordance with the  
25 provisions of the Portable Electronics Insurance Act. The

1 application shall provide:

2 (1) the name, residence address and other  
3 information required by the superintendent for an employee or  
4 officer of the vendor that is designated by the applicant as  
5 the individual responsible for the vendor's compliance with  
6 the requirements of the Portable Electronics Insurance Act.

7 If the vendor derives more than fifty percent of its revenue  
8 from the sale of portable electronics insurance, the  
9 information noted above shall be provided for all officers,  
10 directors and shareholders of record having beneficial  
11 ownership of ten percent or more of any class of securities  
12 registered under the federal securities law; and

13 (2) the location of the applicant's home  
14 office."

15 SECTION 37. Section 59A-12-18.1 NMSA 1978 (being Laws  
16 2013, Chapter 140, Section 3) is amended to read:

17 "59A-12-18.1. LIMITED LINES TRAVEL INSURANCE PRODUCER  
18 LICENSE.--

19 A. The superintendent may issue a limited lines  
20 travel insurance producer license to applicants who are  
21 qualified to solicit or sell travel insurance.

22 B. A travel retailer may offer travel insurance  
23 under the license of a limited lines travel insurance producer  
24 only if:

25 (1) the limited lines travel insurance

1 producer or travel retailer provides to purchasers of travel  
2 insurance:

3 (a) a description of the material terms  
4 of the insurance coverage;

5 (b) a description of the process for  
6 filing a claim;

7 (c) a description of the travel  
8 insurance policy's cancellation process; and

9 (d) the identity and contact  
10 information of the insurer and limited lines travel insurance  
11 producer;

12 (2) the limited lines travel insurance  
13 producer:

14 (a) establishes at the time of  
15 licensure on a form prescribed by the superintendent a  
16 register of each travel retailer that offers travel insurance  
17 on behalf of the limited lines travel insurance producer;

18 (b) includes in the register each  
19 travel retailer's federal tax identification number and the  
20 name, address and contact information of each travel retailer  
21 and an officer or person who directs or controls the travel  
22 retailer's operations;

23 (c) maintains the register and updates  
24 it at least once a year;

25 (d) submits the register to the

1 superintendent upon reasonable request; and

2 (e) certifies that each travel retailer  
3 on the register complies with federal laws;

4 (3) the limited lines travel insurance  
5 producer has selected a designated responsible agent who is  
6 one of its licensed individual insurance producer employees  
7 and who is responsible for the limited lines travel insurance  
8 producer's compliance with the travel insurance laws and rules  
9 of this state;

10 (4) the designated responsible agent,  
11 president, secretary, treasurer and all other officers or  
12 persons who direct or control the limited lines travel  
13 insurance producer's insurance operations comply with the  
14 fingerprinting requirements for insurance producers of the  
15 resident state of the limited lines travel insurance producer;

16 (5) the limited lines travel insurance  
17 producer has paid all applicable insurance producer licensing  
18 fees pursuant to state law; and

19 (6) the limited lines travel insurance  
20 producer requires each employee and authorized representative  
21 of the travel retailer whose duties include offering and  
22 disseminating travel insurance to receive a program of  
23 instruction or training that the superintendent may review and  
24 that, at a minimum, contains instructions on the types of  
25 insurance offered, ethical sales practices and required

1 disclosures to prospective customers.

2 C. A travel retailer that offers and disseminates  
3 travel insurance shall make available to prospective  
4 purchasers brochures or other written materials that:

5 (1) identify and provide the contact  
6 information of the insurer and the limited lines travel  
7 insurance producer;

8 (2) explain that the purchase of travel  
9 insurance is not a prerequisite to the purchase of any other  
10 product or service of the travel retailer; and

11 (3) explain that an unlicensed travel  
12 retailer may provide general information about the insurance  
13 offered by the travel retailer, including a description of the  
14 coverage and price, but is not qualified or authorized to  
15 answer technical questions about the terms and conditions of  
16 the insurance offered by the travel retailer or to evaluate  
17 the adequacy of the customer's existing insurance coverage.

18 D. A travel retailer's employee or authorized  
19 representative who is not licensed as an insurance producer  
20 shall not:

21 (1) evaluate or interpret the technical  
22 terms, benefits or conditions of the travel insurance coverage  
23 offered;

24 (2) evaluate or provide advice concerning a  
25 prospective purchaser's existing insurance coverage; or

1 (3) make representation as being a licensed  
2 insurer, licensed insurance producer or insurance expert.

3 E. A travel retailer and its employees and  
4 authorized representatives whose insurance-related activities  
5 are limited to the offering and disseminating of travel  
6 insurance on behalf of and under the direction of a limited  
7 lines travel insurance producer that complies with this  
8 section may conduct and receive compensation for those  
9 activities.

10 F. A travel retailer may place insurance under an  
11 individual policy or under a group or master policy.

12 G. As the insurer designee, a limited lines travel  
13 insurance producer shall be responsible for the acts of the  
14 travel retailer and shall use reasonable means to ensure that  
15 the travel retailer complies with the provisions of this  
16 section.

17 H. As used in this section:

18 (1) "limited lines travel insurance  
19 producer" means a licensed managing general agent or  
20 third-party administrator or a licensed insurance producer;

21 (2) "offer and disseminate" means providing  
22 general information, including a description of coverage and  
23 price, processing applications, collecting premiums and  
24 performing other nonlicensable activities permitted by this  
25 state;

1                   (3) "travel insurance" means insurance  
2 coverage for personal risks incident to planned travel,  
3 including the interruption or cancellation of a trip or event;  
4 the loss of baggage or personal effects; damage to  
5 accommodations or rental vehicles; or sickness, accident,  
6 disability or death during travel. "Travel insurance" does  
7 not include major medical plans that provide comprehensive  
8 medical protection for travelers on trips of six months or  
9 longer, such as for those working overseas as expatriates or  
10 deployed military personnel; and

11                   (4) "travel retailer" means a business  
12 entity that makes, arranges or offers travel services."

13                   SECTION 38. Section 59A-12-19 NMSA 1978 (being Laws  
14 1984, Chapter 127, Section 220) is repealed and a new Section  
15 59A-12-19 NMSA 1978 is enacted to read:

16                   "59A-12-19. TEMPORARY LICENSES.--

17                   A. The superintendent may issue a temporary  
18 insurance producer license for a period not to exceed one  
19 hundred eighty days without requiring an examination if the  
20 superintendent deems that the temporary license is necessary  
21 for the servicing of an insurance business in the following  
22 cases:

23                   (1) to the surviving spouse or court-  
24 appointed personal representative of a licensed insurance  
25 producer who dies or becomes mentally or physically disabled

1 to allow adequate time for the sale of the insurance business  
2 owned by the insurance producer or for the recovery or return  
3 of the insurance producer to the business or to provide for  
4 the training and licensing of new personnel to operate the  
5 insurance producer's business;

6 (2) to a member or employee of a business  
7 entity licensed as an insurance producer, upon the death or  
8 disability of an individual designated in the business entity  
9 application or the license;

10 (3) to the designee of a licensed insurance  
11 producer entering active service in the armed forces of the  
12 United States; or

13 (4) in any other circumstance where the  
14 superintendent deems that the public interest will best be  
15 served by the issuance of the license.

16 B. The superintendent may by order limit the  
17 authority of any temporary licensee in any way deemed  
18 necessary to protect insureds and the public. The  
19 superintendent may require the temporary licensee to have a  
20 suitable sponsor who is a licensed insurance producer or  
21 insurer and who assumes responsibility for all acts of the  
22 temporary licensee and may impose other similar requirements  
23 designed to protect insureds and the public. The  
24 superintendent may by order revoke a temporary license if the  
25 interest of insureds or the public is endangered. A temporary

1 license shall not continue after the owner or the personal  
2 representative disposes of the business."

3 SECTION 39. Section 59A-12-20 NMSA 1978 (being Laws  
4 1984, Chapter 127, Section 221, as amended) is amended to  
5 read:

6 "59A-12-20. PLACE OF BUSINESS.--An insurance producer  
7 shall have and maintain a place of business accessible to the  
8 public where the licensee conducts transactions under the  
9 license. Nothing in this section shall prohibit maintenance  
10 of the place of business in the licensee's residence."

11 SECTION 40. Section 59A-12-21 NMSA 1978 (being Laws  
12 1984, Chapter 127, Section 222) is amended to read:

13 "59A-12-21. RECORDS OF INSURANCE PRODUCER.--

14 A. Every insurance producer shall keep in the  
15 insurance producer's place of business complete records of  
16 transactions under the license. The record shall show the  
17 following information for each insurance policy placed by or  
18 through the licensee:

- 19 (1) the names of the insurer and insured;  
20 (2) the number and expiration date of each  
21 policy;  
22 (3) the premium payable for each policy;  
23 (4) the names of all other persons from whom  
24 business is accepted or to whom commissions are promised or  
25 paid;

1 (5) all premiums collected; and  
2 (6) any additional information the  
3 superintendent may require.

4 B. The records shall be open to the  
5 superintendent's examination, and the superintendent may at  
6 any reasonable time require the licensee to furnish, in the  
7 manner or form that the superintendent may require, any  
8 information kept or required to be kept in such records.

9 C. Records as to a particular policy may be  
10 destroyed on expiration of three years after the policy's  
11 expiration."

12 SECTION 41. Section 59A-12-22 NMSA 1978 (being Laws  
13 1984, Chapter 127, Section 223, as amended) is amended to  
14 read:

15 "59A-12-22. FIDUCIARY FUNDS--INSURANCE PRODUCERS,  
16 SURPLUS LINE BROKERS, BAIL BONDSMEN, MOTOR CLUB AGENTS AND  
17 OTHERS.--

18 A. All funds of others received by a person  
19 licensed or acting as an insurance producer, surplus line  
20 broker, bail bondsman or their solicitor, motor club agent or  
21 agent for a health care plan or prepaid dental plan, or in a  
22 similar capacity for which licensing of the person is required  
23 under the Insurance Code, are received and held by the person  
24 in a fiduciary capacity. Any person who diverts or  
25 appropriates funds to the person's own use, or takes or

1 secretes with intent to embezzle, all without consent of the  
2 person entitled to the funds, is guilty of larceny by  
3 embezzlement.

4 B. Subject to the terms of any agreement between a  
5 person or licensee and the person's or licensee's principal or  
6 obligee, each person who does not make immediate remittance of  
7 funds to the insurer or other person entitled thereto shall  
8 elect and follow as to funds received for account of a  
9 particular insurer or person either of the following methods:

10 (1) remit received premiums (less applicable  
11 commissions, if any) and return premiums to the insurer or  
12 other person entitled thereto within fifteen days after  
13 receipt; or

14 (2) establish and maintain in a commercial  
15 bank or other established financial institution depository one  
16 or more accounts, separate from accounts holding general  
17 personal, firm or corporate funds, and forthwith deposit and  
18 retain therein pending transmittal to the insurer or other  
19 person entitled thereto all such premiums (net of applicable  
20 commissions, if any) and return premiums. Funds belonging to  
21 more than one principal may be as deposited and held in the  
22 same account so long as the amount held for each principal is  
23 readily ascertainable from the records of the depositor. The  
24 depositor may commingle with such fiduciary funds in a  
25 particular account such additional funds as the licensee deems

1 prudent for advancing premiums, reserves for payment of return  
2 commissions or for other contingencies arising in the business  
3 of receiving and transmitting premiums or return premiums.

4 C. The person may commingle with the person's own  
5 funds to an unlimited amount funds of a particular principal  
6 who has in writing in advance expressly waived the segregation  
7 requirements of Subsection B of this section.

8 D. Any commingling of funds with funds of any  
9 person permitted under this section shall not alter the  
10 fiduciary capacity of the person as to funds of others."

11 SECTION 42. Section 59A-12-23 NMSA 1978 (being Laws  
12 1984, Chapter 127, Section 224, as amended by Laws 1999,  
13 Chapter 272, Section 13 and also by Laws 1999, Chapter 289,  
14 Section 14) is amended to read:

15 "59A-12-23. INSURANCE VENDING MACHINES.--

16 A. A licensed insurance producer may solicit for  
17 and issue personal travel accident insurance policies of an  
18 authorized insurer by means of mechanical vending machines  
19 supervised by the insurance producer and placed at airports  
20 and other places of convenience to the traveling public, if  
21 the superintendent finds that:

22 (1) the policy provides reasonable coverage  
23 and benefits, is suitable for sale and issuance by vending  
24 machine and use of such a machine in a proposed location would  
25 be of material convenience to the public;

1 (2) the type of machine proposed to be used  
2 is reasonably suitable for the purpose;

3 (3) reasonable means are provided for  
4 informing prospective purchasers of policy coverages and  
5 restrictions;

6 (4) reasonable means are provided for refund  
7 of money inserted in defective machines and for which  
8 insurance so paid for is not received; and

9 (5) the cost of maintaining such a machine  
10 at a particular location is reasonable.

11 B. For each machine to be used the superintendent  
12 shall issue to the applicant a special vending machine  
13 license. The license shall state the name and address of the  
14 insurer and insurance producer, name of the policy to be sold  
15 and serial number and operating location of the machine. The  
16 license shall be subject to biennial continuation, to  
17 expiration, suspension or revocation coincidentally with that  
18 of the insurance producer. The superintendent shall also  
19 revoke the license as to any machine as to which the  
20 superintendent finds that license qualifications no longer  
21 exist. Proof of existence of a subsisting license shall be  
22 displayed on or about each machine in use in the manner that  
23 the superintendent reasonably requires."

24 SECTION 43. Section 59A-12-25 NMSA 1978 (being Laws  
25 1984, Chapter 127, Section 226, as amended by Laws 1999,

1 Chapter 272, Section 15 and also by Laws 1999, Chapter 289,  
2 Section 16) is amended to read:

3 "59A-12-25. NONRESIDENT INSURANCE PRODUCERS--  
4 RETALIATION.--

5 A. The superintendent may refuse to issue a  
6 license as an insurance producer to a resident of another  
7 state or country, who is otherwise qualified under Chapter  
8 59A, Article 12 NMSA 1978 for license as an insurance producer  
9 in New Mexico, if under the laws of the other state or country  
10 licensed residents of this state are prohibited or prevented  
11 from acting as an insurance producer because of their  
12 residence.

13 B. As part of an application for a license, the  
14 nonresident applicant shall appoint the superintendent, on a  
15 form prescribed and furnished by the superintendent, as agent  
16 on whom may be served all legal process issued by a court in  
17 this state in any action against or involving the licensee as  
18 to transactions under the license. The appointment shall be  
19 irrevocable and continue for so long as an action could arise  
20 or exist. Duplicate copies of process shall be served upon  
21 the superintendent or other individual in apparent charge of  
22 the office of superintendent of insurance during the  
23 superintendent's absence, accompanied by payment of the  
24 process service fee specified in Section 59A-6-1 NMSA 1978.

25 Upon service the superintendent shall promptly forward a copy

1 by certified mail, return receipt requested, to the licensee  
2 at the licensee's last address of record with the  
3 superintendent. Process served and copy forwarded as so  
4 provided shall for all purposes constitute personal service  
5 upon the licensee.

6 C. The licensee shall likewise file with the  
7 superintendent written agreement to appear before the  
8 superintendent pursuant to notice of hearing, show cause order  
9 or subpoena issued by the superintendent and deposited,  
10 postage paid, by certified mail in a letter depository of the  
11 United States post office, addressed to the licensee at the  
12 licensee's last address of record with the superintendent, and  
13 that upon failure of the licensee to appear the licensee  
14 thereby consents to any subsequent suspension, revocation or  
15 refusal of the superintendent to continue the license."

16 SECTION 44. Section 59A-12-26 NMSA 1978 (being Laws  
17 1984, Chapter 127, Section 227, as amended) is amended to  
18 read:

19 "59A-12-26. CONTINUING EDUCATION.--

20 A. The superintendent shall require as a condition  
21 to continuation of an insurance producer license that during  
22 the twenty-four months next preceding expiration of the  
23 current license period the licensee has attended the minimum  
24 number of hours of formal class instruction, lectures or  
25 seminars required and approved by the superintendent covering

1 the kinds of insurance for which licensed.

2 B. Instruction shall be designed to refresh the  
3 licensee's understanding of basic principles and coverages  
4 involved, recent and prospective changes, applicable laws and  
5 rules of the superintendent, proper conduct of the licensee's  
6 business and duties and responsibilities of the licensee.

7 C. The superintendent may permit licensees who  
8 because of remoteness of residence or business cannot with  
9 reasonable convenience attend formal instruction sessions to  
10 successfully complete an equivalent course of study and  
11 instruction online or by mail.

12 D. The superintendent may impose a penalty not to  
13 exceed fifty dollars (\$50.00) for a licensee's failure to  
14 timely report continuing education credits.

15 E. The superintendent shall charge, at the time of  
16 certifying each licensee's continuing education credits as a  
17 condition of continuation of license, a fee of one dollar  
18 (\$1.00) per credit hour of continuing education; provided that  
19 the superintendent may contract with an independent agency to  
20 receive and review continuing education compliance reports  
21 and, in such a case, the fee shall be a reasonable amount  
22 fixed by the superintendent and payable to the contracting  
23 agency.

24 F. This section shall not apply to holders of  
25 limited license issued under Section 59A-12-18 NMSA 1978."

1 SECTION 45. Section 59A-12-26.1 NMSA 1978 (being Laws  
2 1988, Chapter 112, Section 1) is amended to read:

3 "59A-12-26.1. INSURANCE LICENSEE CONTINUING EDUCATION  
4 FUND.--There is created in the state treasury a fund that  
5 shall be known as the "insurance licensee continuing education  
6 fund". All fees imposed by the provisions of Section  
7 59A-12-26 NMSA 1978 shall be deposited in the insurance  
8 licensee continuing education fund for the purpose of  
9 administering the continuing education program."

10 SECTION 46. A new section of Chapter 59A, Article 12  
11 NMSA 1978 is enacted to read:

12 "ASSUMED NAMES.--An insurance producer shall not do  
13 business under any name other than the insurance producer's  
14 legal name without prior written approval of the  
15 superintendent."

16 SECTION 47. A new section of Chapter 59A, Article 12  
17 NMSA 1978 is enacted to read:

18 "COMMISSIONS.--

19 A. An insurance company or insurance producer  
20 shall not pay a commission, service fee, brokerage or other  
21 valuable consideration to a person for selling, soliciting or  
22 negotiating insurance in this state if that person is required  
23 to be licensed under Chapter 59A, Article 12 NMSA 1978 and is  
24 not so licensed.

25 B. A person shall not accept a commission, service SB 108  
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1 fee, brokerage or other valuable consideration for selling,  
2 soliciting or negotiating insurance in this state if that  
3 person is required to be licensed under Chapter 59A, Article  
4 12 NMSA 1978 and is not so licensed.

5 C. Renewal or other deferred commissions may be  
6 paid to a person for selling, soliciting or negotiating  
7 insurance in this state if the person was required to be  
8 licensed under Chapter 59A, Article 12 NMSA 1978 at the time  
9 of the sale, solicitation or negotiation and was so licensed  
10 at that time.

11 D. An insurer or insurance producer shall not pay  
12 or assign commissions, service fees, brokerages or other  
13 valuable consideration to an insurance agency or to persons  
14 who do not sell, solicit or negotiate insurance in this  
15 state."

16 SECTION 48. A new section of Chapter 59A, Article 12  
17 NMSA 1978 is enacted to read:

18 "COMPENSATION DISCLOSURE.--

19 A. When any insurance producer or any affiliate of  
20 the insurance producer receives any compensation from a  
21 customer for the placement of insurance or represents the  
22 customer with respect to that placement, neither that  
23 insurance producer nor the affiliate shall accept or receive  
24 any compensation from an insurer or other third party for that  
25 placement of insurance unless the insurance producer has,

1 prior to the customer's purchase of insurance:

2 (1) obtained the customer's documented  
3 acknowledgment that such compensation will be received by the  
4 insurance producer or affiliate; and

5 (2) disclosed the amount of compensation  
6 from the insurer or other third party for that placement. If  
7 the amount of compensation is not known at the time of  
8 disclosure, the insurance producer shall disclose the specific  
9 method for calculating the compensation and, if possible, a  
10 reasonable estimate of the amount.

11 B. Subsection A of this section does not apply to  
12 an insurance producer who:

13 (1) does not receive compensation from the  
14 customer for the placement of insurance;

15 (2) represents an insurer that has appointed  
16 the insurance producer in connection with that placement of  
17 insurance; and

18 (3) discloses to the customer prior to the  
19 purchase of insurance:

20 (a) that the insurance producer will  
21 receive compensation from an insurer in connection with that  
22 placement; or

23 (b) that, in connection with that  
24 placement of insurance, the insurance producer represents the  
25 insurer and that the insurance producer may provide services

1 to the customer for the insurer.

2 C. A person shall not be considered a customer for  
3 purposes of this section if the person is merely:

4 (1) a participant or beneficiary of an  
5 employee benefit plan; or

6 (2) covered by a group or blanket insurance  
7 policy or group annuity contract sold, solicited or negotiated  
8 by the insurance producer or affiliate.

9 D. This section does not apply to:

10 (1) a person licensed as an insurance  
11 producer who acts only as an intermediary between an insurer  
12 and the customer's insurance producer, for example, a managing  
13 general agent, a sales manager or wholesale broker; or

14 (2) a reinsurance intermediary.

15 E. For purposes of this section:

16 (1) "compensation from an insurer or other  
17 third party" means payments, commissions, fees, awards,  
18 overrides, bonuses, contingent commissions, loans, stock  
19 options, gifts, prizes or any other form of valuable  
20 consideration, whether or not payable pursuant to a written  
21 agreement; and

22 (2) "documented acknowledgment" means the  
23 customer's written consent obtained prior to the customer's  
24 purchase of insurance. In the case of a purchase over the  
25 telephone or by electronic means for which written consent

1 cannot reasonably be obtained, consent documented by the  
2 producer shall be acceptable."

3 SECTION 49. Section 59A-12A-2 NMSA 1978 (being Laws  
4 1989, Chapter 374, Section 2) is amended to read:

5 "59A-12A-2. DEFINITIONS.--As used in Chapter 59A,  
6 Article 12A NMSA 1978:

7 A. unless otherwise specified in that article, all  
8 definitions of the Insurance Code apply;

9 B. "administrator" or "third party administrator"  
10 or "TPA" means a business entity that receives any form of  
11 administrative or service fee, consideration, payment,  
12 premium, reimbursement or compensation for performing or  
13 providing any service, function or duty, or activity  
14 respecting insurance or alternatives to insurance in any  
15 administrative or management capacity, including but not  
16 limited to claims or expense review, underwriting,  
17 administration and management under a contract or other  
18 agreement to be performed in this state or with respect to  
19 risks located or partially located in this state or on behalf  
20 of persons in this state for any:

21 (1) plan;

22 (2) insurance carrier; or

23 (3) person that self insures;

24 C. "administrator" does not include:

25 (1) an employer on behalf of its employees

1 or the employees of one or more subsidiaries or affiliated  
2 corporations of that employer as long as only the functions of  
3 a group policyholder are performed;

4 (2) a union on behalf of its members as long  
5 as only the functions of a group policyholder are performed;

6 (3) an insurance company or a corporation  
7 that owns more than fifty percent of an insurance company  
8 licensed in this state or a health maintenance organization,  
9 nonprofit health care plan or a dental plan that is licensed  
10 in this state;

11 (4) an insurance producer licensed in this  
12 state acting on behalf of an admitted insurance carrier by  
13 whom the insurance producer is appointed and only within the  
14 scope of the insurance producer's license as an insurance  
15 producer as defined in the article of the Insurance Code under  
16 which the insurance producer is licensed;

17 (5) a creditor on behalf of its debtors with  
18 respect to insurance covering its debtors as long as only the  
19 functions of a group policyholder or creditor are performed;

20 (6) a trust and its trustees, agents and  
21 employees acting under the trust, established in conformity  
22 with 29 U.S.C. Sec. 186;

23 (7) a trust exempt from taxations under  
24 Section 501(a) of the Internal Revenue Code of 1986, and its  
25 trustees and employees acting under the trust, or a custodian

1 and its agents and employees acting pursuant to a custodian  
2 account that meets the requirements of Section 401(f) of the  
3 Internal Revenue Code of 1986;

4 (8) a bank that is subject to supervision or  
5 examination by federal or state regulatory authorities as long  
6 as the bank is only performing the function for which it is  
7 licensed;

8 (9) a company that advances and collects any  
9 premium or charge from its credit card holders who have  
10 authorized it to do so, provided the company does not adjust  
11 or settle claims and acts only in its debtor-creditor  
12 relationship with its credit card holders;

13 (10) a person who adjusts or settles claims  
14 in the normal course of practice or employment as an attorney  
15 at law who does not collect any charge or premium in  
16 connection with life or health coverage or annuities;

17 (11) an adjuster licensed by the  
18 superintendent, when engaged in the performance of duties as  
19 an adjuster;

20 (12) any joint fund, risk management pool or  
21 self-insurance pool composed of political subdivisions of this  
22 state that participate in such funds or pools through  
23 interlocal agreements, and any administrative agency  
24 established under the interlocal agreement to administer the  
25 fund or pool;

1 (13) a person providing technical, advisory  
2 or consulting services who does not make management or  
3 discretionary decisions on behalf of an insurance carrier,  
4 plan or person that self-insures;

5 (14) a full-time salaried employee of an  
6 insurance carrier to the extent that the functions performed  
7 are only for that insurance carrier or any affiliated carrier;

8 (15) attorneys in fact for a Lloyd's or  
9 reciprocal exchange as authorized respectively in Chapter 38  
10 or 39 NMSA 1978, while acting as attorney in fact for such  
11 Lloyd's or reciprocal exchange;

12 (16) a certified public accountant, attorney  
13 at law or actuary when performing duties or undertaking  
14 responsibilities within the authority and scope of that  
15 particular profession;

16 (17) an association and any subsidiary,  
17 affiliated or related corporations of that association. For  
18 the purposes of this subsection, "association" means a bona  
19 fide trade or professional association which has been in  
20 existence for not less than five years and which enters into  
21 agreements to pool its liabilities for workers compensation  
22 benefits, pursuant to the Group Self-Insurance Act; or

23 (18) a home owner warranty corporation  
24 provided by a trade association that has been in business in  
25 New Mexico for at least five years;

1           D. "alternatives to insurance" means an agreement  
2 to indemnify against loss, risk, damage, liability or other  
3 contingency relating to property or persons, whether or not  
4 such agreement is deemed to be insurance under applicable law  
5 or where persons self insure;

6           E. "bank" means a bank, savings and loan  
7 association, credit union or other financial institution  
8 authorized by law to accept and maintain deposits;

9           F. "business entity" means a corporation,  
10 organization, government or governmental subdivision or  
11 agency, business trust, estate trust, partnership, association  
12 or any other legal entity; and

13           G. "plan" means any employer-employee, multiple  
14 employer-employee, group, member or other employee benefit or  
15 welfare program, medical, accident, sickness, injury,  
16 indemnity, death or health benefit program contracting to  
17 provide indemnification or expense reimbursement in this state  
18 to persons domiciled in this state or for risks located or  
19 partially located in this state for any type of the following  
20 coverages, expenses or benefits: medical, surgical,  
21 orthopedic, chiropractic, physical therapy, speech pathology,  
22 audiology, professional mental health, dental, hospital,  
23 workers' compensation or optometric plan or programs, hospital  
24 care or benefit or benefits in the event of sickness,  
25 accident, disability, death or unemployment, or prepaid legal

1 services."

2 SECTION 50. Section 59A-12A-3 NMSA 1978 (being Laws  
3 1989, Chapter 374, Section 3) is amended to read:

4 "59A-12A-3. LICENSE REQUIRED--PENALTY.--

5 A. No administrator shall perform or provide any  
6 service, function, duty or activity respecting any insurance,  
7 plan, self-insurance or alternatives to insurance in an  
8 administrative or management capacity in this state or with  
9 respect to risks located or partially located in this state or  
10 on behalf of persons in this state unless licensed as an  
11 administrator under the Insurance Code.

12 B. Licensing procedures for administrators shall  
13 be in accordance with Chapter 59A, Article 11 NMSA 1978.

14 C. In addition to any applicable denial,  
15 suspension or revocation of a license, refusal to continue  
16 license or administrative fine, violation of this section  
17 shall be a misdemeanor punishable by a fine not to exceed one  
18 thousand dollars (\$1,000) and by forfeiture to the state of an  
19 amount equal to all compensation for services as administrator  
20 received or to be received by the violator by reason of the  
21 prohibited transactions."

22 SECTION 51. Section 59A-12B-2 NMSA 1978 (being Laws  
23 1993, Chapter 320, Section 28) is amended to read:

24 "59A-12B-2. DEFINITIONS.--As used in the Managing  
25 General Agents Law:

1           A. "actuary" means a person who is a member in  
2 good standing of the American academy of actuaries;

3           B. "insurer" means any person, firm, association  
4 or corporation duly authorized in this state pursuant to the  
5 Insurance Code to transact the business of insurance;

6           C. "managing general agent" means any person,  
7 firm, association or corporation who:

8                 (1) manages all or part of the insurance  
9 business of an insurer, including the management of a separate  
10 division, department or underwriting office;

11                (2) acts as an insurance producer for such  
12 insurer whether known as a managing general agent, manager or  
13 other similar term, who, with or without the authority, either  
14 separately or together with affiliates, produces, directly or  
15 indirectly, and underwrites an amount of gross direct written  
16 premium equal to or more than five percent of the policyholder  
17 surplus as reported in the last annual statement of the  
18 insurer in any one quarter or year together with one or more  
19 of the following activities related to the business produced:

20                         (a) adjusts or pays claims in excess of  
21 an amount determined by the superintendent; or

22                         (b) negotiates reinsurance on behalf of  
23 the insurer; and

24                 (3) notwithstanding the above, the following  
25 persons shall not be considered as managing general agents for

1 the purposes of the Managing General Agents Law:

2 (a) an employee of the insurer;

3 (b) a United States manager of the  
4 United States branch of an alien insurer;

5 (c) an underwriting manager which,  
6 pursuant to contract, manages all or part of the insurance  
7 operations of the insurer, is under common control with the  
8 insurer, subject to the Insurance Holding Company Law, and  
9 whose compensation is not based on the volume of premiums  
10 written; and

11 (d) the attorney-in-fact authorized by  
12 and acting for the subscribers of a reciprocal insurer or  
13 inter-insurance exchange under powers of attorney; and

14 D. "underwrite" means the authority to accept or  
15 reject risk on behalf of the insurer."

16 SECTION 52. Section 59A-12B-5 NMSA 1978 (being Laws  
17 1993, Chapter 320, Section 31) is amended to read:

18 "59A-12B-5. DUTIES OF INSURERS.--

19 A. The insurer shall have on file an independent  
20 financial examination, in a form acceptable to the  
21 superintendent, of each managing general agent with which it  
22 has done business.

23 B. If a managing general agent establishes loss  
24 reserves, the insurer shall annually obtain the opinion of an  
25 actuary attesting to the adequacy of loss reserves established

1 for losses incurred and outstanding on business produced by  
2 the managing general agent. This is in addition to any other  
3 required loss reserve certification.

4 C. The insurer shall periodically, at least  
5 semiannually, conduct an on-site review of the underwriting  
6 and claims processing operations of the managing general  
7 agent.

8 D. Binding authority for all reinsurance contracts  
9 or participation in insurance or reinsurance syndicates shall  
10 rest with an officer of the insurer, who shall not be  
11 affiliated with the managing general agent.

12 E. Within thirty days of entering into or  
13 termination of a contract with a managing general agent, the  
14 insurer shall provide written notification of such appointment  
15 or termination to the superintendent. Notices of appointment  
16 of a managing general agent shall include a statement of  
17 duties which the applicant is expected to perform on behalf of  
18 the insurer, the lines of insurance for which the applicant is  
19 to be authorized to act, and any other information the  
20 superintendent may request.

21 F. An insurer shall review its books and records  
22 each quarter to determine if any insurance producer has become  
23 a managing general agent. If the insurer determines that an  
24 insurance producer has become a managing general agent, the  
25 insurer shall promptly notify the insurance producer and the

1 superintendent of such determination and the insurer and  
2 insurance producer must fully comply with the provisions of  
3 the Managing General Agents Law within thirty days.

4 G. An insurer shall not appoint to its board of  
5 directors an officer, director, employee, insurance producer  
6 or controlling shareholder of its managing general agents.  
7 This subsection shall not apply to relationships governed by  
8 the Insurance Holding Company Law or, if applicable, the  
9 Broker Controlled Insurer Law."

10 SECTION 53. Section 59A-12B-7 NMSA 1978 (being Laws  
11 1993, Chapter 320, Section 33) is amended to read:

12 "59A-12B-7. PENALTIES AND LIABILITIES.--

13 A. If the superintendent determines that the  
14 managing general agent or any other person has not materially  
15 complied with the provisions of Chapter 59A, Article 12B NMSA  
16 1978, or any rule or order promulgated thereunder, after  
17 notice and opportunity to be heard, the superintendent may  
18 order:

19 (1) for each separate violation, a penalty  
20 in an amount not exceeding ten thousand dollars (\$10,000);

21 (2) revocation or suspension of the managing  
22 general agent's license; and

23 (3) if it was found that because of such  
24 material noncompliance that the insurer has suffered any loss  
25 or damage, the superintendent may maintain a civil action

1 brought by or on behalf of the insurer and its policyholders  
2 and creditors for recovery of compensatory damages for the  
3 benefit of the insurer and its policyholders and creditors or  
4 seek other appropriate relief.

5 B. If an order of rehabilitation or liquidation of  
6 the insurer has been entered pursuant to Chapter 59A, Article  
7 41 NMSA 1978, and the receiver appointed under that order  
8 determines that the managing general agent or any other person  
9 has not materially complied with the provisions of Chapter  
10 59A, Article 12B NMSA 1978, or any regulation or order  
11 promulgated thereunder, and the insurer suffered any loss or  
12 damage, the receiver may maintain a civil action for recovery  
13 of damages or other appropriate sanctions for the benefit of  
14 the insurer.

15 C. Nothing contained in this section shall affect  
16 the right of the superintendent to impose any other penalties  
17 provided for in the Insurance Code.

18 D. Nothing contained in the Managing General  
19 Agents Law is intended to or shall in any manner limit or  
20 restrict the rights of policyholders, claimants or creditors."

21 SECTION 54. Section 59A-13-4 NMSA 1978 (being Laws  
22 1984, Chapter 127, Section 232, as amended) is amended to  
23 read:

24 "59A-13-4. QUALIFICATIONS FOR LICENSE AS ADJUSTER.--

25 A. The superintendent shall license as an adjuster SB 108  
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1 only an individual who is otherwise in compliance with Chapter  
2 59A, Articles 11 and 13 NMSA 1978 and who has furnished  
3 evidence satisfactory to the superintendent that the applicant  
4 for license:

5 (1) is not less than eighteen years of age;

6 (2) is a bona fide resident of this state,  
7 or of a state or country that permits residents of this state  
8 to act as adjusters therein, except that under circumstances  
9 of necessity the superintendent may waive the requirement of  
10 reciprocity;

11 (3) can demonstrate a good business  
12 reputation, and intends to engage in a bona fide manner in the  
13 business of adjusting insurance claims;

14 (4) except as to temporary license provided  
15 for under Section 59A-13-6 NMSA 1978, has had at least one  
16 year's experience or special education or training in handling  
17 of losses or claims under insurance contracts, such  
18 experience, education and training to be of such nature and  
19 extent as to demonstrate the applicant's competence to fulfill  
20 the responsibilities of an adjuster;

21 (5) has passed any examination required for  
22 licensing; and

23 (6) has filed the bond required under  
24 Section 59A-13-5 NMSA 1978.

25 B. Paragraphs (2) and (6) of Subsection A of this

1 section shall not apply as to staff adjusters.

2 C. Individuals holding licenses as adjusters on  
3 the effective date of the Insurance Code shall be deemed to  
4 meet the qualifications for the license except as provided in  
5 Chapter 59A, Articles 11 and 13 NMSA 1978.

6 D. A business entity applying for an independent  
7 adjuster license for the purposes of portable electronics  
8 insurance in New Mexico shall submit the names, addresses,  
9 social security numbers, criminal and administrative  
10 histories, background checks, biographical statements and  
11 fingerprints of all executive officers and directors of the  
12 applicant and of all executive officers and directors of  
13 entities owning and any individuals owning, directly or  
14 indirectly, fifty-one percent or more of the outstanding  
15 voting securities of the applicant. Any nonresident business  
16 entity applicant whose resident state has enacted into law  
17 provisions that are substantively duplicative of the  
18 provisions of this subsection shall not be required to submit  
19 criminal histories, background checks, biographical statements  
20 and fingerprints for its executive officers, directors and  
21 owners of outstanding voting securities."

22 SECTION 55. A new section of Chapter 59A, Article 13  
23 NMSA 1978 is enacted to read:

24 "EXAMINATION FOR LICENSE.--

25 A. A resident individual applying for a license as SB 108  
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1 an adjuster shall, prior to issuance of a license, personally  
2 take and pass a written examination. The examination shall  
3 test the knowledge of the individual concerning the duties and  
4 responsibilities of an adjuster and the insurance laws and  
5 rules of this state. Examinations required by this section  
6 shall be developed and conducted under rules prescribed by the  
7 superintendent.

8 B. The superintendent may contract with an outside  
9 testing service for administering examinations and collecting  
10 the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

11 C. Each individual applying for an examination  
12 shall remit a nonrefundable fee as prescribed by the  
13 superintendent as set forth in Section 59A-6-1 NMSA 1978.

14 D. An individual who fails to appear for an  
15 examination as scheduled or fails to pass the examination  
16 shall reapply for an examination and remit all required fees  
17 and forms before being rescheduled for another examination.

18 E. No examination shall be required:

19 (1) for renewal or continuation of an  
20 existing license, except as provided in Subsection D of  
21 Section 59A-11-10 NMSA 1978;

22 (2) of applicants for a temporary license as  
23 provided in Section 59A-13-6 NMSA 1978; or

24 (3) if the applicant took and passed a  
25 similar examination in a state in which the applicant is

1 already licensed, subject to Section 59A-5-33 NMSA 1978."

2 SECTION 56. A new section of Chapter 59A, Article 13  
3 NMSA 1978 is enacted to read:

4 "CONTINUING EDUCATION.--

5 A. The superintendent shall require as a condition  
6 to continuation of an adjuster license that during the  
7 twenty-four months next preceding expiration of the current  
8 license period, the licensee has attended the minimum number  
9 of hours of formal class instruction, lectures or seminars  
10 required and approved by the superintendent.

11 B. Instruction shall be designed to refresh the  
12 licensee's understanding of basic principles and coverages  
13 involved, recent and prospective changes, applicable laws and  
14 rules of the superintendent, proper conduct of the licensee's  
15 business and duties and responsibilities of the licensee.

16 C. The superintendent may permit licensees who,  
17 because of remoteness of residence or business, cannot with  
18 reasonable convenience attend formal instruction sessions to  
19 successfully complete an equivalent course of study and  
20 instruction online or by mail.

21 D. The superintendent may impose a penalty not to  
22 exceed fifty dollars (\$50.00) for a licensee's failure to  
23 timely report continuing education credits.

24 E. The superintendent shall charge, at the time of  
25 certifying each licensee's continuing education credits as a

1 condition of continuation of license, a fee of one dollar  
2 (\$1.00) per credit hour of continuing education; provided that  
3 the superintendent may contract with an independent agency to  
4 receive and review a continuing education compliance report,  
5 and in such a case, the fee shall be a reasonable amount fixed  
6 by the superintendent and payable to the contracting agency."

7 SECTION 57. Section 59A-14-9 NMSA 1978 (being Laws  
8 1984, Chapter 127, Section 247) is amended to read:

9 "59A-14-9. SURPLUS LINE BROKER MAY ACCEPT BUSINESS FROM  
10 INSURANCE PRODUCERS--COMPENSATION OF OTHERS PROHIBITED.--

11 A. A surplus line broker may accept and export  
12 surplus line business from and for any insurance producer  
13 licensed by this state for the kind of insurance involved, and  
14 may compensate the insurance producer therefor.

15 B. A surplus line broker shall not directly or  
16 indirectly compensate any person other than a licensed  
17 insurance producer for origination of business. This  
18 provision shall not be deemed to prohibit payment of regular  
19 salaries to the surplus line broker's employees or sharing of  
20 compensation with other persons entitled thereto under firm  
21 and corporate agreements and surplus line broker licenses.  
22 Violation of this provision is a misdemeanor."

23 SECTION 58. Section 59A-16-14 NMSA 1978 (being Laws  
24 1984, Chapter 127, Section 280) is amended to read:

25 "59A-16-14. COERCION OF BUSINESS PROHIBITED--NOTICE

1     REQUIRED--CHARGES PROHIBITED.--

2             A. No person engaged in selling real or personal  
3 property or in the business of financing the purchase of real  
4 or personal property, or of lending money on the security of  
5 real or personal property, and no trustee, director, officer,  
6 agent or other employee of the person shall require, as a  
7 condition precedent, concurrent or subsequent to the sale, or  
8 financing the purchase of property, or to lending money upon  
9 the security of a mortgage on the property, or as a condition  
10 precedent, concurrent or subsequent, for the renewal or  
11 extension of the loan or mortgage or for the performance of  
12 any other act in connection therewith, that the person  
13 purchasing the property, or for whom the purchase is to be  
14 financed, or to whom the money is to be loaned, or for whom  
15 the extension, renewal or other act is to be granted, or  
16 performed, negotiate a policy of insurance or renewal covering  
17 the property through a particular insurer or insurance  
18 producer. The lender is required to inform the buyer of the  
19 buyer's rights regarding the placing of insurance on a form  
20 prescribed by the superintendent. The buyer must signify that  
21 the buyer has been so informed. This section shall not  
22 prevent the exercise by a person of the right to designate the  
23 terms and provisions of the policy and the amount of coverage  
24 with respect to insurance on property pledged or mortgaged to  
25 the person.

1           B. An insured shall have the option, in addition  
2 to the rights granted under the terms and conditions of the  
3 insurance contract, at any time to substitute, replace, change  
4 or extend the existent policy in force. For the purpose of  
5 this section "anniversary date" means the yearly return of the  
6 inception of the effective date of policy in force.

7           C. If the lender signifies that the proposed  
8 insurance is acceptable, the buyer must supply the lender  
9 with the policy or binder prior to the closing of the loan.

10           D. If the policy is cancelled by the insurer, the  
11 borrower must have a new policy in the hands of the lender  
12 twenty-four hours prior to the effective day of the  
13 cancellation.

14           E. The borrower or the borrower's insurance  
15 producer must deliver a renewal policy or an annual renewal  
16 certificate to the lender at least fifteen days prior to  
17 expiration or renewal of the policy in force if required by  
18 the lender.

19           F. When the insured wants to change insurance  
20 producers, the insurance producer writing the renewal business  
21 must file with the lender a current letter of authority signed  
22 by the borrower. If a change of insurance producers is  
23 involved in the renewal of the policy, the lender shall notify  
24 the insurance producer renewing the insurance and the borrower  
25 in writing within five business days after tender of renewal

1 policy, if the renewal policy is not acceptable to the lender.

2 G. No person engaged in selling real or personal  
3 property or in the business of financing the purchase of real  
4 or personal property or of lending money on the security of  
5 real or personal property shall charge, either directly or  
6 indirectly to a borrower or debtor a consideration of any kind  
7 to substitute the insurance policy of one insurer of the  
8 property for that of another, or make a charge for a change in  
9 the kind, type or amount of the insurance if the change is  
10 made at the time the borrower or debtor first becomes a party  
11 to the transaction for which the insurance is required, or at  
12 an annual renewal date of the policy.

13 H. No person engaged in the business of selling  
14 real or personal property or financing purchase or lending  
15 money on security of real or personal property shall share  
16 information received in connection with an application for  
17 credit in the purchase or for the loan with any parent  
18 corporation, subsidiary or affiliate of the person or with an  
19 insurer, for the purpose of soliciting insurance, unless the  
20 person has written authorization to release the information  
21 executed by the purchaser or borrower subsequent to extension  
22 of credit or making of the loan.

23 I. In addition to other penalties provided in  
24 Section 59A-1-18 NMSA 1978, a lender who violates this section  
25 shall be liable in a civil action brought by a buyer, insured

1 or insurance producer injured by the violation, or each of  
2 them, for an amount of liquidated damages equal to the amount  
3 of actual damages as a result of coercion prohibited by this  
4 section."

5 SECTION 59. Section 59A-16-17 NMSA 1978 (being Laws  
6 1984, Chapter 127, Section 283, as amended) is amended to  
7 read:

8 "59A-16-17. UNFAIR DISCRIMINATION, REBATES  
9 PROHIBITED--OTHER COVERAGES.--

10 A. No property, casualty or title insurer, or  
11 nonprofit health care or prepaid dental plan or other  
12 insurance-type organization, or any employee or representative  
13 thereof, and no insurance producer or other representative  
14 shall pay, allow or give, or offer to pay, allow or give,  
15 directly or indirectly, as an inducement to insurance or  
16 coverage, or after insurance or coverage has been effected,  
17 any rebate, discount, abatement, credit or reduction of the  
18 premium named in a policy, or any special favor or advantage  
19 in the dividends or other benefits to accrue thereon, or any  
20 valuable consideration or inducement whatever, not specified  
21 or provided for in the policy, except to the extent provided  
22 for in an applicable filing with the superintendent as  
23 provided by law.

24 B. No title insurer or title insurance producer  
25 shall:

1 (1) pay, directly or indirectly, to the  
2 insured or any person acting as agent, representative,  
3 attorney or employee of the owner, lessee, mortgagee, existing  
4 or prospective, of the real property, or interest therein,  
5 that is the subject matter of title insurance or as to which a  
6 service is to be performed any commission or part of its fee  
7 or charges or other consideration as inducement or  
8 compensation for the placing of any order for a title  
9 insurance policy or for performance of any escrow or other  
10 service by the insurer with respect thereto;

11 (2) issue any policy or perform any service  
12 in connection with which it or any insurance producer or other  
13 person has paid or contemplates paying any commission, rebate  
14 or inducement in violation of this section;

15 (3) give or receive, directly or indirectly,  
16 any consideration or thing of value for the referral of title  
17 insurance business or escrow or other service provided by a  
18 title insurer or title insurance producer unless otherwise  
19 permitted by regulation of the superintendent; or

20 (4) enter into a reinsurance agreement with  
21 an affiliate of a real estate developer, real estate agency,  
22 mortgage lender or referrer of title business without the  
23 prior written approval of the superintendent.

24 C. No insured named in a policy or any employee of  
25 such insured shall knowingly receive or accept, directly or

1 indirectly, any such rebate, discount, abatement, credit or  
2 reduction of premium, or any such special favor or advantage  
3 or valuable consideration or inducement.

4 D. No such insurer or organization shall make or  
5 permit any unfair discrimination between insureds or property  
6 having like insuring or risk characteristics, in the premium  
7 or rates charged for insurance or coverage, or in the  
8 dividends or other benefits payable thereon or in any other of  
9 the terms and conditions of the insurance or coverage.

10 E. Nothing in this section shall be construed as  
11 prohibiting the payment of commissions or other compensation  
12 to licensed insurance producers or other representatives; or  
13 as prohibiting the extension of credit to an insured for the  
14 payment of any premium and for which credit a reasonable rate  
15 of interest is charged and collected; or as prohibiting any  
16 insurer or insurance producer from allowing or returning to  
17 its participating policyholders, members or subscribers,  
18 dividends, savings or unabsorbed premium deposits. As to  
19 title insurance, nothing in this section shall prohibit bulk  
20 rates or special rates for customers of prescribed classes if  
21 such bulk or special rates are provided for in the currently  
22 effective schedule of fees and charges of the title insurer as  
23 filed with the superintendent."

24 SECTION 60. Section 59A-18-24 NMSA 1978 (being Laws  
25 1984, Chapter 127, Section 353) is amended to read:

1 "59A-18-24. INSURANCE PRODUCERS--WHOM THEY REPRESENT.--  
2 A licensed insurance producer appointed as insurance producer  
3 by an insurer shall, in any controversy between the insured or  
4 the insured's beneficiary and the insurer, be held to be the  
5 agent of the insurer that issued the insurance solicited or  
6 applied for, anything in the application or policy to the  
7 contrary notwithstanding; and a broker licensed to transact  
8 insurance business in this state, in any controversy between  
9 the insured or the insured's beneficiary and the insurer  
10 issuing the insurance through its licensed insurance producer  
11 at request of the broker, shall be held to be the agent of the  
12 insured, anything in the application or policy to the contrary  
13 notwithstanding, unless under particular circumstances it is  
14 found that the broker is representing the insurer. This  
15 section shall not apply as to surplus line brokers, nor as to  
16 acts of the insurance producer in fraud or attempted fraud of  
17 the insurer or acts of the broker in fraud or attempted fraud  
18 of the insured."

19 SECTION 61. Section 59A-30-4 NMSA 1978 (being Laws  
20 1985, Chapter 28, Section 4, as amended) is amended to read:

21 "59A-30-4. CONTROL AND SUPERVISION BY SUPERINTENDENT.--

22 A. Title insurers and title insurance producers  
23 shall operate in New Mexico under the control and supervision  
24 of the superintendent. The superintendent shall promulgate  
25 such rules and regulations as are necessary to carry out the

1 provisions of the New Mexico Title Insurance Law. The  
2 superintendent may adopt uniform rules and regulations to  
3 address underwriting standards and practices, including but  
4 not limited to rules and regulations that prohibit title  
5 insurers from insuring specified risks that the superintendent  
6 determines may pose an unreasonable risk to the financial  
7 stability of title insurers.

8 B. No title insurer or title insurance producer  
9 shall collect any premium, issue any title insurance policy or  
10 agency agreement, or reinsure any portion of the risk assumed  
11 under any title insurance policy, other than in conformance  
12 with the New Mexico Title Insurance Law and rules and  
13 regulations adopted by the superintendent as authorized by the  
14 New Mexico Title Insurance Law."

15 SECTION 62. Section 59A-30-6 NMSA 1978 (being Laws  
16 1985, Chapter 28, Section 6, as amended) is amended to read:

17 "59A-30-6. PREMIUMS--AGENCY AGREEMENTS--DUTY TO  
18 PROMULGATE REASONABLE RATES--EXCEPTION.--

19 A. The superintendent shall promulgate the premium  
20 rates of title insurers and title insurance producers for  
21 title insurance policies and the percentage of premium to be  
22 retained by title insurers under agency agreements, except  
23 that premium rates for reinsurance as between title insurers  
24 shall not be promulgated by the superintendent. No premium  
25 that has not been promulgated or approved by the

1 superintendent shall be charged for any title insurance  
2 policy. The superintendent shall not promulgate charges of  
3 title insurers and title insurance producers other than  
4 premium rates for title insurance policies and the percentage  
5 of premium to be retained by title insurers under agency  
6 agreements.

7 B. The superintendent shall promulgate additional  
8 premium rates for searches or examinations of title conducted  
9 or performed for the purpose of issuance of a title insurance  
10 policy when the search or examination involves more than one  
11 chain of title or other unusual complexity.

12 C. Premium rates promulgated by the superintendent  
13 shall not be excessive, inadequate or unfairly discriminatory  
14 and shall contain an allowance permitting a profit that is not  
15 unreasonable in relation to the risks incurred in the business  
16 of title insurance. Premium rates may include an allowance  
17 for recoupment of assessments made pursuant to the Title  
18 Insurance Guaranty Act.

19 D. Title insurance producers shall retain not less  
20 than eighty percent of the gross premiums collected on  
21 commitments, policies and endorsements issued for one to four  
22 family residential property transactions with a liability  
23 amount of not more than two million dollars (\$2,000,000);  
24 provided, however, that from July 1, 2009 until otherwise  
25 ordered by the superintendent, title insurance producers shall

1 retain not less than eighty-one percent of the gross premiums  
2 collected on commitments, policies and endorsements issued for  
3 one to four family residential property transactions with a  
4 liability amount of not more than two million dollars  
5 (\$2,000,000). The portion of the premium to be retained by  
6 the title insurance producers for policies with a liability  
7 amount greater than two million dollars (\$2,000,000) shall be  
8 set by rule.

9 E. A title insurer may file with the  
10 superintendent proposed title insurance rates for a specific  
11 county or counties lower than the premium rate promulgated by  
12 the superintendent. The superintendent shall provide notice  
13 of the filed title insurance rates to all insurance producers  
14 and underwriters doing business in that county or counties and  
15 may conduct a hearing. In determining whether to approve  
16 filed title insurance rates, the superintendent shall consider  
17 the interests and protection of consumers and independent  
18 title insurance producers and the potential impact on  
19 competition within the title insurance industry. Upon  
20 approval of the filed title insurance rates, the title insurer  
21 and its insurance producers shall use the filed and approved  
22 title insurance rates.

23 F. The superintendent shall adopt rules to  
24 establish standards and procedures by which a title insurance  
25 rate lower than the promulgated rate shall be filed and may be

1 approved."

2 SECTION 63. Section 59A-32A-4 NMSA 1978 (being Laws  
3 2001, Chapter 94, Section 4) is amended to read:

4 "59A-32A-4. LICENSING RENTAL CAR COMPANIES AS RENTAL  
5 CAR AGENTS.--A rental car company may apply to be licensed as  
6 a rental car agent under the terms of the Rental Car Insurance  
7 Limited Producer License Act if it satisfies all of the  
8 requirements of that act and if it files the following  
9 documents with the superintendent of insurance:

10 A. a written application for licensure, signed by  
11 the applicant or by an officer of the applicant, in the form  
12 prescribed by the superintendent of insurance that includes a  
13 listing of all locations at which the rental car company  
14 intends to offer, sell, bind, effect, solicit or negotiate  
15 rental car insurance; and

16 B. a certificate filed by the insurer for the  
17 applicant stating that the insurer has satisfied itself that  
18 the applicant is trustworthy and competent to act as its  
19 insurance producer limited to this purpose; that the insurer  
20 has reviewed the employee training program required by  
21 Subsection D of Section 59A-32A-5 NMSA 1978 and believes that  
22 it satisfies the statutory requirements; and that the insurer  
23 will appoint the applicant to act as its insurance producer to  
24 transact the kinds of insurance that are permitted by the  
25 Rental Car Insurance Limited Producer License Act if the

1 license for which the applicant is applying is issued by the  
2 superintendent of insurance. The certification shall be  
3 subscribed by an officer or managing agent of the insurer on a  
4 form prescribed by the superintendent of insurance."

5 SECTION 64. Section 59A-32A-7 NMSA 1978 (being Laws  
6 2001, Chapter 94, Section 7) is amended to read:

7 "59A-32A-7. RENTAL CAR AGENT AND ENDORSEE  
8 PROHIBITIONS.--A rental car agent or endorsee shall not:

9 A. offer, sell, bind, effect, solicit or negotiate  
10 the purchase of rental car insurance except in conjunction  
11 with and incidental to rental agreements;

12 B. advertise, represent or otherwise portray  
13 itself or any of its employees or agents as licensed insurers  
14 or insurance producers; or

15 C. pay any person, including a rental car  
16 endorsee, any compensation, fee or commission that is  
17 dependent solely on the placement of insurance under the  
18 license issued pursuant to the Rental Car Insurance Limited  
19 Producer License Act. Nothing in this section shall prohibit  
20 production payments or incentive payments to a person that are  
21 not dependent solely upon the sale of insurance."

22 SECTION 65. Section 59A-38-11 NMSA 1978 (being Laws  
23 1984, Chapter 127, Section 654) is amended to read:

24 "59A-38-11. LLOYDS PLAN INSURANCE PRODUCERS--  
25 LICENSING.--The provisions of the Insurance Code as to

1 qualifications, appointment, licensing and regulation of  
2 insurance producers apply neither to the attorney-in-fact at  
3 Lloyds nor to a salaried representative of Lloyds who receives  
4 no commission, but do apply to any insurance producer who  
5 receives any commission."

6 SECTION 66. Section 59A-46-17 NMSA 1978 (being Laws  
7 1993, Chapter 266, Section 17) is amended to read:

8 "59A-46-17. REGULATION OF HEALTH MAINTENANCE  
9 ORGANIZATION INSURANCE PRODUCERS.--

10 A. Requirements and procedures for licensing of  
11 health maintenance organization insurance producers shall be  
12 governed by the provisions of Chapter 59A, Articles 11 and 12  
13 NMSA 1978 and any regulations adopted by the superintendent  
14 pertaining to those articles.

15 B. None of the following shall be required to hold  
16 a health maintenance organization insurance producer license:

17 (1) any regular salaried officer or employee  
18 of a health maintenance organization who devotes substantially  
19 all of that person's time to activities other than the taking  
20 or transmitting of applications or membership fees or premiums  
21 for health maintenance organization membership or who receives  
22 no commission or other compensation directly dependent upon  
23 the business obtained and who does not solicit or accept from  
24 the public applications for health maintenance organization  
25 membership;

1                   (2) employers or their officers or employees  
2 or the trustees of any employee benefit plan to the extent  
3 that such employers, officers, employees or trustees are  
4 engaged in the administration or operation of any program of  
5 employee benefits involving the use of health maintenance  
6 organization memberships, if those employers, officers,  
7 employees or trustees are not compensated directly or  
8 indirectly by the health maintenance organization issuing the  
9 health maintenance organization memberships;

10                   (3) banks or their officers and employees to  
11 the extent that such banks, officers and employees collect and  
12 remit charges by charging same against accounts of depositors  
13 on the orders of such depositors; or

14                   (4) any person or the employee of any person  
15 who has contracted to provide administrative, management or  
16 health care services to a health maintenance organization and  
17 who is compensated for those services by the payment of an  
18 amount calculated as a percentage of the revenues, net income  
19 or profit of the health maintenance organization, if that  
20 method of compensation is the sole basis for subjecting that  
21 person or the employee of the person to the provisions of the  
22 Health Maintenance Organization Law.

23                   C. The superintendent may by rule exempt certain  
24 classes of persons from the requirement of obtaining a license  
25 if:

1 (1) the functions they perform do not  
2 require special competence, trustworthiness or the regulatory  
3 surveillance made possible by licensing; or

4 (2) other existing safeguards make  
5 regulation unnecessary."

6 SECTION 67. Section 59A-47-30 NMSA 1978 (being Laws  
7 1984, Chapter 127, Section 879.29, as amended by Laws 1999,  
8 Chapter 272, Section 23 and also by Laws 1999, Chapter 289,  
9 Section 35) is amended to read:

10 "59A-47-30. LICENSED INSURANCE PRODUCERS  
11 REQUIRED--QUALIFICATIONS, LICENSING PROCEDURES AND  
12 CONDITIONS.--

13 A. Solicitation of subscriberships for a health  
14 care plan shall be made only by insurance producers of the  
15 plan who are duly qualified, appointed and licensed as such  
16 under the Insurance Code. This provision shall not apply to  
17 salaried officers or employees of health care plans who are  
18 visiting or instructing their licensed insurance producers and  
19 who do not receive any part of the commission for any business  
20 written by such insurance producers with their assistance.

21 B. No person shall be appointed or licensed as a  
22 health care plan insurance producer unless qualified as  
23 follows:

24 (1) is an individual at least eighteen years  
25 of age;

1                   (2) has had, or will receive, reasonable  
2 experience or instruction in the health care plan for which  
3 license is applied;

4                   (3) is trustworthy and of good business  
5 reputation;

6                   (4) intends to engage in a bona fide way in  
7 the business of the health care plan; and

8                   (5) passes an examination for license given  
9 by or under authorization of the superintendent.

10                  C. A health care plan insurance producer shall be  
11 appointed by and at any one time represent only one health  
12 care plan.

13                  D. Subject to the other provisions of this  
14 section, procedures for appointment and licensing insurance  
15 producers, examination, issuance or denial of license,  
16 continuation or expiration, suspension, revocation or refusal  
17 to continue license and other applicable matters relating to  
18 licensing and licenses shall be as provided as to licenses of  
19 insurance producers as to health insurance under Chapter 59A,  
20 Article 11 NMSA 1978. Fee for application for license and  
21 continuation of license shall be as specified in Section  
22 59A-6-1 NMSA 1978, and neither fee shall be refundable."

23                  SECTION 68. Section 59A-55-6 NMSA 1978 (being Laws  
24 1988, Chapter 125, Section 6) is amended to read:

25                  "59A-55-6. TAXATION OF RISK RETENTION GROUPS.--

1           A. Each risk retention group shall be liable for  
2 the payment of premium taxes and taxes on premiums of direct  
3 business for risks resident or located within New Mexico and  
4 shall report to the superintendent the net premium written for  
5 risks resident or located within New Mexico. The risk  
6 retention group shall be subject to taxation and any  
7 applicable fines and penalties related thereto, on the same  
8 basis as an admitted insurer.

9           B. To the extent licensed insurance producers are  
10 utilized pursuant to Section 59A-55-24 NMSA 1978, they shall  
11 report to the superintendent the premiums for direct business  
12 for risks resident or located within this state, which the  
13 insurance producers have placed with or on behalf of a risk  
14 retention group not licensed in this state.

15           C. To the extent that insurance producers are  
16 utilized pursuant to Section 59A-55-24 NMSA 1978, the  
17 insurance producer shall keep a complete and separate record  
18 of all policies procured from each such risk retention group,  
19 which record shall be open to examination by the  
20 superintendent and shall contain the information required by  
21 the superintendent by rule."

22           SECTION 69. Section 59A-55-24 NMSA 1978 (being Laws  
23 1988, Chapter 125, Section 24, as amended by Laws 1999,  
24 Chapter 272, Section 27 and also by Laws 1999, Chapter 289,  
25 Section 41) is amended to read:

1 "59A-55-24. DUTY OF INSURANCE PRODUCERS TO OBTAIN  
2 LICENSE.--

3 A. No person, firm, association or corporation  
4 shall act or aid in any manner in soliciting, negotiating or  
5 procuring liability insurance in New Mexico from a risk  
6 retention group unless such person, firm, association or  
7 corporation is licensed as an insurance producer pursuant to  
8 the provisions of the New Mexico Insurance Code.

9 B. No person, firm, association or corporation  
10 shall act or aid in any manner in soliciting, negotiating or  
11 procuring liability insurance:

12 (1) in New Mexico for a purchasing group  
13 from an authorized insurer or a risk retention group chartered  
14 in a state, unless such person, firm, association or  
15 corporation is licensed as an insurance producer pursuant to  
16 the provisions of the New Mexico Insurance Code;

17 (2) in New Mexico for any members of a  
18 purchasing group under a purchasing group's policy, unless  
19 such person, firm, association or corporation is licensed as  
20 an insurance producer pursuant to the provisions of the  
21 New Mexico Insurance Code; or

22 (3) from an insurer not authorized to do  
23 business in New Mexico on behalf of a purchasing group located  
24 in this state, unless such person, firm, association or  
25 corporation is licensed as a surplus lines agent or excess

1 line broker pursuant to the provisions of the New Mexico  
2 Insurance Code.

3 C. Every person, firm, association or corporation  
4 licensed pursuant to the provisions of the New Mexico  
5 Insurance Code on business placed with risk retention groups  
6 or written through a purchasing group shall inform each  
7 prospective insured of the provisions of the notice required  
8 by Section 59A-55-10 NMSA 1978 in the case of a purchasing  
9 group."

10 SECTION 70. REPEAL.--Sections 59A-7-5, 59A-7-8,  
11 59A-7-9, 59A-11-19, 59A-12-5, 59A-12-6, 59A-12-8 through  
12 59A-12-10, 59A-12-14 and 59A-12-20.1 NMSA 1978 (being Laws  
13 1984, Chapter 127, Sections 111, 114, 115, 198, 205, 206, 207,  
14 209 and 210, Laws 1997, Chapter 48, Section 1, Laws 1984,  
15 Chapter 127, Section 215 and Laws 2003, Chapter 306, Section  
16 5, as amended) are repealed.

17 SECTION 71. SEVERABILITY.--If any part or application  
18 of this act is held invalid, the remainder or its application  
19 to other situations or persons shall not be affected.

20 SECTION 72. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2017. \_\_\_\_\_

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