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AN ACT

RELATING TO INSURANCE; UPDATING CAPITAL REQUIREMENTS AND
OTHER PROVISIONS; PROVIDING PENALTIES; RECOMPILING A SECTION
OF THE NMSA 1978; AMENDING, REPEALING AND ENACTING SECTIONS
OF THE NEW MEXICO INSURANCE CODE.

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

Section 1. Section 59A-5-16 NMSA 1978 (being Laws 1984,
Chapter 127, Section 83, as amended by Laws 1987, Chapter
259, Section 4 and also by Laws 1987, Chapter 262, Section 1)
is repealed and a new Section 59A-5-16 NMSA 1978 is enacted
to read:

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

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

(1) if a stock insurer, paid-in capital
stock and, when first so authorized, surplus all as shown in
Schedule I of this section; or

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

B. Except that an insurer that on January 1, 1985,

1 having applied for a certificate on or before
2 February 15, 1984, held a valid and subsisting certificate of
3 authority to transact insurance in this state may, if a
4 domestic insurer, continue to be so authorized until December
5 31, 1995, so long as otherwise qualified therefor and
6 possessing paid-in capital stock, if a stock insurer, or
7 basic capital surplus, if a mutual, reciprocal or Lloyds
8 insurer, not less than that required of the insurer by the
9 laws of this state in force on January 1, 1986; and if a
10 foreign insurer, may so continue to be so authorized, if
11 otherwise qualified therefor, while possessing such capital
12 funds (paid-in capital stock and surplus if a stock insurer,
13 and surplus if a mutual or reciprocal insurer) until December
14 31, 1990. At the expiration of such period, as applicable,
15 the insurer shall meet the basic capital requirements of this
16 section as set forth in Schedule I of this section in order
17 to maintain its certificate of authority. Upon a change in
18 the control of either a domestic insurer or foreign insurer,
19 the insurer shall, within one year from effective date of
20 such change of control, meet the capital funds requirements
21 of Schedule I of this section as though a newly authorized
22 insurer, but this sentence shall not act to extend the
23 otherwise applicable time period. For the purposes of this
24 subsection, "control" shall have the meaning ascribed in
25 Section 59A-37-2 NMSA 1978.

1 C. The capital funds required for authority to
 2 transact insurance in this state shall be based upon all the
 3 kinds of insurance the insurer transacts, wherever transacted
 4 or to be transacted.

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

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

10 Schedule I

11 NEW MEXICO

12 Minimum Capital, Surplus and Deposit Requirements

13 Property/Casualty Insurer

Premium Volume:	Under \$5			\$5 to \$10	\$10 to \$25	Over \$25
	Million			Million	Million	Million
	<u>Number of Kinds of Insurance</u>					
	<u>1</u>	<u>2</u>	<u>3</u>			
Basic Capital	500,000	600,000	700,000	800,000	900,000	1,000,000
Additional						
Surplus	500,000	600,000	700,000	same as	same as	same as
				Under	Under	Under
				\$5 Million	\$5 Million	\$5 Million
General Deposit	100,000	200,000	300,000	400,000	400,000	400,000
Special Deposit	100,000	200,000	300,000	same as	same as	same as
				Under	Under	Under

1 \$5 Million \$5 Million \$5 Million

2 Life/Health Insurer

3 Premium Volume: Under \$5 \$5 to \$10 \$10 to \$25 Over \$25

4 Million Million Million Million

5 Basic Capital 600,000 700,000 800,000 900,000

6 Additional Surplus 400,000 400,000 400,000 400,000

7 General Deposit 100,000 100,000 100,000 100,000

8 Special Deposit 100,000 100,000 100,000 100,000

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

12 Kinds of insurance pertains to the general kinds of insurance that
13 property/casualty insurers are authorized to transact. The following
14 groups or single kinds of insurance shall be counted as one kind of
15 insurance when calculating the amount of required Basic Capital,
16 Additional Surplus, General Deposit and Special Deposit:
17 Casualty and/or Surety;
18 Property and/or Marine & Transportation;
19 Vehicle; and
20 Title.

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

24 When determining General Deposit and Special Deposit amounts, the
25 kinds of Insurance shall be based on the insurer's actual or requested

1 transaction authority in New Mexico.

2 "Basic Capital" means paid-in capital stock (if a stock insurer) or
3 basic capital surplus (if a mutual, reciprocal or Lloyds insurer).

4 General Deposit or Special Deposit funds are included within, and are
5 not additional to, required Basic Capital and Additional Surplus.

6 General Deposit amounts shown above are not applicable to alien
7 insurers."

8 Section 2. Section 59A-5-29 NMSA 1978 (being Laws 1984,
9 Chapter 127, Section 96, as amended) is amended to read:

10 "59A-5-29. ANNUAL STATEMENT.--

11 A. Each authorized insurer shall annually on or
12 before March 1, or within any reasonable extension of time
13 that the superintendent for good cause may have granted on or
14 before such date, file with the superintendent and with the
15 national association of insurance commissioners a full and
16 true statement of its financial condition and of its
17 transactions and affairs as of the December 31 next
18 preceding. The statement shall be prepared in the form of
19 the annual statement blank prescribed by the national
20 association of insurance commissioners for use in the United
21 States for the type of insurer and kinds of insurance to be
22 reported upon, in accordance with the annual statement
23 instructions and the accounting practices and procedures
24 manual published by the national association of insurance
25 commissioners, or such other form and instructions as the

1 superintendent may prescribe, and supplemented by additional
2 information reasonably required by the superintendent; the
3 superintendent may require that the annual statement data be
4 filed in electronically readable format or in lieu of filing,
5 may accept a statement or supplemental information filed in
6 electronic format with the national association of insurance
7 commissioners that is readily available to the superintendent
8 and that the superintendent can reproduce or otherwise make
9 available to the public for a period of at least five years
10 from the date that the filing is due. The statement shall be
11 verified by the oath of the insurer's president or vice
12 president and secretary or actuary, as applicable; or, in
13 absence of the foregoing, by two other principal officers; or
14 if a reciprocal insurer or Lloyds insurer, the oath of the
15 attorney-in-fact or its like officers if a corporation.

16 B. The statement of an alien insurer shall be
17 verified by its United States manager or other officer duly
18 authorized and shall relate only to the insurer's
19 transactions and affairs in the United States unless the
20 superintendent requires otherwise. If the superintendent
21 requires a statement as to the alien insurer's affairs
22 throughout the world, the insurer shall file such statement
23 with the superintendent as soon as reasonably possible.

24 C. If the insurer's statement is in any language
25 other than English or in monetary amounts other than United

1 States dollars, the statement shall be accompanied by an
2 English-language translation and monetary amounts shall be
3 shown in United States dollars with statement of the basis
4 upon and date as of which the monetary conversion was made.

5 D. The superintendent may suspend or revoke the
6 certificate of authority of any insurer failing to file its
7 annual statement when due.

8 E. At time of filing, the insurer shall pay the
9 fee for filing its annual statement with the superintendent
10 as prescribed by Section 59A-6-1 NMSA 1978, and pay to the
11 national association of insurance commissioners the fee
12 established for filing, review or processing of the
13 information, unless such fee has been disapproved by the
14 superintendent.

15 F. In the absence of actual malice, members of
16 national association of insurance commissioners, their duly
17 authorized committees, subcommittees and task forces, their
18 delegates, employees and all others charged by the
19 superintendent or the national association of insurance
20 commissioners with the responsibility of collecting,
21 reviewing, analyzing and disseminating the information
22 developed from the filing of the annual statement blanks
23 shall be acting as agents of the superintendent under the
24 authority of the Insurance Code and shall not be subject to
25 civil liability for libel, slander or any other cause of

1 action by virtue of their collection, review and analysis or
2 dissemination of the data and information collected from the
3 filings required hereunder.

4 G. As to publication of nonstatutory financial
5 statements, refer to Section 59A-16-9 NMSA 1978."

6 Section 3. Section 59A-6-2 NMSA 1978 (being Laws 1984,
7 Chapter 127, Section 102, as amended) is amended to read:

8 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM
9 SURTAX.--

10 A. The premium tax provided for in this section
11 shall apply as to the following taxpayers:

12 (1) each insurer authorized to transact
13 insurance in New Mexico;

14 (2) each insurer formerly authorized to
15 transact insurance in New Mexico and receiving premiums on
16 policies remaining in force in New Mexico, except that this
17 provision shall not apply as to an insurer that withdrew from
18 New Mexico prior to March 26, 1955;

19 (3) each plan operating under provisions of
20 Chapter 59A, Articles 46 through 49 NMSA 1978;

21 (4) each property bondsman, as that person
22 is defined in Section 59A-51-2 NMSA 1978, as to any
23 consideration received as security or surety for a bail bond
24 in connection with a judicial proceeding, which consideration
25 shall be considered "gross premiums" for the purposes of this

1 section; and

2 (5) each unauthorized insurer that has
3 assumed a contract or policy of insurance directly or
4 indirectly from an authorized or formerly authorized insurer
5 and is receiving premiums on such policies remaining in force
6 in New Mexico, except that this provision shall not apply if
7 a ceding insurer continues to pay the tax provided in this
8 section as to such policy or contract.

9 B. Each such taxpayer shall pay in accordance
10 with this subsection a premium tax of three and
11 three-thousandths percent of the gross premiums and
12 membership and policy fees received or written by it, as
13 reported in Schedule T and supporting schedules of its annual
14 financial statement on insurance or contracts covering risks
15 within this state during the preceding calendar year, less
16 all return premiums, including dividends paid or credited to
17 policyholders or contract holders and premiums received for
18 reinsurance on New Mexico risks.

19 C. In addition to the premium tax imposed
20 pursuant to Subsection B of this section, each taxpayer
21 described in Subsection A of this section that transacts
22 health insurance in New Mexico or is a plan described in
23 Chapter 59A, Article 46 or 47 NMSA 1978 shall pay a health
24 insurance premium surtax of one percent of the gross health
25 insurance premiums and membership and policy fees received by

1 it on hospital and medical expense incurred insurance or
2 contracts; nonprofit health care service plan contracts,
3 excluding dental or vision only contracts; and health
4 maintenance organization subscriber contracts covering health
5 risks within this state during the preceding calendar year,
6 less all return health insurance premiums, including
7 dividends paid or credited to policyholders or contract
8 holders and health insurance premiums received for
9 reinsurance on New Mexico risks. Except as provided in this
10 section, all references in the Insurance Code to the premium
11 tax shall include both the premium tax and the health
12 insurance premium surtax.

13 D. For each calendar quarter, an estimated
14 payment of the premium tax and the health insurance premium
15 surtax shall be made on April 15, July 15, October 15 and the
16 following January 15. The estimated payments shall be equal
17 to at least one-fourth of either the payment made during the
18 previous calendar year or eighty percent of the actual
19 payment due for the current calendar year, whichever is
20 greater. The final adjustment for payments due for the prior
21 year shall be made with the return, which shall be filed on
22 April 15 of each year, at which time all taxes for that year
23 are due. Dividends paid or credited to policyholders or
24 contract holders and refunds, savings, savings coupons and
25 similar returns or credits applied or credited to payment of

1 premiums for existing, new or additional insurance shall, in
2 the amount so used, constitute premiums subject to tax under
3 this section for the year in which so applied or credited.

4 E. Exempted from the taxes imposed by this
5 section are:

6 (1) premiums attributable to insurance or
7 contracts purchased by the state or a political subdivision
8 for the state's or political subdivision's active or retired
9 employees; and

10 (2) payments received by a health
11 maintenance organization from the federal secretary of health
12 and human services pursuant to a contract issued under the
13 provisions of 42 U.S.C. Section 1395 mm(g)."

14 Section 4. Section 59A-6-5 NMSA 1978 (being Laws 1984,
15 Chapter 127, Section 105, as amended) is amended to read:

16 "59A-6-5. DISTRIBUTION OF DIVISION COLLECTIONS.--

17 A. All money received by the division for fees,
18 licenses, penalties and taxes shall be paid daily by the
19 superintendent to the state treasurer and credited to the
20 "insurance department suspense fund" except as provided by:

21 (1) the Law Enforcement Protection Fund Act;

22 (2) Section 59A-6-1.1 NMSA 1978; and

23 (3) the Voter Action Act.

24 B. The superintendent may authorize refund of
25 money erroneously paid as fees, licenses, penalties or taxes

1 from the insurance department suspense fund under request for
2 refund made within three years after the erroneous payment.

3 In the case of premium taxes erroneously paid or overpaid in
4 accordance with law, refund may also be requested as a credit
5 against premium taxes due in any annual or quarterly premium
6 tax return filed within three years of the erroneous or
7 excess payment.

8 C. The "insurance operations fund" is created in
9 the state treasury. The fund shall consist of the
10 distributions made to it pursuant to Subsection D of this
11 section. The legislature shall annually appropriate from the
12 fund to the division those amounts necessary for the division
13 to carry out its responsibilities pursuant to the Insurance
14 Code and other laws. Any balance in the fund at the end of a
15 fiscal year greater than one-half of that fiscal year's
16 appropriation shall revert to the general fund.

17 D. At the end of every month, after applicable
18 refunds are made pursuant to Subsection B of this section,
19 the treasurer shall make the following transfers from the
20 balance remaining in the insurance department suspense fund:

21 (1) to the "fire protection fund", that part
22 of the balance derived from property and vehicle insurance
23 business;

24 (2) to the insurance operations fund, that
25 part of the balance derived from the fees imposed pursuant to

1 Subsections A and E of Section 59A-6-1 NMSA 1978 other than
2 fees derived from property and vehicle insurance business;
3 and

4 (3) to the general fund, the balance
5 remaining in the insurance department suspense fund derived
6 from all other kinds of insurance business."

7 Section 5. A new section of the New Mexico Insurance
8 Code is enacted to read:

9 "DISHONORED CHECKS AND OTHER FORMS OF PAYMENT--
10 PENALTY.--When a check or an electronic payment transaction
11 for payment of fees is dishonored or reversed by the payer's
12 financial institution, the payer shall pay to the insurance
13 division a civil penalty in the amount of twenty-five dollars
14 (\$25.00). Neither the division nor the fiscal agent of New
15 Mexico is obligated to resubmit the transaction or check for
16 payment. The superintendent shall treat the transaction as
17 though payment has not been made and cancel, suspend, rescind
18 or revoke the transaction for failure to make payment. Any
19 other penalty, reinstatement fee or other cost associated
20 with failure to make the payment shall be in addition to the
21 penalty set forth in this section. In this section,
22 "electronic payment transaction" means credit card payments,
23 electronic fund transfers, automated clearinghouse
24 transactions and other similar forms of payment."

25 Section 6. Section 59A-12-6 NMSA 1978 (being Laws 1984,

1 Chapter 127, Section 207, as amended) is amended to read:

2 "59A-12-6. LICENSE REQUIRED--PENALTY.--

3 A. No person shall in this state be, act as or
4 make any representation as being, as to subjects of insurance
5 resident, located or to be performed in this state or
6 elsewhere, an agent or solicitor unless then licensed as such
7 under the Insurance Code.

8 B. No authorized insurer shall accept insurance
9 of a subject located, resident or to be performed in this
10 state through a person acting as insurance agent in this
11 state if the insurer knows, or reasonably should have known,
12 that such person was not then licensed as an agent as to the
13 insurance or not appointed as its agent by the insurer.

14 C. No license as agent or broker shall be issued
15 to an entity other than an individual, firm (partnership) or
16 corporation.

17 D. No agent or solicitor shall solicit or take an
18 application for, or place for others, any kind of insurance
19 as to which not then so licensed.

20 E. No agent shall place any insurance with an
21 insurer as to which not then licensed or appointed as agent
22 under the Insurance Code, except as permitted by Section
23 59A-11-10 NMSA 1978.

24 F. A license as agent or solicitor, or
25 appointment as agent of a particular insurer, shall not be in

1 effect until the license has actually been delivered to the
2 agent or solicitor or to the solicitor's employer agent or
3 the appointment has been duly filed with and approved by the
4 superintendent.

5 G. In addition to any applicable denial,
6 suspension or revocation of license, refusal to continue
7 license, or administrative fine, violation of this section
8 shall be a misdemeanor punishable by a fine of from one
9 hundred dollars (\$100) to five hundred dollars (\$500) and by
10 forfeiture to the state of New Mexico of an amount equal to
11 all compensation for services as agent or solicitor received
12 or to be received by the violator by reason of the prohibited
13 transactions."

14 Section 7. Section 59A-12-18 NMSA 1978 (being Laws
15 1984, Chapter 127, Section 219, as amended by Laws 2002,
16 Chapter 24, Section 1 and by Laws 2002, Chapter 87, Section
17 1) is amended to read:

18 "59A-12-18. LIMITED LICENSE.--

19 A. The superintendent may issue a limited agent's
20 license to:

21 (1) individual applicants qualified pursuant
22 to Chapter 59A, Article 12 NMSA 1978 and employed as
23 transportation ticket sellers by public carriers, who in the
24 course of such employment solicit or sell insurance
25 incidental to transportation of persons or storage or

1 transportation of baggage, provided that the license is
2 limited to that insurance; or

3 (2) individual applicants employed full time
4 by a vendor of merchandise or other property or by a
5 financial institution making consumer loans, on terms with
6 respect to which credit life insurance or health insurance,
7 under individual policies is customarily required of or
8 offered to the purchaser or borrower, covering only that
9 credit life and health insurance.

10 B. The superintendent may issue a limited agent's
11 license to applicants who are retail vendors or lessors of
12 communication equipment or services. The license shall
13 authorize the licensee, in connection with the lease, retail
14 sale or provision of communication equipment or communication
15 services for communication equipment, to sell insurance
16 covering the loss, theft, mechanical failure or malfunction
17 of or damage to the communication equipment. The licensee
18 shall provide for the training of its employees who are
19 authorized to sell that insurance. The conduct of the
20 licensee's business under the limited license by its
21 employees shall be attributed to the licensee. As used in
22 this subsection, "communication equipment" means handsets,
23 pagers, personal digital assistants, portable computers,
24 automatic answering devices, batteries and other devices or
25 their accessories used to originate or receive communication

1 signals or service, and includes services related to the use
2 of such devices such as access to a network.

3 C. No holder of a limited license issued pursuant
4 to this section shall concurrently be otherwise licensed
5 under the Insurance Code."

6 Section 8. Section 59A-13-2 NMSA 1978 (being Laws 1984,
7 Chapter 127, Section 230, as amended) is amended to read:

8 "59A-13-2. DEFINITIONS.--

9 A. For the purposes of the Insurance Code:

10 (1) "adjuster" is a person that:

11 (a) investigates, negotiates, settles
12 or adjusts a loss or claim arising under an insurance
13 contract on behalf of an insurer, insured or self-insurer,
14 for a fee, commission or other compensation; however, an
15 adjuster acting on behalf of an insured shall not
16 investigate, negotiate, settle or adjust a claim involving
17 personal injury to the insured; and

18 (b) advises the insured of the
19 insured's rights to settlement and the insured's rights to
20 settle, arbitrate and litigate the dispute;

21 (2) "staff adjuster" is an adjuster
22 individual who is a salaried employee of an insurer or
23 affiliates of the employer insurer, representing and
24 adjusting claims solely under policies of the employer
25 insurer; and

1 (3) "independent adjuster" is an adjuster
2 who is not a staff adjuster and includes a representative and
3 an employee of an independent adjuster.

4 B. Except as otherwise provided, "adjuster" does
5 not include:

6 (1) an attorney-at-law who adjusts insurance
7 losses or claims from time to time incidental to practice of
8 law and who does not advertise or represent as an adjuster;

9 (2) a licensed agent or general agent of an
10 authorized insurer or an employee of an agent or general
11 agent who adjusts claims or losses under specific authority
12 from the insurer and solely under policies issued by the
13 insurer;

14 (3) an agent or employee of a life or health
15 insurer who adjusts claims or losses under the insurer's
16 policies or contracts to administer policies or benefits of
17 that type; or

18 (4) a salaried or part-time claims agent or
19 investigator employed by a self-insured person."

20 Section 9. Section 59A-13-8 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 236) is amended to read:

22 "59A-13-8. POWERS CONFERRED BY ADJUSTER LICENSE.--An
23 independent adjuster shall have the powers granted by its
24 principal to investigate, report upon, adjust and settle
25 claims on behalf of an insurer or self insurer and have

1 additional powers as to claims and losses as may be conferred
2 by the principal. A staff adjuster shall have only such
3 powers with respect to claims and losses as granted by the
4 adjuster's employer or affiliates of the adjuster's employer.
5 A temporary adjuster shall, as to claims and losses, have the
6 powers of the employer, subject to extension or limitation by
7 contract."

8 Section 10. Section 59A-16-20.1 NMSA 1978 (being Laws
9 1993, Chapter 350, Section 1) is amended to read:

10 "59A-16-20.1. HOMEOWNER'S CASUALTY INSURANCE--PREMIUM
11 RATE AND POLICY--PROTECTION AFTER NATURAL DISASTER.--

12 A. A homeowner's casualty insurance policy shall
13 not be canceled or denied renewal because of a homeowner's
14 claim made as a result of damages caused by a natural
15 disaster to the homeowner's private residence, provided that
16 the homeowner's policy expressly provides for such coverage.

17 B. The provisions of this section apply to all
18 insurance carriers authorized under the Insurance Code to
19 transact homeowner's casualty insurance policies. For the
20 purposes of this section, "natural disaster" means any
21 hurricane, tornado, storm, flood, high water, wind-driven
22 water, earthquake, landslide, mudslide, snowstorm, drought,
23 fire, explosion or other catastrophe that results in
24 substantial damage to property, hardship, suffering or loss
25 of life."

1 Section 11. Section 59A-34-37 NMSA 1978 (being Laws
2 1984, Chapter 127, Section 583) is amended to read:

3 "59A-34-37. PRESERVATION OF OLD CHARTER IN MERGER,
4 CONSOLIDATION.--

5 A. In any merger or consolidation of a foreign
6 stock or mutual insurer into or with a domestic insurer under
7 Chapter 59A, Article 34 NMSA 1978, the continuing New Mexico
8 corporation shall for all purposes be deemed to be
9 continuation of the corporate existence of the foreign
10 corporation, with New Mexico as the adoptive state of
11 domicile and with date of corporate origin the same as the
12 original date of incorporation of the foreign insurer in its
13 original domiciliary state or country, subject to the
14 following conditions:

15 (1) the plan and agreement of merger or
16 consolidation shall provide for such continuation of
17 corporate existence, with designation of New Mexico as the
18 state of domicile of the foreign corporation by adoption, and
19 shall specify the original date of incorporation of the
20 foreign corporation in its original domiciliary state or
21 country as being the date of incorporation of the New Mexico
22 corporation pursuant to this section;

23 (2) the articles of corporation of the New
24 Mexico corporation shall provide, or be amended to provide,
25 that the corporation is a continuance of the corporate

1 existence, through adoption of New Mexico as the corporate
2 domicile, of the foreign corporation, and shall specify the
3 original date of incorporation of the foreign corporation in
4 its original domiciliary state or country as being the date
5 of incorporation of the New Mexico corporation pursuant to
6 this section; and

7 (3) the continuing New Mexico corporation
8 shall as of merger or consolidation effective date have
9 paid-in capital stock and additional surplus in amount not
10 less than as required of a newly-authorized foreign stock
11 insurer under Section 59A-5-16 NMSA 1978 to transact the same
12 kinds of insurance, and shall have all the rights and
13 obligations of, and be given recognition in all respects as,
14 a corporation formed under the laws of this state as of the
15 date of incorporation of the foreign corporation in its
16 original domiciliary state or country. This provision shall
17 not be deemed to impose upon the continuing New Mexico
18 corporation any liability or obligation as to filings, fees,
19 taxes or otherwise that might have accrued prior to effective
20 date of the merger or consolidation.

21 B. This section shall not be deemed in any manner
22 to preserve, after effective date of merger or consolidation,
23 the corporate existence of the foreign corporation as a
24 corporation of its original domiciliary state or country."

25 Section 12. Section 59A-48-19 NMSA 1978 (being Laws

1 1984, Chapter 127, Section 898, as amended) is amended to
2 read:

3 "59A-48-19. OTHER PROVISIONS APPLICABLE.--In addition
4 to those referred to in Chapter 59A, Article 48 NMSA 1978,
5 the following articles and provisions of the Insurance Code
6 shall also apply, to the extent reasonably applicable and
7 subject to the provisions of that article, as to prepaid
8 dental plan organizations, their sponsors, directors,
9 officers, personnel and representatives and member contracts.
10 For the purposes of this provision, such organizations may be
11 referred to as "insurers" and such contracts as "policies":

- 12 A. Chapter 59A, Article 1 NMSA 1978;
- 13 B. Chapter 59A, Article 2 NMSA 1978;
- 14 C. Chapter 59A, Article 4 NMSA 1978;
- 15 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 16 E. Section 59A-5-33 NMSA 1978;
- 17 F. Sections 59A-6-1, 59A-6-3, 59A-6-4 and 59A-6-6
18 NMSA 1978;
- 19 G. Section 59A-7-11 NMSA 1978;
- 20 H. Chapter 59A, Article 8 NMSA 1978;
- 21 I. Chapter 59A, Article 10 NMSA 1978;
- 22 J. Section 59A-12-22 NMSA 1978;
- 23 K. the Insurance Fraud Act;
- 24 L. Chapter 59A, Article 18 NMSA 1978;
- 25 M. the Policy Language Simplification Law;

1 N. Section 59A-34-10 NMSA 1978, as to domestic
2 prepaid dental plans; and

3 O. The Insurance Holding Company Law."

4 Section 13. Section 59A-58-6 NMSA 1978 (being Laws
5 2001, Chapter 206, Section 6) is amended to read:

6 "59A-58-6. SECURITY REQUIRED FOR REGISTRATION OF
7 PROVIDER.--

8 A. To ensure the faithful performance of a
9 provider's obligations to the provider's contract holders, a
10 provider shall maintain a deposit with the superintendent as
11 provided in this section.

12 B. A provider of a service contract shall deposit
13 fifty thousand dollars (\$50,000) unless the contract covers
14 the following, in which case the provider shall deposit one
15 hundred thousand dollars (\$100,000):

16 (1) a motor vehicle; and

17 (2) mechanical, plumbing and electrical
18 systems and appliances at a residential dwelling when the
19 service contract was sold in conjunction with the sale of the
20 residential dwelling.

21 C. Deposits required pursuant to Subsection B of
22 this section shall be:

23 (1) a surety bond issued by a surety company
24 authorized to do business in New Mexico on a form acceptable
25 to the superintendent;

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(2) securities of the type eligible for deposit by an insurance company; or

(3) a clean and irrevocable letter of credit issued by a financial institution acceptable to the superintendent.

D. Additional financial security may be required of any provider when it is determined by the superintendent that an additional deposit is necessary for the protection of the public.

E. The provisions of this section shall not apply to major manufacturing companies' service contracts."

Section 14. TEMPORARY PROVISION--RECOMPILATION.--The compiler shall recompile Section 8-8-9.2 NMSA 1978 (being Laws 2003, Chapter 235, Section 3) as part of the New Mexico Insurance Code.
