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AN ACT

RELATING TO INSURANCE; AMENDING THE NEW MEXICO INSURANCE CODE
TO MODERNIZE THE REGULATION OF PROPERTY AND CASUALTY RATES
AND FORMS; INCREASING PENALTIES.

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

Section 1. Section 59A-17-1 NMSA 1978 (being Laws 1984,
Chapter 127, Section 299) is amended to read:

"59A-17-1. SHORT TITLE.--Chapter 59A, Article 17 NMSA
1978 may be cited as the "Insurance Rate Regulation Law"."

Section 2. Section 59A-17-2 NMSA 1978 (being Laws 1984,
Chapter 127, Section 297) is amended to read:

"59A-17-2. SCOPE OF ARTICLE--EXEMPTIONS.--

A. The Insurance Rate Regulation Law applies to
all kinds and lines of direct insurance written on risks or
operations in this state by any authorized insurer, except:

(1) wet marine and transportation insurance,
as defined in Section 59A-7-5 NMSA 1978;

(2) life insurance;

(3) variable and fixed annuities; and

(4) health insurance.

B. For purposes of the Insurance Rate Regulation
Law, "workers' compensation" insurance includes employer's
liability insurance.

C. The superintendent may by order exempt any

1 person or class of persons or any market segment from any or
2 all of the provisions of the Insurance Rate Regulation Law to
3 the extent that the superintendent finds the provision or
4 provisions unnecessary to achieve the purposes of that law."

5 Section 3. Section 59A-17-4 NMSA 1978 (being Laws 1984,
6 Chapter 127, Section 300) is amended to read:

7 "59A-17-4. DEFINITIONS.--As used in the Insurance Rate
8 Regulation Law:

9 A. "advisory organization" means an entity,
10 including its affiliates or subsidiaries, that either has two
11 or more member insurers or is controlled either directly or
12 indirectly by two or more insurers, and that assists insurers
13 in the promulgation of policy forms; in ratemaking
14 activities, such as the collection, compilation and
15 furnishing of loss or expense statistics; or in the
16 recommendation, making or filing of rates, prospective loss
17 costs, supplementary rate information, policy forms or
18 endorsements. Two or more insurers having a common ownership
19 or operating in New Mexico under common management or control
20 constitute a single insurer for purposes of this definition;

21 B. "commercial insurance" means any line or kind
22 of property or casualty insurance not for personal, family or
23 household needs;

24 C. "market" means any line or kind of insurance or
25 any subdivision thereof or any class of risks or combination

1 of classes;

2 D. "residual market mechanism" means an
3 arrangement, either voluntary or mandated by law, involving
4 participation by insurers in the equitable apportionment
5 among them of insurance that may be afforded applicants who
6 are unable to obtain insurance through ordinary methods;

7 E. "reverse competition" means a marketplace
8 situation where the placement of a line, kind or class of
9 insurance with insurers is determined primarily or
10 exclusively by parties other than the policyholders;

11 F. "supplementary rate information" includes any
12 manual or plan of rates, classification, rating schedule,
13 minimum premium, policy fee, rating rule, underwriting rule
14 and any other information needed to determine the applicable
15 rate in effect or to be in effect; and

16 G. "supporting information" means:

17 (1) the experience and judgment of the filer
18 and the experience or data of other insurers or advisory
19 organizations relied upon by the filer;

20 (2) the interpretation of any other data
21 relied upon by the filer;

22 (3) descriptions of methods used in making
23 the rates; and

24 (4) any other information required by the
25 superintendent to be filed."

1 Section 4. A new section of the Insurance Rate
2 Regulation Law is enacted to read:

3 "COMPETITIVE MARKET.--A competitive market is presumed
4 to exist unless the superintendent, after notice and hearing,
5 determines that a reasonable degree of competition does not
6 exist within a market and issues a ruling to that effect.
7 The ruling shall expire three years after issue unless
8 rescinded earlier by the superintendent or unless the
9 superintendent renews the ruling after a hearing and a
10 finding as to the continued lack of a reasonable degree of
11 competition. Any ruling that finds that competition does not
12 exist shall identify the factors that cause the market not to
13 be competitive and may also include a plan for enhancing
14 competition. The superintendent shall monitor the degree and
15 continued existence of competition in New Mexico on an
16 ongoing basis. An interested party may petition the
17 superintendent to initiate a hearing to examine whether a
18 particular market is competitive or whether a particular
19 market is no longer noncompetitive."

20 Section 5. A new section of the Insurance Rate
21 Regulation Law is enacted to read:

22 "REVERSE COMPETITIVE MARKET.--A reverse competitive
23 market for a line, kind or class of insurance is presumed to
24 exist wherever the placement of a line, kind or class of
25 insurance with insurers is determined primarily or

1 exclusively by parties other than the policyholders. The
2 superintendent may, by notice and hearing, establish rules
3 for determining the specific lines, kinds or classes of
4 insurance that, for the purposes of the Insurance Rate
5 Regulation Law, are reversely competitive."

6 Section 6. A new section of the Insurance Rate
7 Regulation Law is enacted to read:

8 "CONSUMER INFORMATION.--

9 A. The superintendent shall use, develop or cause
10 to be developed a consumer information system that will
11 provide and disseminate price and other relevant information
12 on a readily available basis to purchasers of homeowners,
13 private passenger non-fleet automobile or property insurance
14 for personal, family or household needs as well as for any
15 other types of personal or commercial insurance designated by
16 the superintendent. To the extent deemed necessary and
17 appropriate by the superintendent, insurers, advisory
18 organizations and other persons or organizations involved in
19 conducting the business of insurance in New Mexico, to which
20 this section applies, shall cooperate in the development and
21 utilization of a consumer information system.

22 B. An insurer writing homeowners insurance or
23 private passenger non-fleet automobile insurance in New
24 Mexico shall, upon renewal or upon the transfer of a policy
25 to another insurer under the same ownership or management as

1 the transferring insurer, provide its policyholders with
2 written notification of their right to obtain from the
3 insurer a detailed written explanation of the reasons why
4 their policy premium has changed or is about to change."

5 Section 7. A new section of the Insurance Rate
6 Regulation Law is enacted to read:

7 "UNDERWRITING GUIDELINES.--

8 A. The superintendent may direct an insurer
9 writing homeowners insurance, private passenger non-fleet
10 automobile insurance or other lines, kinds or classes of
11 noncommercial insurance in New Mexico to file with the
12 superintendent underwriting guidelines that determine the
13 acceptance of applicants and tiering guidelines that
14 determine the placement of applicants and insureds into
15 rating tiers, regardless of whether such tiers exist within
16 the insurer or within a group of insurers under common
17 ownership or management.

18 B. The superintendent, after notice and hearing,
19 may order an insurer to cease using underwriting or tiering
20 guidelines that are unfairly discriminatory or that fail to
21 place applicants and insureds into tiers in a clear,
22 objective, risk-based and mutually exclusive manner.

23 C. Filings made pursuant to this section shall be
24 considered confidential trade secrets under the Uniform Trade
25 Secrets Act."

1 Section 8. Section 59A-17-6 NMSA 1978 (being Laws 1984,
2 Chapter 127, Section 302) is amended to read:

3 "59A-17-6. RATE STANDARDS.--

4 A. Rates shall not be excessive, inadequate or
5 unfairly discriminatory, nor shall an insurer charge any rate
6 that, if continued, will have or tend to have the effect of
7 destroying competition or creating a monopoly.

8 B. In a competitive market, rates are presumed not
9 to be excessive.

10 C. In a noncompetitive market, rates are excessive
11 if they are likely to produce a profit that is unreasonably
12 high in relation to the riskiness of the line, kind or class
13 of business, or if expenses are unreasonably high in relation
14 to the services rendered.

15 D. Rates are inadequate if they are clearly
16 insufficient, together with the investment income
17 attributable to them, to sustain projected losses and
18 expenses in the line, kind or class of business to which they
19 apply.

20 E. There is unfair discrimination if one rate is
21 unfairly discriminatory in relation to another in the same
22 line, kind or class if it clearly fails to reflect equitably
23 the differences in expected losses and expenses. Rates are
24 not unfairly discriminatory because different premiums result
25 for policyholders with like loss exposures but different

1 expense factors, or like expense factors but different loss
2 exposures, so long as the rates reflect the differences with
3 reasonable accuracy. Rates are not unfairly discriminatory
4 if they are averaged broadly among persons insured under a
5 group, franchise or blanket policy or a mass marketing plan."

6 Section 9. Section 59A-17-7 NMSA 1978 (being Laws 1984,
7 Chapter 127, Section 303) is amended to read:

8 "59A-17-7. RATING METHODS.--In determining whether
9 rates comply with the rate standards, the following criteria
10 shall be applied:

11 A. due consideration shall be given to past and
12 prospective loss and expense experience within and without
13 this state, to catastrophic hazards and contingencies, to
14 trends within and without this state, to loadings for
15 leveling premium rates over time or for dividends or savings
16 to be allowed or returned by insurers to their policyholders,
17 members or subscribers and to all other relevant factors,
18 including the judgment of technical personnel;

19 B. risks may be classified in any reasonable way
20 for the establishment of rates and minimum premiums, except
21 that classifications may not be based on race, color, creed
22 or national origin;

23 C. the expense provisions included in the rates to
24 be used by an insurer may reflect the operating methods of
25 the insurer and, so far as it is credible, its own expense

1 experience; and

2 D. the rates may contain an allowance permitting a
3 profit that is not unreasonable in relation to the riskiness
4 of the line, kind or class of business. Profit shall include
5 investment income attributable to such rates."

6 Section 10. Section 59A-17-7.1 NMSA 1978 (being Laws
7 1987, Chapter 80, Section 1) is amended to read:

8 "59A-17-7.1. MOTOR VEHICLE LIABILITY--NOT-AT-FAULT
9 ACCIDENTS.--

10 A. The rates of a motor vehicle liability insurer
11 shall not provide for an increase in the premium if based
12 upon an accident in which the insured is not at fault in any
13 manner as determined by either the accident report or the
14 insurer. If the insurer determines that its insured is at
15 fault contrary to the specific finding of an accident report
16 that the insured is not at fault, the insurer shall reach its
17 conclusion only after an investigation.

18 B. A motor vehicle liability insurer shall not
19 cancel, or use as a basis for nonrenewal, an insurance policy
20 if such cancellation or nonrenewal is based upon an accident
21 in which the insured is not at fault in any manner as
22 determined by either the accident report or the insurer. If
23 the insurer determines that its insured is at fault contrary
24 to the specific finding of an accident report that the
25 insured is not at fault, the insurer shall reach its

1 conclusion only after an investigation.

2 C. As used in this section, "motor vehicle
3 liability insurer" means an insurer authorized to transact in
4 this state the business of automobile and motor vehicle
5 bodily injury, property damage liability and physical damage
6 insurance.

7 D. This section shall not apply if other factors
8 exist, exclusive of the accident in which the insured is not
9 at fault, that allow for a premium increase, cancellation or
10 nonrenewal of an insurance policy under the Insurance Code or
11 rules pursuant to the Insurance Code."

12 Section 11. Section 59A-17-8 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 304, as amended) is amended to
14 read:

15 "59A-17-8. MAKING OF RATES--WORKERS' COMPENSATION--RATE
16 CALCULATIONS--RATE CLASSIFICATIONS.--

17 A. A workers' compensation insurer shall adhere to
18 a uniform classification system and uniform experience rating
19 system filed with the superintendent by an advisory
20 organization designated by the superintendent.

21 B. A workers' compensation insurer shall report
22 its experience in accordance with the statistical plans and
23 other reporting requirements in use by the advisory
24 organization designated by the superintendent.

25 C. Workers' compensation premium rates shall be

1 equalized and calculated on a basis that does not
2 discriminate against or penalize employers who pay higher
3 wages than other employers to workers in the same job
4 classification. The legislature finds that calculating
5 workers' compensation premium rates strictly on the basis of
6 an employer's wages paid discriminates against and penalizes
7 higher-paying employers. The legislature accordingly directs
8 that the superintendent shall:

9 (1) investigate alternatives to the current
10 method of computing workers' compensation premiums, including
11 but not limited to:

12 (a) split classification;

13 (b) payroll cap;

14 (c) hours worked; and

15 (d) premium credits;

16 (2) immediately conduct hearings on the
17 issue, including consideration of other alternatives; and

18 (3) adopt regulations, to become effective
19 no later than April 1, 1991, to equalize the workers'
20 compensation premium rates employers must pay for workers who
21 perform the same job.

22 Nothing in this subsection shall be construed to
23 prohibit the use of experience rating or scheduled credits.

24 D. A workers' compensation insurer may develop
25 subclassifications of the uniform classification system upon

1 which rates may be made. Such subclassifications and their
2 filing shall be subject to all applicable provisions of the
3 Insurance Rate Regulation Law. Data produced from such
4 subclassifications shall be reported in accordance with the
5 statistical plans, uniform classification system and
6 experience rating system in use by the advisory organization
7 designated by the superintendent.

8 E. Classification assignments may be changed
9 within sixty days of the effective date or renewal date of
10 the policy, provided the employer is given reasonable prior
11 notice of the proposed change in order to object and provided
12 further that the change is based upon an appropriate audit or
13 investigation. The same provisions apply to initial
14 classification assignments for new operations added by the
15 employer so that they may be changed within sixty days of the
16 date the classification assignments are initially
17 established. No subsequent changes shall be made unless the
18 insurer proves, after conducting an audit or investigation,
19 that:

20 (1) there has been a substantial change in
21 the nature of the work performed; or

22 (2) the initial assignment was in error due
23 to withheld or inaccurate material information provided by
24 the employer.

25 F. A workers' compensation insurer may develop

1 rating plans that identify loss experience as a factor to be
2 used. The rating plans and their filing shall be subject to
3 all applicable provisions of the Insurance Rate Regulation
4 Law.

5 G. The superintendent shall disapprove
6 subclassifications, rating plans or other variations from
7 supplementary rate information filed by a workers'
8 compensation insurer if the insurer fails to demonstrate that
9 the data produced can be reported consistent with the uniform
10 classification system and experience rating system and in
11 such a fashion so as to allow for the application of
12 experience rating filed by the advisory organization
13 designated by the superintendent."

14 Section 12. Section 59A-17-9 NMSA 1978 (being Laws
15 1984, Chapter 127, Section 305, as amended) is amended to
16 read:

17 "59A-17-9. FILING OF RATES.--

18 A. In regard to filings in competitive markets:

19 (1) for purposes of this section, reverse
20 competitive markets and residual markets are not competitive
21 markets;

22 (2) for filings by insurers:

23 (a) an insurer shall file with the
24 superintendent rates and supplementary rate information prior
25 to their use in New Mexico;

1 (b) rates to be used in a competitive
2 market for commercial insurance other than workers'
3 compensation and medical professional liability need not be
4 filed; and

5 (c) insurers that wish to use workers'
6 compensation subclassifications, rating plans, loss costs or
7 other supplementary rate information that differs from items
8 filed by the advisory organization designated by the
9 superintendent shall file with the superintendent relevant
10 subclassifications, rating plans, rates, loss costs, other
11 supplementary rate information and supporting information in
12 accordance with the requirements and provisions of Subsection
13 B of this section; and

14 (3) for filings by advisory organizations:

15 (a) with the exception of workers'
16 compensation filings, an advisory organization shall file
17 with the superintendent rates, supplementary rate information
18 and supporting information prior to their use in New Mexico;
19 and

20 (b) regarding workers' compensation
21 filings, the advisory organization designated by the
22 superintendent shall file with the superintendent rates,
23 supplementary rate information and supporting information in
24 accordance with the requirements and provisions of Subsection
25 B of this section.

1 B. In regard to filings in noncompetitive, reverse
2 competitive and residual markets:

3 (1) an insurer or advisory organization
4 shall file with the superintendent rates, supplementary rate
5 information and supporting information for noncompetitive,
6 reverse competitive and residual markets at least thirty days
7 before the proposed effective date;

8 (2) the superintendent may give written or
9 electronic notice, within thirty days of receipt of the
10 filing, that the superintendent needs additional time, not to
11 exceed thirty days from the date of such notice, to consider
12 the filing;

13 (3) upon written or electronic application
14 of the insurer or advisory organization, the superintendent
15 may authorize rates to be effective before the expiration of
16 the waiting period or an extension of the waiting period;

17 (4) a filing shall be deemed to meet the
18 requirements of this section and to become effective unless
19 disapproved pursuant to Section 59A-17-13 NMSA 1978 by the
20 superintendent before the expiration of the waiting period or
21 an extension of the waiting period;

22 (5) the operation of the deemer provision
23 shall be suspended during a period of not more than sixty
24 days upon written or electronic notice to the insurer or
25 advisory organization that made the filing that additional

1 information is needed to complete the review of the filing.
2 The suspension of the deemer provision may occur only once
3 for a filing. Failure of the insurer or advisory organization
4 to provide the requested information within sixty days shall
5 be deemed a request to withdraw the filing from further
6 consideration. The superintendent shall either approve or
7 disapprove the filing within thirty days of receipt of the
8 requested additional information. Failure of the
9 superintendent to act within the thirty-day period shall
10 result in the filing being deemed to meet the requirements of
11 the Insurance Rate Regulation Law. Neither the insurer nor
12 the superintendent may waive the timeliness requirements of
13 the deemer provisions of this section; and

14 (6) residual market mechanisms or advisory
15 organizations may file residual market rates.

16 C. In regard to reference filings; an insurer may
17 file its rates either by filing its final rates or by filing
18 a multiplier and, if applicable, an expense constant
19 adjustment to be applied to prospective loss costs that have
20 been filed by an advisory organization on behalf of the
21 insurer as permitted by Section 59A-17-17 NMSA 1978. Such
22 reference filings shall be made prior to their use or by
23 other methods the superintendent may allow by rule. An
24 insurer that chooses to adopt the prospective loss costs or
25 rates that have been filed by an advisory organization on its

1 behalf for a competitive commercial line other than workers'
2 compensation or medical professional liability need not
3 file."

4 Section 13. Section 59A-17-11 NMSA 1978 (being Laws
5 1984, Chapter 127, Section 307, as amended) is amended to
6 read:

7 "59A-17-11. FILINGS OPEN TO INSPECTION.--A filing and
8 supporting information filed under Sections 59A-17-9 and
9 59A-17-10 NMSA 1978 shall, as soon as filed, be open to
10 public inspection at a reasonable time. A copy of a filing
11 and supporting information may be obtained by a person on
12 request to the superintendent and payment of a reasonable
13 charge. If the insurer or advisory organization believes
14 that information contained in the filing contains material
15 that it considers to be a trade secret, it shall include that
16 information in a separate section of the filing and include a
17 request for the superintendent to consider whether that
18 information should be kept confidential."

19 Section 14. Section 59A-17-12 NMSA 1978 (being Laws
20 1984, Chapter 127, Section 308) is amended to read:

21 "59A-17-12. INSURER MUST ADHERE TO RATES--CONSENT TO
22 RATE.--

23 A. No insurer shall make or issue a contract or
24 policy of insurance except in accordance with filings or
25 rates that are lawfully in effect for the insurer as provided

1 in the Insurance Rate Regulation Law.

2 B. Upon written application of the insured stating
3 the underlying reasons that is filed with and approved by the
4 superintendent, a rate in excess of or below that otherwise
5 applicable may be used as to a specific risk."

6 Section 15. Section 59A-17-13 NMSA 1978 (being Laws
7 1984, Chapter 127, Section 309, as amended) is amended to
8 read:

9 "59A-17-13. GROUNDS AND PROCEDURES FOR DISAPPROVAL OF
10 RATES.--

11 A. The superintendent shall disapprove a rate for
12 use in a competitive market if the superintendent finds that
13 the rate is inadequate or unfairly discriminatory under the
14 rate standards set forth in Section 59A-17-6 NMSA 1978. The
15 superintendent shall disapprove a rate for use in a
16 noncompetitive, reverse competitive or residual market if the
17 superintendent finds that the rate is excessive, inadequate
18 or unfairly discriminatory under the rate standards set forth
19 in Section 59A-17-6 NMSA 1978.

20 B. The superintendent may at any time disapprove a
21 filing submitted under the "file and use" provisions of
22 Subsection A of Section 59A-17-9 NMSA 1978 after giving
23 notice of hearing pursuant to the provisions of Subsection A
24 of Section 59A-4-16 NMSA 1978 to every insurer and advisory
25 organization that adopted the rate.

1 C. The superintendent may disapprove a filing
2 submitted under the "prior approval" provisions of Subsection
3 B of Section 59A-17-9 NMSA 1978:

4 (1) without a hearing prior to the
5 expiration of the waiting period or an extension of the
6 waiting period. An insurer or advisory organization whose
7 rates are disapproved under this subsection may request a
8 hearing before the superintendent by filing a written request
9 within thirty days of the date of the disapproval notice; or

10 (2) at any time after the expiration of the
11 waiting period or an extension of the waiting period, after
12 giving notice of hearing pursuant to the provisions of
13 Subsection A of Section 59A-4-16 NMSA 1978 to every insurer
14 and advisory organization that adopted the rate.

15 D. The superintendent's notice or order of
16 disapproval shall specify the respects in which the rate
17 fails to meet the standards set forth in Section 59A-17-6
18 NMSA 1978. The notice or order shall state an effective date
19 no sooner than thirty business days after the date of the
20 notice or order when the insurer shall discontinue the use of
21 the rate. The notice or order shall not affect any policy
22 made before the effective date of the notice or order."

23 Section 16. A new section of the Insurance Rate
24 Regulation Law is enacted to read:

25 "LARGE COMMERCIAL POLICYHOLDERS.--

1 A. The superintendent may, by rule, establish a
2 class of large commercial policyholders, to be known as
3 exempt commercial policyholders, that shall be exempt from
4 the rate and form requirements of Chapter 59A, Articles 17
5 and 18 NMSA 1978, except for form provisions relating to
6 workers' compensation mandatory coverage provisions.

7 B. In the promulgation of this rule, the
8 superintendent shall consider the following factors in
9 establishing an exempt commercial policyholder class:

10 (1) the characteristics of insureds that are
11 likely to study and understand the details of their business
12 risks, insurance coverages and exclusions;

13 (2) the characteristics of insureds that are
14 likely to avail themselves of regular price comparisons
15 between competing insurers and are likely to study and
16 understand the differences and details of pricing proposals
17 that they receive;

18 (3) the characteristics of insureds that are
19 likely to require individually written policies, as
20 contrasted to insureds that can customarily have their
21 coverage needs met through a compilation of forms with
22 applicability to other insureds as well;

23 (4) the characteristics of insureds for
24 which filed rates and rating plans are less likely to provide
25 the lowest premiums otherwise consistent with the provisions

1 of the Insurance Rate Regulation Law;

2 (5) the favorable or adverse experiences
3 with exemptions from regulatory requirements, especially the
4 experience in New Mexico;

5 (6) the extent to which commercial insureds
6 primarily located in another jurisdiction are subject to
7 similar exemptions or waivers in that jurisdiction; and

8 (7) any other relevant factors.

9 C. The superintendent may, by rule, waive some or
10 all of the diligent search requirements related to placement
11 of risks in the approved surplus lines market for some or all
12 of the exempt commercial policyholders."

13 Section 17. Section 59A-17-13.1 NMSA 1978 (being Laws
14 1993, Chapter 103, Section 1) is amended to read:

15 "59A-17-13.1. DISCOUNTS ON HOMEOWNERS' POLICIES FOR
16 BURGLARY PROTECTIONS.--Any insurer licensed to write
17 homeowner's insurance, as defined by the superintendent,
18 within the state shall provide a minimum premium discount of
19 ten percent for houses with electronic alarm systems designed
20 to prevent unauthorized entry into the house. The insurer
21 shall also provide a minimum premium discount of five percent
22 for houses with wrought iron bars covering all the doors and
23 windows of the house. These discounts shall apply to
24 comprehensive coverage and shall be part of the insurer's
25 rate filing. Some or all of the premium discounts required

1 by this section may be omitted upon demonstration to the
2 superintendent in an insurer's rate filing that the discounts
3 are duplicative of other discounts provided by the insurer."

4 Section 18. Section 59A-17-16 NMSA 1978 (being Laws
5 1984, Chapter 127, Section 312, as amended) is amended to
6 read:

7 "59A-17-16. REQUIREMENT FOR SUPPORTING INFORMATION.--

8 A. By rule, the superintendent may require the
9 filing of supporting data as to any or all kinds or lines of
10 insurance or subdivisions thereof or classes of risks or
11 combinations thereof as the superintendent deems necessary
12 for the proper functioning of the rate monitoring and
13 regulating process. The supporting data shall include:

14 (1) the experience and judgment of the filer
15 and, to the extent it wishes or the superintendent requires,
16 of other insurers or advisory organizations;

17 (2) its interpretation of any statistical
18 data relied upon;

19 (3) descriptions of the actuarial and
20 statistical methods employed in setting the rates; and

21 (4) any other relevant matters required by
22 the superintendent.

23 B. Whenever a filing is not accompanied by the
24 information as the superintendent has required under
25 Subsection A of this section, the superintendent may inform

1 the insurer and the filing shall be deemed to be made when
2 the information is furnished."

3 Section 19. Section 59A-17-17 NMSA 1978 (being Laws
4 1984, Chapter 127, Section 313, as amended) is amended to
5 read:

6 "59A-17-17. USE OF ADVISORY ORGANIZATION FILINGS.--

7 A. An insurer may itself establish rates and
8 supplementary rate information for a market segment based on
9 the factors set forth in Section 59A-17-7 NMSA 1978 or it may
10 in its rate filing incorporate by reference loss costs and
11 other supplementary rate information prepared by an advisory
12 organization, with modification for its own loss experience
13 as the credibility of that experience allows.

14 B. Nothing in the Insurance Rate Regulation Law
15 shall be construed as requiring an insurer to become a member
16 of or subscriber to any advisory organization.

17 C. The superintendent may adopt rules establishing
18 standards and administrative procedures to carry out the
19 provisions of this section."

20 Section 20. Section 59A-17-18 NMSA 1978 (being Laws
21 1984, Chapter 127, Section 314) is amended to read:

22 "59A-17-18. ADVISORY ORGANIZATIONS--LICENSE REQUIRED--
23 OBLIGATION TO PROVIDE SERVICE.--

24 A. No advisory organization shall provide a
25 service relating to the statistical collection or the rates

1 of an insurance subject to the Insurance Rate Regulation Law,
2 and no insurer shall use the services of the organization for
3 such purposes, unless the organization has obtained a license
4 as required by Section 59A-17-19 NMSA 1978.

5 B. No advisory organization shall refuse to supply
6 a service for which it is licensed in this state to an
7 authorized insurer offering to pay the fair and usual
8 compensation for the services."

9 Section 21. Section 59A-17-19 NMSA 1978 (being Laws
10 1984, Chapter 127, Section 315) is amended to read:

11 "59A-17-19. ADVISORY ORGANIZATIONS--LICENSING.--

12 A. A person, whether domiciled within or outside
13 this state, may apply to the superintendent for license as an
14 advisory organization for the kinds of insurance or
15 subdivisions thereof as are specified in its application.
16 The application shall include:

17 (1) a copy of its constitution, charter,
18 articles of organization, agreement, association or
19 incorporation and a copy of its bylaws, plan of operation and
20 other rules governing conduct of its business;

21 (2) a list of its members and subscribers;

22 (3) the name and address of one or more
23 residents of this state upon whom notices, process affecting
24 it or orders of the superintendent may be served;

25 (4) a statement showing its technical

1 qualifications for acting in the capacity for which it seeks
2 a license;

3 (5) payment of the license application fee
4 in an amount specified in Section 59A-6-1 NMSA 1978; and

5 (6) any other relevant information and
6 documents that the superintendent may require.

7 B. Every advisory organization that has applied
8 for a license shall promptly notify the superintendent in
9 writing of every material change in the facts or in the
10 documents on which its application was based, or of change in
11 name, address of its process agent under Paragraph (3) of
12 Subsection A of this section. No amendment to a document
13 referred to in Paragraph (1) of Subsection A of this section
14 shall be effective until not less than thirty days after the
15 amendment is filed with the superintendent.

16 C. If the superintendent finds that the applicant
17 and the individuals through whom it acts are competent,
18 trustworthy and technically qualified to provide the services
19 proposed, and that all requirements of law are met, the
20 superintendent shall within sixty days after completion of
21 the application issue a license to the applicant specifying
22 the authorized activity; otherwise, the superintendent shall
23 refuse to issue the license and shall promptly notify the
24 applicant, specifying the grounds for refusal. The
25 superintendent shall not issue a license if the proposed

1 activity would tend to create a monopoly or lessen or destroy
2 price competition.

3 D. Licenses issued pursuant to this section shall
4 remain in effect until the licensee withdraws from the state
5 or until the license is suspended or revoked, subject to
6 annual continuation on May 1 of each year by payment of the
7 continuation fee specified in Section 59A-6-1 NMSA 1978."

8 Section 22. Section 59A-17-20 NMSA 1978 (being Laws
9 1984, Chapter 127, Section 316) is amended to read:

10 "59A-17-20. SUSPENSION, REVOCATION OF LICENSE.--The
11 superintendent shall promptly revoke the license of an
12 advisory organization if it ceases business or withdraws from
13 this state, and the superintendent may suspend or revoke the
14 license if the superintendent finds after a hearing that:

15 A. the organization no longer meets the
16 qualifications for licensing; or

17 B. the organization has failed to file amended
18 documents as required under Section 59A-17-19 NMSA 1978, or
19 has violated or failed to comply with any other material
20 requirement of the Insurance Rate Regulation Law or any other
21 law."

22 Section 23. Section 59A-17-21 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 317) is amended to read:

24 "59A-17-21. CONDUCT OF ADVISORY ORGANIZATION.--

25 A. An advisory organization shall furnish its

1 services without discrimination to its members and
2 subscribers.

3 B. An advisory organization shall not adopt any
4 rule, the effect of which would be to prohibit or regulate
5 payment of dividends, savings or unabsorbed premium deposits
6 allowed or returned by insurers to their policyholders,
7 members or subscribers."

8 Section 24. Section 59A-17-23 NMSA 1978 (being Laws
9 1984, Chapter 127, Section 319) is amended to read:

10 "59A-17-23. ADVISORY ORGANIZATIONS--APPEAL BY
11 MINORITY.-- A member of or subscriber to an advisory
12 organization may appeal to the superintendent from the action
13 or decision of the advisory organization in approving or
14 rejecting a proposed change in or addition to the filings of
15 the advisory organization and the superintendent shall, after
16 a hearing, issue an order approving the action or decision of
17 the advisory organization or directing it to give further
18 consideration to the proposal; or, if the appeal is from the
19 action or decision of the advisory organization in rejecting
20 a proposed addition to its filings, the superintendent may,
21 in the event the superintendent finds that the action or
22 decision was unreasonable, issue an order directing the
23 advisory organization to make an addition to its filings, on
24 behalf of its members and subscribers, in a manner consistent
25 with the superintendent's findings, within a reasonable time

1 after the issuance of the order."

2 Section 25. Section 59A-17-25 NMSA 1978 (being Laws
3 1984, Chapter 127, Section 320, as amended) is amended to
4 read:

5 "59A-17-25. JOINT UNDERWRITING, JOINT REINSURANCE POOL
6 AND RESIDUAL MARKET MECHANISMS.--

7 A. A group, association or other organization of
8 insurers that engages in joint underwriting, joint
9 reinsurance pools or residual market mechanisms through the
10 group, association or organization or by standing agreement
11 among the members, shall file with the superintendent:

12 (1) a copy of its constitution, its articles
13 of incorporation, agreement or association and its bylaws and
14 rules governing its activities, all duly certified by the
15 custodian of the originals;

16 (2) a list of its members; and

17 (3) the name and address of a resident of
18 this state upon whom notices or orders of the superintendent
19 or process affecting the group, association or organization
20 may be served.

21 B. Every such group, association or other
22 organization shall notify the superintendent promptly in
23 writing of changes in its constitution, its articles of
24 incorporation, agreement or association, its bylaws and rules
25 governing conduct of its business, its list of members or the

1 name and address of its process agent referred to in
2 Paragraph (3) of Subsection A of this section.

3 C. Every such group, association or organization
4 shall be subject to regulation as herein provided, subject,
5 however, as to joint underwriting to applicable provisions of
6 the Insurance Rate Regulation Law, and as to joint
7 reinsurance to Sections 59A-17-13, 59A-17-32, 59A-17-34 and
8 59A-17-35 NMSA 1978.

9 D. No group, association or organization shall
10 engage in an unfair or unreasonable practice with respect to
11 its activities. If, after a hearing, the superintendent
12 finds that an activity or practice of a group, association or
13 organization is unfair or unreasonable or otherwise
14 inconsistent with the provisions of the Insurance Rate
15 Regulation Law, the superintendent may issue an order
16 specifying the respects in which the activity or practice is
17 unfair or unreasonable or otherwise inconsistent with the
18 provisions of the Insurance Rate Regulation Law and requiring
19 discontinuance of the activity or practice."

20 Section 26. Section 59A-17-26 NMSA 1978 (being Laws
21 1984, Chapter 127, Section 321) is amended to read:

22 "59A-17-26. BINDING AGREEMENTS BY INSURERS.--No insurer
23 shall assume an obligation to a person other than a
24 policyholder or other insurers that with it are under common
25 control or management or are members of a joint underwriting

1 organization subject to the provisions of Section 59A-17-25
2 NMSA 1978, to use or adhere to certain rates or rules, and no
3 other person shall impose a penalty or other adverse
4 consequence for failure of an insurer to adhere to certain
5 rates or rules except as to action by the superintendent in
6 enforcement of Section 59A-17-12 NMSA 1978."

7 Section 27. Section 59A-17-27 NMSA 1978 (being Laws
8 1984, Chapter 127, Section 322) is amended to read:

9 "59A-17-27. COOPERATIVE ACTIVITIES AUTHORIZED.--
10 Cooperation among advisory organizations or among
11 organizations and insurers in rate making or in other matters
12 within the scope of the Insurance Rate Regulation Law is
13 hereby authorized, provided the filings resulting from the
14 cooperation are subject to provisions of the Insurance Rate
15 Regulation Law applicable to filings generally. The
16 superintendent may review the cooperative activities and
17 practices and if, after a hearing, the superintendent finds
18 that the activity or practice is unfair or unreasonable or
19 otherwise inconsistent with the Insurance Rate Regulation
20 Law, the superintendent may issue an order specifying the
21 respects in which the activity or practice is unreasonable or
22 otherwise inconsistent with the Insurance Rate Regulation Law
23 and requiring discontinuance of the activity or practice."

24 Section 28. Section 59A-17-28 NMSA 1978 (being Laws
25 1984, Chapter 127, Section 323) is amended to read:

1 "59A-17-28. RECORDING, REPORTING OF EXPERIENCE.--The
2 superintendent shall promulgate or approve reasonable rules,
3 including rules providing statistical plans, for use by all
4 insurers in the recording and reporting of loss and expense
5 experience, so that the experience of an insurer may be made
6 available to the superintendent at least annually in such
7 form and detail as may be necessary to aid the superintendent
8 in determining whether rating systems comply with applicable
9 rate standards and requirements. In promulgating the rules
10 and plans the superintendent shall give due consideration to
11 the rating systems on file with the superintendent and, so
12 that the rules and plans may be as uniform as practicable
13 among the several states, to the rules and form of plans used
14 for rating systems in other states. No insurer shall be
15 required to record or report its experience on a
16 classification basis inconsistent with its own rating system.
17 The superintendent may designate one or more advisory
18 organizations to assist the superintendent in gathering that
19 experience and making compilations of that experience, which
20 shall be made available to insurers, advisory organizations
21 and the public."

22 Section 29. Section 59A-17-29 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 324) is amended to read:

24 "59A-17-29. EXCHANGE OF DATA, CONSULTATION
25 AUTHORIZED.--

1 A. The superintendent may promulgate reasonable
2 rules and plans for interchange among insurers, advisory
3 organizations and others, of data necessary for application
4 of rating plans.

5 B. For furtherance of uniformity in administration
6 of rate regulatory laws, the superintendent and every insurer
7 and advisory organization may exchange information and
8 experience data with insurance regulatory officials, insurers
9 and advisory organizations in this and other states and may
10 consult with them as to rate making and the application of
11 rating systems."

12 Section 30. Section 59A-17-30 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 325) is amended to read:

14 "59A-17-30. INFORMATION TO BE FURNISHED INSUREDS--
15 HEARINGS AND APPEALS OF INSUREDS.--

16 A. Every advisory organization and every insurer
17 that makes its own rates shall, within time frames
18 promulgated by the superintendent or, in the absence of time
19 frames, within a reasonable time after receiving written
20 request, furnish to an insured affected by a rate made by it,
21 or to the authorized representative of the insured, all
22 pertinent information as to the rate.

23 B. Every advisory organization and every insurer
24 that makes its own rates shall provide within this state
25 reasonable means whereby a person aggrieved by the

1 application of its rating system may be heard, in person or
2 by the person's authorized representative, on the person's
3 written request to review the manner in which the rating
4 system has been applied in connection with the insurance
5 afforded the person. If the advisory organization or insurer
6 fails to grant or reject the request within thirty days after
7 it is made, the applicant may proceed in the same manner as
8 if the application had been rejected. A party affected by
9 the action of the rate service organization or the insurer on
10 the request may, within thirty days after written notice of
11 the action, appeal to the superintendent, who, after a
12 hearing, may affirm or reverse the action. If, after the
13 hearing, it is determined that the rates charged by an
14 insurer are in excess of the otherwise appropriate rate, the
15 overcharge shall be refunded to the insured."

16 Section 31. Section 59A-17-31 NMSA 1978 (being Laws
17 1984, Chapter 127, Section 326) is amended to read:

18 "59A-17-31. FALSE OR MISLEADING INFORMATION.--No person
19 shall willfully withhold information from, or knowingly give
20 false or misleading information to, the superintendent or
21 statistical agency designated by the superintendent or
22 advisory organization or insurer that will affect rates or
23 rating plans under the Insurance Rate Regulation Law.

24 Violation of this section shall be subject to the penalties
25 provided under Section 59A-1-18 NMSA 1978."

1 Section 32. Section 59A-17-32 NMSA 1978 (being Laws
2 1984, Chapter 127, Section 327) is amended to read:

3 "59A-17-32. EXAMINATION OF ADVISORY AND JOINT
4 UNDERWRITING ORGANIZATIONS, JOINT REINSURANCE POOLS AND
5 RESIDUAL MARKET MECHANISMS.--

6 A. To be informed about any matter related to
7 enforcement of provisions of the Insurance Code, the
8 superintendent may examine the affairs and condition of any
9 advisory or joint underwriting organization, joint
10 reinsurance pool or residual market mechanism. The
11 superintendent shall examine every advisory organization and
12 conduct the examinations at intervals established by rules
13 promulgated by the superintendent.

14 B. In lieu of all or part of an examination, or in
15 addition to an examination, the superintendent may order an
16 independent audit by certified public accountants or
17 actuarial evaluation by actuaries approved by the
18 superintendent, or may accept the report of an audit already
19 made by certified public accountants or actuarial evaluation
20 by actuaries approved by the superintendent, or the report of
21 an examination made by the insurance supervisory official of
22 another state.

23 C. Conduct of the examination, examiners and other
24 personnel used by the superintendent in making the
25 examinations, payment of costs of the examination by the

1 examinee, examination report and review and adoption and the
2 examination in general shall be subject to the applicable
3 provisions of Chapter 59A, Article 4 NMSA 1978."

4 Section 33. Section 59A-17-33 NMSA 1978 (being Laws
5 1984, Chapter 127, Section 328) is amended to read:

6 "59A-17-33. ENFORCEMENT--CEASE AND DESIST,
7 INJUNCTIONS--PENALTIES.--

8 A. The superintendent shall enforce compliance
9 with the provisions of the Insurance Rate Regulation Law.
10 Whenever the superintendent believes that there is a
11 violation of the Insurance Rate Regulation Law and that such
12 violation is continuing, the superintendent shall serve upon
13 the advisory, joint underwriting, joint reinsurance pool,
14 residual market mechanism or insurer or other person
15 violating, as the case may be, notice of a hearing before the
16 superintendent to be held not less than twenty days after
17 service of the notice, and requiring the organization or
18 person to show cause why the superintendent should not order
19 the organization or person to cease and desist from the
20 violation.

21 B. The superintendent, through the attorney
22 general, may maintain an action to enjoin a continuing
23 violation of the Insurance Rate Regulation Law.

24 C. After hearing, the superintendent may suspend
25 the license of an advisory organization or insurer that fails

1 to comply with the superintendent's order within the time
2 limited by the order or an extension of time that the
3 superintendent may grant. The suspension shall not become
4 effective until the time prescribed for an appeal has
5 expired, or if an appeal has been taken, until the order has
6 been affirmed; otherwise, the superintendent may determine
7 when the suspension shall become effective, and the
8 suspension shall remain in effect for the period fixed unless
9 the superintendent modifies or rescinds the suspension, or
10 until the order on which suspension is based is modified,
11 rescinded or reversed.

12 D. If the superintendent finds that a person has
13 violated any provision of the Insurance Rate Regulation Law,
14 the superintendent may impose a penalty of not more than ten
15 thousand dollars (\$10,000) for each violation; but if the
16 superintendent finds the violation to be willful, the
17 superintendent may impose a penalty of not more than
18 twenty-five thousand dollars (\$25,000) for each violation.
19 Such penalties may be in addition to any other penalty
20 provided by law, and, if not paid voluntarily by the
21 violator, may be collected through civil action in the
22 district court of Santa Fe county in the name of the state of
23 New Mexico on the relation of the insurance board.

24 E. For the purposes of this section, an insurer
25 using a rate for which the insurer has failed to file the

1 rate, supplementary rate information or supporting
2 information, if Section 59A-17-9 NMSA 1978 requires the
3 materials to be filed, shall have committed a separate
4 violation for each day the failure continues."

5 Section 34. Section 59A-17-35 NMSA 1978 (being Laws
6 1984, Chapter 127, Section 330, as amended by Laws 1999,
7 Chapter 265, Section 67 and also by Laws 1999, Chapter 289,
8 Section 26) is amended to read:

9 "59A-17-35. APPEALS FROM COMMISSION.--Any order made by
10 the commission pursuant to Section 59A-17-34 NMSA 1978 shall
11 be subject to review by appeal to the district court pursuant
12 to the provisions of Section 39-3-1.1 NMSA 1978. Upon
13 institution of the appeal and for good cause shown upon
14 motion and hearing, the court may, in the following cases,
15 stay operation of the commission's order:

16 A. where, pursuant to the Insurance Rate Regulation
17 Law, an advisory organization has been refused a license or
18 an insurer has been refused a certificate of authority or had
19 its license or certificate of authority suspended, it may,
20 with leave of court, be allowed to continue to engage in
21 business, subject to the provisions of the Insurance Rate
22 Regulation Law, pending final disposition of its application
23 for review; or

24 B. where any order of the commission shall provide
25 for, or sustain the superintendent's order for, a change in a

1 rate or rating system that results in an increase or decrease
2 in rates, an insurer affected may, with leave of court
3 pending final disposition of the proceedings in the district
4 court, continue to charge rates that existed prior to the
5 order, on condition that the difference in the rates be
6 deposited in a special escrow or trust account with a
7 reputable financial institution by the insurer affected, to
8 be held in trust by the insurer and to be retained by the
9 insurer or paid to the holders of policies issued after the
10 order of the court, as the court may determine."

11 Section 35. Section 59A-17-36 NMSA 1978 (being Laws
12 1989, Chapter 145, Section 2) is amended to read:

13 "59A-17-36. RATE FILING--FAILURE TO SUBMIT DATA--
14 PENALTY.--

15 A. An insurer or advisory organization that makes a
16 rate filing under the Insurance Rate Regulation Law and
17 fails, without reasonable cause, to provide the data
18 requested by the superintendent within thirty working days
19 from the date of the request shall be subject to an
20 administrative penalty as provided in Section 59A-1-18 NMSA
21 1978.

22 B. The superintendent may, for good cause shown,
23 grant an extension of the thirty-day time period provided for
24 in Subsection A of this section.

25 C. The insurer or advisory organization may, within

1 ten days after entry of the order, request a hearing before
2 the superintendent as provided in Section 59A-17-34 NMSA
3 1978."

4 Section 36. Section 59A-18-12 NMSA 1978 (being Laws
5 1984, Chapter 127, Section 342, as amended) is amended to
6 read:

7 "59A-18-12. FILING OF FORMS AND CLASSIFICATIONS--REVIEW
8 OF EFFECT UPON INSURED.--

9 A. An insurance policy or annuity contract shall
10 not be delivered or issued for delivery in this state, nor
11 shall an assumption certificate, endorsement, rider or
12 application that becomes a part of a policy be used, until a
13 copy of the form and the classification of risks pertaining
14 to the policy have been filed with the superintendent. A
15 filing shall be made at least sixty days before its proposed
16 effective date. A filing made pursuant to this section shall
17 not become effective nor shall it be used until approved by
18 the superintendent pursuant to Section 59A-18-14 NMSA 1978,
19 at which time it may be used. A filing for any kind of
20 insurance other than life insurance or health insurance, as
21 defined in the Insurance Rate Regulation Law, shall be deemed
22 to meet the requirements of Chapter 59A, Article 18 NMSA 1978
23 to become effective unless disapproved pursuant to Section
24 59A-18-14 NMSA 1978 by the superintendent before the
25 expiration of the waiting period or an extension of the

1 waiting period. Provided, that:

2 (1) this subsection shall not apply as to
3 policies, contracts, endorsements or riders of unique and
4 special character not for general use or offering but
5 designed and used solely as to a particular insured or risk;

6 (2) if the superintendent has exempted a person
7 or a class of persons or a market segment from a part or all
8 of the provisions of the Insurance Rate Regulation Law
9 pursuant to Subsection C of Section 59A-17-2 NMSA 1978, the
10 superintendent also may exempt by rule that person, class of
11 persons or market segment from a part or all of the
12 provisions of this subsection;

13 (3) an insurer subject to the Insurance Rate
14 Regulation Law may authorize an advisory organization to file
15 policy forms, endorsements and other contract language and
16 related attachment rules on its behalf. Reference filings
17 shall be made prior to their use or by other methods the
18 superintendent may allow by rule; and

19 (4) the superintendent may, by rule, exempt
20 various lines and kinds of commercial insurance, as defined
21 in the Insurance Rate Regulation Law, from some or all of the
22 requirements of this subsection.

23 B. A workers' compensation insurance policy
24 covering a risk arising from the employment of a worker
25 performing work for an employer in New Mexico when that

1 employer is not domiciled in New Mexico shall not be issued
2 or become effective, nor shall any endorsement or rider
3 covering such a risk be issued or become effective, until a
4 copy of the form and the classification of risks pertaining
5 thereto have been filed with the superintendent.

6 C. An insured may in writing request the insurer to
7 review the manner in which its filing has been applied as to
8 insurance afforded the insured. If the insurer fails to make
9 a review and grant appropriate relief within thirty days
10 after the request is received, the insured may file a written
11 complaint and request for a hearing with the superintendent,
12 stating grounds relied upon. If the complaint charges a
13 violation of the Insurance Code and the superintendent finds
14 that the complaint was made in good faith and that the
15 insured would be aggrieved if the violation is proved, the
16 superintendent shall hold a hearing, with notice to the
17 insured and insurer stating the grounds of complaint. If
18 upon the hearing the superintendent finds the complaint
19 justified, the superintendent shall order the insurer to
20 correct the matter complained of within a reasonable time
21 specified but not less than twenty days after a copy of the
22 order was mailed to or served upon the insurer."

23 Section 37. Section 59A-18-17 NMSA 1978 (being Laws
24 1984, Chapter 127, Section 346, as amended) is amended to
25 read:

1 "59A-18-17. STANDARD PROVISIONS, IN GENERAL.--

2 A. Insurance contracts shall contain such standard
3 or uniform provisions as are required by applicable
4 provisions of the Insurance Code pertaining to contracts of
5 particular kinds of insurance.

6 B. No policy shall contain a provision inconsistent
7 with or contradictory to a standard or uniform provision used
8 or required to be used, but the superintendent may approve a
9 substitute provision that is, in the superintendent's
10 opinion, not less favorable in any particular to the insured,
11 owner or beneficiary than the provision otherwise required or
12 that is designed to comply with Chapter 59A, Article 19 NMSA
13 1978.

14 C. Insurance coverage provided in residential
15 property insurance policies shall provide coverage for the
16 cost to repair or replace without deduction for depreciation.
17 If the insured elects to effectuate repairs to the property
18 by the insured's own self, a reasonable overhead expense
19 shall be allowed.

20 D. In lieu of the provisions required by the
21 Insurance Code for contracts for particular kinds of
22 insurance, substantially similar provisions required by the
23 laws of the domicile of a foreign or alien insurer may be
24 used when approved by the superintendent.

25 E. A policy issued by a domestic insurer for

1 delivery in another jurisdiction may contain any provision
2 required or permitted under the laws of such jurisdiction.

3 F. To protect consumers as well as enhance the
4 value of consumer information systems, the superintendent may
5 specify minimum coverage provisions that homeowners insurance
6 policies, private passenger non-fleet automobile insurance
7 policies or other lines or kinds of insurance policies that
8 are priced in a consumer information system shall contain,
9 provided that such minimum coverage provisions are contained
10 in the majority of policies in force in New Mexico for that
11 line or kind of insurance. An insurer that does not offer a
12 policy that contains the minimum coverage provisions
13 specified by the superintendent for a line or kind of
14 insurance shall not be included in a consumer information
15 system for that line or kind of insurance. The
16 superintendent shall not compel an insurer to offer a policy
17 containing minimum coverage provisions specified by the
18 superintendent."

19 Section 38. REPEAL.--Sections 59A-17-10, 59A-17-14,
20 59A-17-22, 59A-17-22.1 and 59A-17-24 NMSA 1978 (being Laws
21 1984, Chapter 127, Sections 306, 310 and 318, Laws 1986,
22 Chapter 22, Section 100 and Laws 1984, Chapter 127, Section
23 319a, as amended) are repealed.

24 Section 39. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2007. _____