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AN ACT

RELATING TO INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO
INSURANCE CODE; PROVIDING FOR CERTAIN FEES; MAKING AN
APPROPRIATION.

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

SECTION 1. Section 59A-4-5 NMSA 1978 (being Laws 1984,
Chapter 127, Section 49, as amended) is amended to read:

"59A-4-5. EXAMINATION OF INSURERS.--

A. For the purpose of determining financial
condition, fulfillment of contractual obligations, methods of
doing business, treatment accorded policyholders and
compliance with law, the superintendent shall, as often as
the superintendent deems advisable, examine or investigate
the affairs, transactions, accounts, records and assets of
each authorized insurer and of any other person as to any
matter that the superintendent in the superintendent's sole
discretion has determined to be relevant to the financial
affairs of the insurer or to the examination. Except as
expressly otherwise provided, the superintendent shall so
examine each domestic insurer not less frequently than every
five years. In scheduling and determining the nature, scope
and frequency of the examinations, the superintendent may
consider such matters as the results of financial statement
analyses and ratios, changes in management or ownership,

1 actuarial opinions, reports of independent certified public
2 accountants, evidence of market practices, policyholder
3 complaints and other criteria as set forth in the handbooks
4 for financial or market conduct examiners adopted by the
5 national association of insurance commissioners in effect
6 when the superintendent exercises discretion under this
7 section.

8 B. For like purposes, the superintendent shall
9 examine each insurer, or proposed insurer, applying for an
10 initial certificate of authority to transact insurance in
11 this state. The initial examination shall be completed prior
12 to issuance of a certificate of authority.

13 C. Whenever the superintendent examines the
14 affairs of a domestic insurer, the superintendent may invite
15 the representative of the insurance supervisory agency of at
16 least one other state, if any, in which the insurer is an
17 authorized insurer, to participate in the examination.

18 D. Until January 1, 1994, in lieu of making the
19 superintendent's own examination of a foreign or alien
20 insurer, the superintendent may accept a full report of an
21 examination of the insurer made by competent examiners as of
22 a date not more than one year prior and participated in by at
23 least two states in which the insurer was authorized to
24 transact insurance. The report shall be certified by the
25 insurance supervisory official of the state under whose

1 jurisdiction the examination was conducted. The
2 superintendent may, at the superintendent's discretion, so
3 accept the report of examination as of a date more than one
4 year but not more than three years prior; and with respect to
5 an alien insurer, the superintendent may at the
6 superintendent's discretion so accept a report of recent
7 examination made by the insurance supervisory official of the
8 port of entry state of the insurer into the United States
9 without participation therein of another state.

10 E. After January 1, 1994, examination reports
11 prepared by examiners employed by other state insurance
12 departments may be accepted only if:

13 (1) made as of a date not more than five
14 years prior to acceptance and the examiner in charge was
15 employed by and under the direction of the insurance
16 commissioners of the insurer's state of domicile or port of
17 entry, which insurance department was at the time of the
18 examination accredited under the financial regulation
19 standards and accreditation program of the national
20 association of insurance commissioners; or

21 (2) made as of a date not more than three
22 years prior to acceptance and the examination was performed
23 under the supervision of an accredited insurance department
24 or with the participation of one or more examiners who were
25 employed by an accredited state insurance department and who,

1 after a review of the examination work papers and report,
2 state under oath that the examination was performed in a
3 manner consistent with the standards and procedures required
4 by their insurance department.

5 F. As far as practical the superintendent shall
6 conduct examination of a foreign or alien insurer in
7 cooperation with the insurance supervisory officials of other
8 states in which the insurer is authorized to transact
9 business."

10 SECTION 2. Section 59A-4-6 NMSA 1978 (being Laws 1984,
11 Chapter 127, Section 50, as amended) is amended to read:

12 "59A-4-6. EXAMINERS AND SPECIALISTS.--

13 A. The superintendent may appoint one or more
14 competent individuals, sufficiently knowledgeable in
15 applicable accounting and operations, as examiners to
16 represent the superintendent in an examination and shall fix
17 the reasonable compensation of the examiners.

18 B. The superintendent may also employ and fix
19 reasonable compensation of independently contracting
20 accountants knowledgeable of insurance accounting principles
21 and practices, actuaries, attorneys, appraisers and other
22 specialists not otherwise part of the insurance department
23 staff, as the superintendent deems necessary for the
24 examination, the cost of which shall be borne by the company
25 which is the subject of the examination. All specialists

1 shall be under the direction and control of the
2 superintendent."

3 SECTION 3. Section 59A-4-15 NMSA 1978 (being Laws 1984,
4 Chapter 127, Section 59, as amended) is amended to read:

5 "59A-4-15. HEARINGS--IN GENERAL.--

6 A. The superintendent may hold a hearing, without
7 request by others, for any purpose within the scope of the
8 Insurance Code.

9 B. The superintendent shall hold a hearing:

10 (1) if required by any other provision of
11 the Insurance Code; or

12 (2) upon written request for a hearing by a
13 person aggrieved by any act, threatened act or failure of the
14 superintendent to act or by any report, rule or order of the
15 superintendent, other than an order for the holding of a
16 hearing or order on hearing or pursuant to such an order on a
17 hearing of which the person had notice.

18 C. The request for a hearing shall briefly state
19 the respects in which the applicant is so aggrieved, the
20 relief to be sought and the grounds to be relied upon as
21 basis for relief. The request shall be received by the
22 superintendent no later than thirty days from the date of the
23 act, threatened act or failure of the superintendent to act
24 or the date of the superintendent's report, rule or order.

25 D. If the superintendent finds that the request is SB 198
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1 made in good faith, that the applicant would be so aggrieved
2 if the stated grounds are established and that such grounds
3 otherwise justify the hearing, the superintendent shall
4 commence the hearing within ninety days after filing of the
5 request, unless postponed by mutual consent.

6 E. Pending the hearing and decision thereon, the
7 superintendent may suspend or postpone the effective date of
8 the action as to which the hearing is requested. If upon
9 request the superintendent refuses to grant such suspension
10 or postponement, the person requesting the hearing may apply
11 to the district court of Santa Fe county for a stay of the
12 superintendent's action or proposed action pending the
13 hearing and the superintendent's order thereon.

14 F. Except as otherwise expressly provided, this
15 section does not apply to hearings relative to matters
16 arising under Chapter 59A, Article 17 NMSA 1978."

17 SECTION 4. Section 59A-6-1 NMSA 1978 (being Laws 1984,
18 Chapter 127, Section 101, as amended) is amended to read:

19 "59A-6-1. FEE SCHEDULE.--The superintendent shall
20 collect the following fees:

21 A. insurer's certificate of authority -

22 (1) filing application for certificate of
23 authority, and issuance of certificate of authority, if
24 issued, including filing of all charter documents, financial
25 statements, service of process, power of attorney,

1 examination reports and other documents included with and
2 part of the application \$1,000.00
3 (2) annual continuation of certificate of
4 authority, per kind of insurance 200.00
5 (3) reinstatement of certificate of
6 authority (Section 59A-5-23 NMSA 1978) 150.00
7 (4) amendment to certificate of
8 authority 200.00
9 B. charter documents - filing amendment to any
10 charter document (as defined in Section 59A-5-3
11 NMSA 1978) 10.00
12 C. annual statement of insurer, filing . 200.00
13 D. service of process, acceptance by
14 superintendent and issuance of certificate of service, where
15 issued 10.00
16 E. agents' licenses and appointments -
17 (1) filing application for original agent
18 license and issuance of license, if issued 30.00
19 (2) appointment of agent -
20 (a) filing appointment, per kind of
21 insurance, each insurer 20.00
22 (b) annual continuation of appointment,
23 each insurer 20.00
24 (3) variable annuity agent's license -
25 (a) filing application for license and

1 issuance of license, if issued 30.00
 2 (b) annual continuation of
 3 appointment 20.00
 4 (4) temporary license -
 5 (a) as to life and health insurance or
 6 both 30.00
 7 (b) as to property insurance . . 30.00
 8 (c) as to casualty/surety
 9 insurance 30.00
 10 (d) as to vehicle insurance . . 30.00

11 F. agency license and affiliations -

12 (1) filing application for original agency
 13 business entity license and issuance of license, if
 14 issued 30.00
 15 (2) filing of individual affiliation, per
 16 kind of insurance 20.00
 17 (3) annual continuation of individual
 18 affiliation 20.00

19 G. solicitor license -

20 (1) filing application for original license
 21 and issuance of license, if issued 30.00
 22 (2) annual continuation of appointment, per
 23 kind of insurance 20.00

24 H. broker license -

25 (1) filing application for license and

1 issuance of original license, if issued 30.00

2 (2) annual continuation of

3 license 30.00

4 I. insurance vending machine license -

5 (1) filing application for original license

6 and issuance of license, if issued, each machine . . . 25.00

7 (2) annual continuation of license, each

8 machine 25.00

9 J. examination for license, application for

10 examination conducted directly by superintendent, each

11 grouping of kinds of insurance to be covered by the

12 examination as provided by the superintendent's rules, and

13 payable as to each instance of examination 50.00

14 K. surplus lines insurer - filing application for

15 qualification as eligible surplus lines

16 insurer 1,000.00

17 L. surplus lines broker license -

18 (1) filing application for original license

19 and issuance of license, if issued 100.00

20 (2) annual continuation of

21 license 100.00

22 M. surplus lines broker license and affiliations -

23 (1) filing application for original surplus

24 lines brokerage business entity license and issuance of

25 license, if issued 100.00

1 (2) filing of individual affiliation per
2 kind of insurance20.00

3 (3) annual continuation of individual
4 affiliation20.00

5 N. adjuster license -

6 (1) filing application for original license
7 and issuance of license, if issued 30.00

8 (2) annual continuation of
9 license 30.00

10 O. insurance consultant license -

11 (1) filing application for original license
12 and issuance of license, if issued 50.00

13 (2) application examination 10.00

14 (3) biennial continuation of license . 100.00

15 P. viatical settlements license -

16 (1) providers -

17 (a) filing application for original
18 license and issuance of license, if issued 1,000.00

19 (b) annual continuation of
20 license 200.00

21 (2) brokers -

22 (a) filing application for original
23 license and issuance of license, if issued 100.00

24 (b) annual continuation of
25 license 100.00

1 (3) brokerages -

2 (a) filing application for original

3 license and issuance of license, if issued 100.00

4 (b) annual continuation of

5 license 20.00

6 (c) filing of individual affiliation,

7 per kind of insurance 20.00

8 (d) annual continuation of individual

9 affiliation 20.00

10 Q. rating organization or rating advisory

11 organization license -

12 (1) filing application for license and

13 issuance of license, if issued 100.00

14 (2) annual continuation of

15 license 100.00

16 R. nonprofit health care plans -

17 (1) filing application for preliminary

18 permit and issuance of permit, if issued 100.00

19 (2) certificate of authority, application,

20 issuance, continuation, reinstatement, charter documents -

21 same as for insurers

22 (3) annual statement, filing 200.00

23 (4) agents and solicitors -

24 (a) filing application for original

25 license and issuance of license, if issued 30.00

1 (b) examination for license conducted
2 directly by superintendent, each instance of
3 examination 50.00

4 (c) annual continuation of
5 appointment 20.00

6 S. prepaid dental plans -

7 (1) certificate of authority, application,
8 issuance, continuation, reinstatement, charter documents -
9 same as for insurers

10 (2) annual report, filing 200.00

11 (3) agents and solicitors -

12 (a) filing application for original
13 license and issuance of license, if issued 30.00

14 (b) examination for license conducted
15 directly by superintendent, each instance of
16 examination 50.00

17 (c) annual continuation of
18 license 20.00

19 T. prearranged funeral insurance - application for
20 certificate of authority, issuance, continuation,
21 reinstatement, charter documents, filing annual statement,
22 licensing of sales representatives - same as for insurers

23 U. premium finance companies -

24 (1) filing application for original license
25 and issuance of license, if issued 100.00

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

2 V. motor clubs -

3 (1) certificate of authority -

4 (a) filing application for original
5 certificate of authority and issuance of certificate of
6 authority, if issued 200.00

7 (b) annual continuation of certificate
8 of authority 100.00

9 (2) sales representatives -

10 (a) filing application for registration
11 or license and issuance of registration or license, if
12 issued, each representative 20.00

13 (b) annual continuation of registration
14 or license, each representative 20.00

15 W. bail bondsmen -

16 (1) filing application for original license
17 as bail bondsman or solicitor, and issuance of license, if
18 issued 30.00

19 (2) examination for license conducted
20 directly by superintendent, each instance of
21 examination 50.00

22 (3) annual continuation of
23 appointment 20.00

24 X. securities salesperson license -

25 (1) filing application for license and

1 issuance of license, if issued 25.00

2 (2) annual renewal of license 25.00

3 Y. required filing of forms or rates - by all

4 lines of business other than property or casualty -

5 (1) rates 50.00

6 (2) major form - each new policy and each

7 package submission, which can include multiple policy forms,

8 application forms, rider forms, endorsement forms or

9 amendment forms 30.00

10 (3) incidental forms and rates - forms filed

11 for informational purposes; riders, applications,

12 endorsements and amendments filed individually; rate service

13 organization reference filings; rates filed for informational

14 purposes 15.00

15 Z. health maintenance organizations -

16 (1) filing an application for a certificate

17 of authority 1,000.00

18 (2) annual continuation of certificate of

19 authority 200.00

20 (3) filing each annual report 200.00

21 (4) filing an amendment to organizational

22 documents requiring approval 200.00

23 (5) filing informational

24 amendments 50.00

25 (6) agents and solicitors -

1	(a) filing application for original	
2	license and issuance of license, if issued	30.00
3	(b) examination for license, each	
4	instance of examination	50.00
5	(c) annual continuation of	
6	appointment	20.00
7	AA. purchasing groups and foreign risk retention	
8	groups -	
9	(1) original registration	500.00
10	(2) annual continuation of	
11	registration	200.00
12	(3) agent or broker fees - same as for	
13	authorized insurers	
14	BB. third party administrators -	
15	(1) filing application for original	
16	individual insurance administrator license	30.00
17	(2) filing application for original officer,	
18	manager or partner insurance administrator	
19	license	30.00
20	(3) annual continuation or renewal of	
21	license	30.00
22	(4) examination for license conducted	
23	directly by the superintendent, each examination . . .	75.00
24	(5) filing of annual report	50.00
25	CC. miscellaneous fees -	

- 1 (1) duplicate license 30.00
- 2 (2) name change 30.00
- 3 (3) for each signature and seal of
- 4 superintendent affixed to any instrument 10.00.

5 An insurer shall be subject to additional fees or
6 charges, termed retaliatory or reciprocal requirements,
7 whenever form or rate-filing fees in excess of those imposed
8 by state law are charged to insurers in New Mexico doing
9 business in another state or whenever a condition precedent
10 to the right to issue policies in another state is imposed by
11 the laws of that state over and above the conditions imposed
12 upon insurers by the laws of New Mexico; in those cases, the
13 same form or rate-filing fees may be imposed upon an insurer
14 from another state transacting or applying to transact
15 business in New Mexico so long as the higher fees remain in
16 force in the other state. If an insurer does not comply with
17 the additional retaliatory or reciprocal requirement charges
18 imposed under this subsection, the superintendent may refuse
19 to grant or may withdraw approval of the tendered form or
20 rate filing.

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

22 SECTION 5. Section 59A-10-5 NMSA 1978 (being Laws 1984,
23 Chapter 127, Section 165) is amended to read:

24 "59A-10-5. DEPOSITORIES DESIGNATED BY TREASURER.--The
25 state treasurer may designate any solvent trust company or

1 other solvent financial institution having trust powers and
2 with offices located in this state, as the state treasurer's
3 depository to receive and hold any general, special or excess
4 deposit of an insurer under Chapter 59A, Article 10 NMSA
5 1978. The deposit shall be so handled at the expense, if
6 any, of the insurer, and the state of New Mexico shall not be
7 responsible for safekeeping thereof."

8 SECTION 6. Section 59A-11-8 NMSA 1978 (being Laws 1984,
9 Chapter 127, Section 187, as amended) is amended to read:

10 "59A-11-8. ISSUANCE, REFUSAL OF LICENSE.--If the
11 superintendent finds that the application is complete, that
12 the applicant has passed all required examinations and is
13 otherwise qualified for the license applied for, the
14 superintendent shall promptly issue, or permit the issuance
15 of, the license. Otherwise, the superintendent shall refuse
16 to issue, or to permit the issuance of, the license and shall
17 promptly notify the applicant and the appointing insurer,
18 employer or principal, where applicable, of the refusal and
19 state the grounds for refusal."

20 SECTION 7. Section 59A-11A-3 NMSA 1978 (being Laws
21 1989, Chapter 97, Section 3) is amended to read:

22 "59A-11A-3. INSURANCE CONSULTANT LICENSE--APPLICATION--
23 REQUIREMENTS FOR ISSUANCE--FEE--RENEWAL.--

24 A. The superintendent shall issue a license as an
25 insurance consultant to a person who:

- 1 (1) has reached the age of majority;
- 2 (2) files a written application in the
- 3 manner and form prescribed by the superintendent, stating the
- 4 lines of insurance for which the applicant desires a license;
- 5 (3) passes an examination as provided in
- 6 Subsection B of this section;
- 7 (4) pays an application fee and an
- 8 examination fee as specified in Section 59A-6-1 NMSA 1978;
- 9 and
- 10 (5) satisfies the superintendent that the
- 11 person is competent, financially responsible and of good
- 12 moral character.

13 B. The superintendent shall examine all initial
14 applicants for a license as an insurance consultant in the
15 manner and form that the superintendent prescribes. The
16 examination shall be of sufficient scope to demonstrate a
17 broad knowledge of insurance contracts and the practices of
18 the insurance industry in the lines of insurance for which
19 the applicant desires a license. However, the superintendent
20 may waive the requirement for the examination for:

- 21 (1) property and casualty insurance in the
- 22 case of an applicant who has been awarded the professional
- 23 designation of chartered property and casualty underwriter or
- 24 certified insurance counselor in the property and casualty
- 25 line;

1 (2) life and accident insurance in the case
2 of an applicant who has been awarded the professional
3 designation of chartered life underwriter; and

4 (3) all lines of insurance in the case of an
5 applicant who has been awarded the professional designations
6 of chartered property and casualty underwriter and chartered
7 life underwriter.

8 C. If an applicant fails an examination, the
9 applicant may be reexamined upon payment of a ten-dollar
10 (\$10.00) examination fee for each reexamination.

11 D. The license as an insurance consultant shall be
12 issued for two years. The license may, at the discretion of
13 the superintendent, be renewed biennially upon application
14 and payment of a fee as specified in Section 59A-6-1 NMSA
15 1978."

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

18 "59A-13-2. DEFINITIONS.--

19 A. For the purposes of the Insurance Code:

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

21 (a) investigates, negotiates, settles
22 or adjusts a loss or claim arising under an insurance
23 contract on behalf of an insurer, insured or self-insurer,
24 for a fee, commission or other compensation; however, an
25 adjuster acting on behalf of an insured shall not

1 investigate, negotiate, settle or adjust a claim involving
2 personal injury to the insured; and

3 (b) advises the insured of the
4 insured's rights to settlement and the insured's rights to
5 settle, arbitrate and litigate the dispute;

6 (2) "staff adjuster" is an adjuster
7 individual who is a salaried employee of an insurer or
8 affiliates of the employer insurer, representing and
9 adjusting claims solely under policies of the employer
10 insurer;

11 (3) "independent adjuster" is an adjuster
12 who is not a staff adjuster and includes a representative and
13 an employee of an independent adjuster; and

14 (4) "resident adjuster" is an adjuster who
15 resides principally in New Mexico and who conducts business
16 primarily in New Mexico.

17 B. Except as otherwise provided, "adjuster" does
18 not include:

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

22 (2) a licensed agent or general agent of an
23 authorized insurer or an employee of an agent or general
24 agent who adjusts claims or losses under specific authority
25 from the insurer and solely under policies issued by the

1 insurer;

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

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

8 SECTION 9. Section 59A-13-9 NMSA 1978 (being Laws 1984,
9 Chapter 127, Section 237, as amended) is amended to read:

10 "59A-13-9. PLACE OF BUSINESS.--

11 A. A resident adjuster shall have and maintain a
12 principal place of business in this state that is easily
13 accessible to the public and is the place where the adjuster
14 principally conducts transactions under the license. The
15 address of the principal place of business shall appear on
16 the application for license and on the license.

17 B. An adjuster shall promptly notify the
18 superintendent of a change of address. Failure to notify the
19 superintendent of a change of address within twenty days
20 shall subject the licensee to a penalty in the amount of
21 fifty dollars (\$50.00)."

22 SECTION 10. Section 59A-14-1 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 239, as amended) is amended to
24 read:

25 "59A-14-1. SCOPE OF ARTICLE--PURPOSE--NECESSITY FOR

1 REGULATION.--

2 A. Chapter 59A, Article 14 NMSA 1978 governs the
3 placing of insurance of New Mexico risks, through licensed
4 surplus lines brokers, in insurers not otherwise authorized
5 to transact insurance in this state and subject to the
6 conditions for such placing as stated in that article;
7 qualifications, licensing and duties and responsibilities of
8 surplus lines brokers; and other provisions as to such
9 surplus lines business and brokers. As to unauthorized
10 insurers in general, and in respects other than as to surplus
11 lines, refer to Chapter 59A, Article 15 NMSA 1978.

12 B. Chapter 59A, Article 14 NMSA 1978 shall not
13 apply as to reinsurance or to the following insurances:

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

16 (2) insurance of subjects located, resident
17 or to be performed wholly outside this state or on vehicles
18 or aircraft owned and principally garaged outside this state;

19 (3) insurance of property and operations of
20 railroads engaged in interstate commerce;

21 (4) insurance of aircraft of common
22 carriers, or cargo of such aircraft, or against liability,
23 other than employer's liability, arising out of ownership,
24 maintenance or use of such aircraft;

25 (5) insurance of automobile bodily injury

1 and property damage liability risks when written in Mexican
2 insurers and covering in Mexico and not in the United States;
3 or

4 (6) insurance independently procured.

5 C. Chapter 59A, Article 14 NMSA 1978 shall be
6 liberally construed and applied to promote its underlying
7 purposes, which include:

8 (1) protecting insureds and persons seeking
9 insurance in this state;

10 (2) permitting surplus lines insurance to be
11 placed with reputable and financially sound unauthorized
12 insurers, but only pursuant to Chapter 59A, Article 14 NMSA
13 1978;

14 (3) establishing a system of regulation that
15 will permit controlled access to surplus lines insurance in
16 this state; and

17 (4) assuring collection of revenues and
18 other amounts due to this state."

19 SECTION 11. Section 59A-14-7 NMSA 1978 (being Laws
20 1984, Chapter 127, Section 245, as amended by Laws 1999,
21 Chapter 272, Section 19 and also by Laws 1999, Chapter 289,
22 Section 21) is amended to read:

23 "59A-14-7. SURPLUS LINES BROKER LICENSE REQUIRED--
24 QUALIFICATIONS FOR LICENSE.--

25 A. No person shall in New Mexico be, act as or

1 hold out to be, a surplus lines broker, or place insurance of
2 risks resident, located or to be performed in New Mexico in
3 any unauthorized insurer on behalf of others and for
4 compensation as an independent contractor in any form, unless
5 licensed as a surplus lines broker under Chapter 59A, Article
6 14 NMSA 1978.

7 B. The superintendent shall, upon due application
8 and payment of the license fee, issue a license as surplus
9 lines broker to a person qualified as follows:

10 (1) if the applicant is an individual, the
11 individual must have had experience or special training or
12 education sufficient in duration and character to render the
13 applicant, in the opinion of the superintendent, reasonably
14 competent to engage in business as a surplus lines broker;
15 and

16 (2) if the applicant is a firm or
17 corporation, all individuals to represent it as a surplus
18 lines broker in this state must be licensed surplus lines
19 brokers.

20 C. Licensing procedure, duration and related
21 matters are as provided in Chapter 59A, Article 11 NMSA 1978,
22 and license fee is as specified in Section 59A-6-1 NMSA
23 1978."

24 SECTION 12. Section 59A-14-14 NMSA 1978 (being
25 Laws 1991, Chapter 125, Section 18) is amended to read:

1 "59A-14-14. EVIDENCE OF INSURANCE--POLICY CHANGES--
2 PENALTIES.--

3 A. Upon placing surplus lines insurance, the
4 surplus lines broker shall promptly deliver to the insured
5 evidence of the insurance consisting either of the policy or,
6 if the policy is not then available, a certificate complying
7 with Subsection D of this section, a cover note, a binder or
8 other evidence of insurance. The certificate, cover note,
9 binder or other evidence of insurance shall be completed and
10 signed by the surplus lines broker and shall set forth the
11 description and location of the subject of the insurance, the
12 coverage limits, the name and address of the insured, the
13 name and address of the surplus lines insurer and the name,
14 address and telephone number of the surplus lines broker.

15 B. No surplus lines broker shall issue or deliver
16 any evidence of insurance or purport to insure or represent
17 that insurance will be or has been written by any eligible
18 surplus lines insurer without the insurer's prior written
19 authorization, via telefax or otherwise, to cause the risk to
20 be insured or documentation from the insurer in the regular
21 course of business that such insurance has been granted.

22 C. If, after delivery of any evidence of
23 insurance, there is any change in the identity of the
24 insurer, in the proportion of the risk assumed by any insurer
25 or in the coverage, terms or conditions stated in the

1 original evidence of insurance, the surplus lines broker
2 shall promptly issue and deliver to the insured, either
3 directly or through the producing broker, an appropriate
4 substitute for or endorsement of the original document,
5 accurately showing the current status of the coverage and
6 responsible insurers.

7 D. As soon as reasonably possible after the
8 placement of any surplus lines insurance, and in no event
9 later than thirty days after coverage commences, the surplus
10 lines broker shall deliver a complete copy of the policy or,
11 if the policy is not then available, a certificate of
12 insurance to the insured to replace any evidence of insurance
13 previously issued. Each policy of insurance shall contain or
14 have attached thereto a complete record of all policy
15 declarations and limits, insuring agreements, deductible
16 amounts, conditions, exclusions, clauses, endorsements and
17 all other material terms and conditions.

18 E. Any surplus lines broker who fails to comply
19 with the requirements of this section shall be subject to the
20 penalties provided in Section 59A-1-18 NMSA 1978 or to any
21 greater applicable penalty otherwise provided by law."

22 SECTION 13. Section 59A-17-34 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 329, as amended) is amended to
24 read:

25 "59A-17-34. HEARING AND REVIEW AS TO SUPERINTENDENT'S

1 ACTIONS.--

2 A. Any person aggrieved by any action, threatened
3 action, or failure to act of the superintendent or otherwise
4 under Chapter 59A, Article 17 NMSA 1978 shall have the same
5 right to a hearing before the superintendent with respect
6 thereto as provided for in general under Section 59A-4-15
7 NMSA 1978. Notice of hearing shall be given, the hearing
8 conducted, rights and powers exercised and the
9 superintendent's order on hearing made and given as provided
10 as to hearings in general under the applicable provisions of
11 Chapter 59A, Article 4 NMSA 1978.

12 B. Any person aggrieved by the superintendent's
13 order issued pursuant to this section or by the
14 superintendent's refusal to hold the hearing may request a
15 review by the public regulation commission in the manner set
16 forth by rule of the commission. The request for review
17 shall be filed no later than thirty days after the issuance
18 of the order of the superintendent or the superintendent's
19 refusal to hold a hearing."

20 SECTION 14. Section 59A-18-1 NMSA 1978 (being Laws
21 1984, Chapter 127, Section 331, as amended) is amended to
22 read:

23 "59A-18-1. SCOPE OF ARTICLE.--Chapter 59A, Article 18
24 NMSA 1978 applies as to all insurance policies and annuity
25 contracts of authorized insurers covering individuals

1 resident, or risks located, or insurance protection to be
2 rendered in this state, other than:

3 A. reinsurance;

4 B. policies or contracts not issued for delivery
5 in this state nor delivered in this state, except for
6 contracts for or endorsements of workers' compensation
7 insurance when the workers' compensation risk insured arises
8 from the employment of a worker performing work for an
9 employer in New Mexico and that employer is not domiciled in
10 New Mexico;

11 C. wet marine and transportation insurance, as
12 defined in Section 59A-7-5 NMSA 1978; or

13 D. surplus lines insurance contracts, unless such
14 contracts are specifically included by rule."

15 SECTION 15. Section 59A-20A-3 NMSA 1978 (being Laws
16 1999, Chapter 246, Section 3, as amended) is amended to read:

17 "59A-20A-3. LICENSE REQUIREMENTS--FEES.--

18 A. A person shall not operate as a provider or
19 broker without a license from the superintendent.

20 B. Application for a provider or broker license
21 shall be made to the superintendent by the applicant on a
22 form prescribed by the superintendent.

23 C. An application or renewal shall be accompanied
24 by the applicable fee as specified in Section 59A-6-1 NMSA
25 1978.

1 D. Licenses may be renewed from year to year on
2 the anniversary date of licensure upon payment of the annual
3 renewal fee. Failure to pay the fee by the renewal date
4 shall result in revocation of the license.

5 E. The applicant shall provide information on
6 forms required by the superintendent. The superintendent may
7 require the applicant to fully disclose the identity of all
8 stockholders, partners, officers, members and employees and
9 representatives, and the superintendent may refuse to issue a
10 license if not satisfied that a stockholder, partner,
11 officer, member, employee or representative who may
12 materially influence the applicant's conduct meets the
13 standards of the Viatical Settlements Act.

14 F. A license issued to an applicant authorizes all
15 members, officers, representatives and designated employees
16 to act as providers or brokers, as applicable, under the
17 license, and all those persons shall be named in the
18 application and any supplements to the application.

19 G. Upon the filing of an application and the
20 payment of the license fee, the superintendent may make an
21 investigation of each applicant and issue a license if the
22 superintendent finds that the applicant:

23 (1) has provided a detailed plan of
24 operation;

25 (2) is competent and trustworthy and intends

1 to act in good faith in the capacity provided by the license
2 applied for;

3 (3) has a good business reputation and has
4 had experience, training or education so as to be qualified
5 in the business for which licensure is sought; and

6 (4) if not a natural person, provides a
7 certificate of good standing from the state of its domicile.

8 H. The superintendent shall not issue a license to
9 an applicant unless a written designation of an agent for
10 service of process is filed and maintained with the
11 superintendent or the applicant has filed with the
12 superintendent the applicant's written irrevocable consent
13 that any action against the applicant may be commenced by
14 service of process on the superintendent."

15 SECTION 16. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2011. _____

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