SENATE BILL 301

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

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AN ACT

RELATING TO INSURANCE; ENACTING A NEW SECTION OF CHAPTER 59A, ARTICLE 12 NMSA 1978 TO PROVIDE FOR LIMITED LINES SELF-STORAGE INSURANCE; PROVIDING FOR ENFORCEMENT BY THE SUPERINTENDENT OF INSURANCE.

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

SECTION 1. A new section of Chapter 59A, Article 12 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LIMITED LICENSING OF SELF-SERVICE STORAGE FACILITIES TO SELL OR OFFER INSURANCE.--

A. As used in this section:

(1) "insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance;

(2) "limited lines producer" means a person
authorized by the superintendent to sell or solicit limited
lines insurance;

(3) "limited lines self-storage insurance" means insurance coverage for property loss incident to the
rental of a self-storage space at a self-service storage
facility pursuant to the provisions of this section;

(4) "limited lines self-storage license" means a document issued by the superintendent that authorizes a
limited lines producer to sell certain limited lines self-
storage insurance pursuant to the provisions of this section;

(5) "occupant" means a person or the person's lessee, successor or assignee entitled to the use of the self-
storage space at a self-service storage facility under a self-
storage rental agreement to the exclusion of others;

(6) "operator" means a person designated by the owner in writing as responsible for the day-to-day
operations of the self-service storage facility owned by the owner;

(7) "owner" means the owner of a self-service storage facility;

(8) "rental period" means the term of a self-
storage rental agreement;

(9) "self-service storage facility" means real property designed and used for the sole purpose of renting or
leasing individual storage space to occupants given access to a
self-storage space for the sole purpose of storing and removing personal property;

(10) "self-storage rental agreement" means a written agreement setting forth the terms and conditions governing the use of a self-storage space provided by a self-service storage facility for rental or lease; and

(11) "self-storage space" means a designated storage unit or other designated space at the self-service storage facility pursuant to the provisions of this section.

B. The superintendent or the superintendent's designee may issue a limited lines self-storage license to an owner or operator that authorizes the limited lines producer to sell or solicit limited lines self-storage insurance in a form and manner prescribed by the superintendent.

C. Before issuing a limited lines self-storage license, an application for a limited lines self-storage license shall be made; provided that, in lieu of providing information about all officers, partners and directors, the required information to be submitted for a limited lines self-storage license pursuant to this section is limited to an employee or operator or officer of the owner. The owner is responsible for compliance with this section. The superintendent shall adopt rules for limited lines self-storage licensing, including:

(1) an application fee; and
(2) license renewal.

D. A limited lines producer is authorized to sell or solicit limited lines self-storage insurance. A limited lines producer is not a licensed insurer, insurance agent or insurance producer and shall not evaluate or interpret limited lines self-storage insurance with the occupant or evaluate or provide advice concerning an occupant's existing insurance coverage.

E. A limited lines self-storage license issued pursuant to this section authorizes the limited lines producer, the owner and the owner's employees or operator to sell or solicit a policy of limited lines self-storage insurance.

F. A limited lines producer shall be the owner of a self-service storage facility or the operator of the self-service storage facility. The limited lines producer shall maintain a registry of locations that sell or solicit limited lines self-storage insurance, as well as a list of the owner, the owner's employees and, if applicable, the operator who will be authorized to sell or solicit limited lines self-storage insurance. Upon request by the superintendent and with ten days' notice by the superintendent to the owner, the limited lines producer shall make the registry open to inspection and examination by the superintendent in a manner prescribed by the superintendent.

G. A limited lines producer is licensed only to
sell or solicit or to offer to sell, solicit or negotiate
limited lines self-storage insurance in connection with and
incidental to the rental of a self-storage space in the owner's
self-service storage facility. This limited lines self-storage
insurance shall only provide coverage for casualty loss of the
occupant's personal property contained in the self-storage
space.

H. Prior to issuing a policy under the provisions
of this section, a limited lines producer shall provide the
written policy or limited lines self-storage insurance
certificate that:

(1) summarizes clearly and correctly the
material terms of coverage offered to an occupant, including
the identity and contact information of the insurer and that of
the owner;

(2) describes the benefits of coverage;

(3) discloses that the coverage is offered by
the self-service storage facility;

(4) describes that the limited lines self-
storage insurance being offered may provide a duplication of
insurance coverage already provided by a homeowners insurance
policy or other source of coverage in effect for the occupant;

(5) sets forth the deductible and benefits of
the limited lines self-storage insurance coverage and describes
the process for filing a claim, if the occupant elects to
purchase this coverage;

(6) states that the premiums for limited lines self-storage insurance coverage are itemized and ancillary to the self-storage rental agreement; and

(7) explains that the limited lines producer, its employees or operator can answer general information about the limited lines self-storage insurance offered, including a description of the coverage and premium, but is not qualified or authorized to answer technical questions about the terms and conditions of the limited lines self-storage insurance offered by the limited lines producer or to evaluate the adequacy of the occupant's existing insurance coverage, if any.

I. If the self-storage rental agreement requires the occupant to provide proof of self-storage, renters, homeowners, property or casualty insurance, this insurance coverage requirement may be satisfied if the occupant:

(1) purchases this coverage from a limited lines producer; or

(2) provides evidence of this insurance coverage from another source.

J. The limited lines producer shall either directly supervise, authorize or appoint, in writing, an owner's employee or operator to supervise the administration of the sale or solicitation of limited lines self-storage insurance, including development of a training program for the sale,
solicitation or negotiation of the limited lines self-storage insurance for employees and the operator. The training program shall be submitted to the superintendent for approval prior to use. The training program shall be required for the employees and operator who are directly engaged in the activity of selling, soliciting or negotiating limited lines self-storage insurance and shall include the following:

(1) an education program regarding the limited lines self-storage insurance that is conducted and overseen by the limited lines producer;

(2) instruction to each employee or operator about the limited lines self-storage insurance offered to occupants and the disclosures required pursuant to the provisions of this section;

(3) instruction that the employee or operator shall not advertise or falsely represent the employee or operator as a nonlimited lines licensed insurance producer; and

(4) instruction that the employee or operator is not to evaluate or interpret technical terms, benefits or conditions of the offered limited lines self-storage insurance or evaluate the occupant's existing insurance coverage, if the occupant has any such coverage.

K. The owner may bill and collect premiums for limited lines self-storage insurance. The limited lines self-storage insurance premiums shall be separately itemized if they
are not included in the cost of the rental. If the premiums
are included in the cost of the rental of the self-service
storage space, the owner shall clearly and conspicuously
disclose to the occupant that the limited lines self-storage
insurance is included with the rental fees for the self-storage
space. An owner shall account for all of the collected
coverage premiums but is not required to segregate the coverage
premiums in a separate account. The owner shall remit the
coverage premium charges to the insurer within sixty days of
receipt. All coverage premiums held by the owner are held in
trust by the owner in a fiduciary capacity for the benefit of
the insurer.

L. The employee or operator of an owner who is a
limited lines producer may act individually on behalf of, and
under the supervision of, the owner with respect to selling
the limited lines self-storage insurance.

M. The provisions of this section do not prohibit:

   (1) the payment or receipt of related
compensation in the form of a commission, service fee,
brokerage or other valuable consideration for the sale of
limited lines self-storage insurance that the limited lines
producer is authorized to sell or solicit under the terms of
this section; provided that the limited lines producer is duly
licensed under this section for the performance of such
services and has met all conditions as set forth in this
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section; or

(2) a limited line producer from paying, and
its employees or operator from receiving, production payments
or incentive payments; provided that such compensation is
incidental to the employee's or operator's overall
compensation.

N. Notwithstanding any other provision of law, an
owner shall not compensate an employee or an operator of the
owner based primarily on the number of occupants enrolled for
limited lines self-storage insurance. The owner may receive
compensation for billing and collection services.

O. Notwithstanding any other provision of law, a
regulation promulgated by the office of superintendent of
insurance or an order issued by the superintendent, a limited
lines producer or the limited lines producer's employees or
operator is not subject to licensure as an insurance producer
and shall not be required to complete pre-licensure educational
requirements, continuing education requirements and
examination.

P. An insurer may terminate or otherwise change the
terms and conditions of a policy of limited lines self-storage
insurance only upon providing the owner and occupant that
purchased the limited lines self-storage insurance with at
least thirty days' written notice; provided that an insurer may
terminate an occupant's coverage under a limited lines self-
storage insurance policy upon fifteen days' written notice to
the occupant and the owner for the occupant's nonpayment of
premium or for the discovery of fraud or material
misrepresentation in the occupant's obtaining coverage or in
the presentation of a claim under the policy by the occupant;
and provided further that an insurer may immediately terminate
an occupant's coverage under a limited lines self-storage
insurance policy if:

(1) the occupant ceases to rent a self-storage
space from the owner; or

(2) the occupant exhausts the aggregate of the
limited lines self-storage insurance policy limit of liability,
if any, under the terms of the limited lines self-storage
insurance and the insurer sends written notice of termination
to the occupant and owner within thirty calendar days of
exhaustion of the limit.

Q. If termination or change of terms notice is not
timely sent by the insurer, enrollment continues
notwithstanding the aggregate limit of liability until the
insurer sends notice of termination to the occupant. If the
insurer changes the terms and conditions, then the insurer
shall provide the limited lines producer with a revised
certificate, policy or endorsement and shall provide each
occupant with a revised certificate, policy or endorsement,
indicating that a change in the terms and conditions has

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occurred, including a summary of the material changes.

R. If an insurer terminates a policy, the insurer shall mail or deliver a written notice to each occupant covered by the limited lines self-storage insurance sold or offered by the limited lines producer, as well as the owner, advising the occupant of the termination of the policy and the effective date of termination. An insurer may send notices and correspondence by either mail or electronic means. If the written notice is mailed, the insurer shall send it to the owner at the owner's address as well as to the last known address of the occupant and shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If the written notice is sent by electronic means, the insurer shall send it to the owner at the owner's email address and to the occupant's last known email address as provided by the occupant. An occupant's provision of an email address to the insurer or owner is consent to receive written notices and correspondence by electronic means. The insurer shall maintain proof that the written notice was sent.

S. The limited lines producer may send notice or correspondence required by this section or otherwise required by law on behalf of the insurer or owner.

T. The superintendent may, after notice and opportunity for a hearing, respond to a violation of a
provision of this section by:

(1) taking disciplinary action against a limited lines producer pursuant to the Insurance Code;

(2) imposing other penalties, including suspending the transaction of insurance by the limited lines producer at a self-service storage facility where a violation of this section occurred; or

(3) suspending or revoking the ability of an individual employee or operator to act under the limited lines self-storage license."