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SENATE BILL 301

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

INTRODUCED BY

George K. Munoz

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

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1 authorized by the superintendent to sell or solicit limited
2 lines insurance;

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

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

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

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

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

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

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

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1 self-storage space for the sole purpose of storing and removing
2 personal property;

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

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

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

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

25 (1) an application fee; and

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1 (2) license renewal.

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

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

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

25 G. A limited lines producer is licensed only to

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1 sell or solicit or to offer to sell, solicit or negotiate
2 limited lines self-storage insurance in connection with and
3 incidental to the rental of a self-storage space in the owner's
4 self-service storage facility. This limited lines self-storage
5 insurance shall only provide coverage for casualty loss of the
6 occupant's personal property contained in the self-storage
7 space.

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

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

16 (2) describes the benefits of coverage;

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

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

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

1 purchase this coverage;

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

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

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

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

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

21 J. The limited lines producer shall either directly
22 supervise, authorize or appoint, in writing, an owner's
23 employee or operator to supervise the administration of the
24 sale or solicitation of limited lines self-storage insurance,
25 including development of a training program for the sale,

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1 solicitation or negotiation of the limited lines self-storage
2 insurance for employees and the operator. The training program
3 shall be submitted to the superintendent for approval prior to
4 use. The training program shall be required for the employees
5 and operator who are directly engaged in the activity of
6 selling, soliciting or negotiating limited lines self-storage
7 insurance and shall include the following:

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

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

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

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

23 K. The owner may bill and collect premiums for
24 limited lines self-storage insurance. The limited lines self-
25 storage insurance premiums shall be separately itemized if they

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1 are not included in the cost of the rental. If the premiums
2 are included in the cost of the rental of the self-service
3 storage space, the owner shall clearly and conspicuously
4 disclose to the occupant that the limited lines self-storage
5 insurance is included with the rental fees for the self-storage
6 space. An owner shall account for all of the collected
7 coverage premiums but is not required to segregate the coverage
8 premiums in a separate account. The owner shall remit the
9 coverage premium charges to the insurer within sixty days of
10 receipt. All coverage premiums held by the owner are held in
11 trust by the owner in a fiduciary capacity for the benefit of
12 the insurer.

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

17 M. The provisions of this section do not prohibit:

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

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1 section; or

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

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

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

20 P. An insurer may terminate or otherwise change the
21 terms and conditions of a policy of limited lines self-storage
22 insurance only upon providing the owner and occupant that
23 purchased the limited lines self-storage insurance with at
24 least thirty days' written notice; provided that an insurer may
25 terminate an occupant's coverage under a limited lines self-

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1 storage insurance policy upon fifteen days' written notice to
2 the occupant and the owner for the occupant's nonpayment of
3 premium or for the discovery of fraud or material
4 misrepresentation in the occupant's obtaining coverage or in
5 the presentation of a claim under the policy by the occupant;
6 and provided further that an insurer may immediately terminate
7 an occupant's coverage under a limited lines self-storage
8 insurance policy if:

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

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

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

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1 occurred, including a summary of the material changes.

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

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

24 T. The superintendent may, after notice and
25 opportunity for a hearing, respond to a violation of a

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1 provision of this section by:

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

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

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

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