AN ACT

RELATING TO INSURANCE; AMENDING CERTAIN SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

Section 1. Section 59A-2-9 NMSA 1978 (being Laws 1984, Chapter 127, Section 27) is amended to read:

"59A-2-9. RULES AND REGULATIONS--PROMULGATION--VIOLATION.--

A. The superintendent, after a hearing thereon, may make reasonable rules and regulations necessary for or as an aid to administration or effectuation of any provision of the Insurance Code administered by the superintendent, and from time to time withdraw, modify or amend any such rule or regulation.

B. No such rule or regulation shall extend, modify or conflict with any such provision or other laws of New Mexico.

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1   C.   [Not less than thirty (30) nor more than forty

2   (40) days before the effective date of any such rule or

3   regulation, or withdrawal, modification or amendment thereof,

4   the superintendent shall file the rule or regulation in

5   accordance with the State Rules Act.] The superintendent shall

6   file all new rules, amendments of rules or repeals of rules in

7   accordance with the State Rules Act not later than the submittal

8   deadline for publication in the New Mexico register on or before

9   the effective date of any such rule, amendment or repeal.

10   D.   [Wilful] Willful violation of any such rule or

11   regulation shall subject the violator to such penalty as may be

12   applicable under the Insurance Code for violation of the

13   provision to which the rule or regulation relates; but no

14   penalty shall apply to any act done or omitted in good faith in

15   conformity with any such rule or regulation, notwithstanding

16   that the rule or regulation may, after such act or omission, be

17   amended or rescinded or determined by judicial or other

18   authority to be invalid for any reason."

19   Section 2.   Section 59A-4-16 NMSA 1978 (being Laws 1984,

20   Chapter 127, Section 60) is amended to read:

21   "59A-4-16.   NOTICE OF HEARING.--

22   A.   Except where a different period is expressly

23   provided, the superintendent shall give written notice of the

24   hearing not less than twenty [(20)] days in advance.   The notice

25   shall state the date, time and place of the hearing and specify

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1   the matters to be considered threat.   [If the persons to be

2   given notice are not specified in the provision pursuant to

3   which the hearing is held, the superintendent shall give the

4   notice to all persons whose pecuniary interests, to the

5   superintendent's knowledge or belief, are to be directly and

6   immediately affected by the hearing.]

7   B.   If any person is entitled to a hearing by any

8   provision of the Insurance Code before any proposed action is

9   taken, or if the superintendent otherwise deems advisable,

10   notice of the hearing may be in the form of a notice to show

11   cause, stating that proposed action may be taken unless such

12   person shows cause at a hearing to be held as specified in the

13   notice why the action should not be taken, and stating the basis

14   of the proposed action.

15   C.   If a hearing is to be held for consideration of

16   rules [and regulations] of the superintendent, [or of other

17   matters which, under Subsection A above, would otherwise require

18   separate notices to each of more than thirty (30) persons, in

19   lieu of other notice] the superintendent may give notice of the

20   hearing by publication thereof in a newspaper of general

21   circulation in this state, [at least once each week during the

22   fourth and second weeks next preceding the week during which the

23   hearing is to be held] and once in the New Mexico register; and

24   the superintendent shall mail the notice to all persons who had

25   requested the same in writing in advance and shall have paid to

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1 the superintendent the reasonable costs of such mailing as fixed

2 by the superintendent.

3   D. If the hearing is for a purpose other than the

4 consideration of rules of the superintendent, and if the persons

5 to be given notice are not specified in the provision pursuant

6 to which the hearing is held, the superintendent shall give the

7 notice to all persons whose pecuniary interests, to the

8 superintendent's knowledge or belief, are to be directly and

9 immediately affected by the hearing.

10   [D.] E. All such notices, except published notice,

11 shall be given as provided for in [Subsection C of Section 28 of

12 the Insurance Code] 59A-2-10 NMSA 1978.

13   [E.] F. The superintendent shall specify in the

14 notice of hearing whether [its] the hearing is to be an

15 administrative hearing pursuant to Section [61 of the Insurance

16 Code] 59A-4-17 NMSA 1978 or an informal hearing pursuant to

17 Section [62 of that act] 59A-4-18 NMSA 1978."

18 Section 3. Section 59A-5-26 NMSA 1978 (being Laws 1984,

19 Chapter 127, Section 93) is amended to read:

20 "59A-5-26. SUSPENSION, LIMITATION OR REVOCATION OF

21 AUTHORITY--DISCRETIONARY AND SPECIAL GROUNDS.--

22   A. The superintendent may, at his discretion,

23 suspend, limit or revoke an insurer's certificate of authority

24 if he finds after a hearing thereon, or upon waiver of hearing

25 by the insurer, that the insurer has:

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1   (1)   violated or failed to comply with any

2   lawful order of the superintendent; [or]

3   (2)   [wilfully] willfully violated or [wilfully]

4   willfully failed to comply with any lawful regulation of the

5   superintendent; [or]

6   (3)   violated any provision of the Insurance

7   Code other than those for violation of which suspension or

8   revocation is mandatory; or

9   (4)   has reinsured all or substantially all of

10   its risks, or all or substantially all of its risks in a

11   particular kind of insurance, in another insurer.

12   B.   In lieu of suspension or revocation of

13   certificate of authority as provided in Subsection A [above] of

14   this section, the superintendent may, at his discretion, levy

15   upon the insurer and the insurer shall forthwith pay to the

16   superintendent, an administrative fine of not more than five

17   thousand dollars ($5,000).   The superintendent shall promptly

18   deposit with the state treasurer to the credit of the general

19   fund all [monies] money received under this subsection.

20   C.   The superintendent shall suspend or revoke an

21   insurer's certificate of authority on any of the following

22   grounds, if found after a hearing thereon that the insurer:

23   (1)   is in unsound condition, or being

24   fraudulently conducted, or in such condition or using such

25   methods and practices in conduct of its business as to render

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1   its further transaction of insurance in this state currently or

2   prospectively hazardous or injurious to policyholders or the

3   public;

4   (2)   with such frequency as to indicate its

5   general business practice in this state:

6   (a)   has without just cause failed to pay,

7   or delayed payment of, claims arising under its policies,

8   whether the claim is in favor of an insured or in favor of a

9   third person with respect to the liability of an insured to such

10 third person; or

11   (b)   without just cause compels insureds

12 or claimants to accept less than amount due them or to employ

13 attorney or to bring suit against the insurer or such an insured

14 to secure full payment or settlement of a claim;

15   (3)   refuses to be examined, or if its

16 directors, officers, employees or representatives refuse to

17 submit to examination relative to its affairs, or to produce

18 books, papers, records, contracts, correspondence or other

19 documents for examination by the superintendent when required,

20 or refuses or fails to pay expenses of the examination or to

21 perform any other legal obligation relative to the examination;

22 or

23   (4)   has reinsured all its risks in their

24 entirety in another insurer; or

25   (5) (4)   has failed to pay any final judgment

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1   rendered against it in this state upon any policy, bond,

2   recognizance or undertaking as issued or guaranteed by it,

3   within thirty [(30)] days after the judgment becomes final.

4   D.   The superintendent may, at his discretion and

5   without advance notice or hearing thereon, immediately suspend

6   the certificate of authority of an insurer as to which

7   proceedings for receivership, conservation, rehabilitation or

8   other delinquency proceedings have been commenced in any state

9   by the public insurance supervisory officer of that state."

10   Section 4.   Section 59A-8-9 NMSA 1978 (being Laws 1984,

11   Chapter 127, Section 126) is amended to read:

12   "59A-8-9.   UNEARNED PREMIUM RESERVE, CASUALTY, VEHICLE,

13   PROPERTY, MARINE AND SURETY INSURANCES.--As to property,

14   casualty, vehicle and surety insurance, and marine and

15   transportation insurance other than as provided in Section [127

16   of this article] 59A-8-10 NMSA 1978, the insurer shall maintain

17   as a liability an unearned premium reserve on policies in force

18   computed as follows: fifty percent of the gross premium in

19   force on policies having one year or less to run and pro rata on

20   those for longer periods, or pro rata for all premiums in force.

21   [As to surety risks the minimum unearned premium reserve shall

22   be the aggregate of the net premiums for the entire term instead

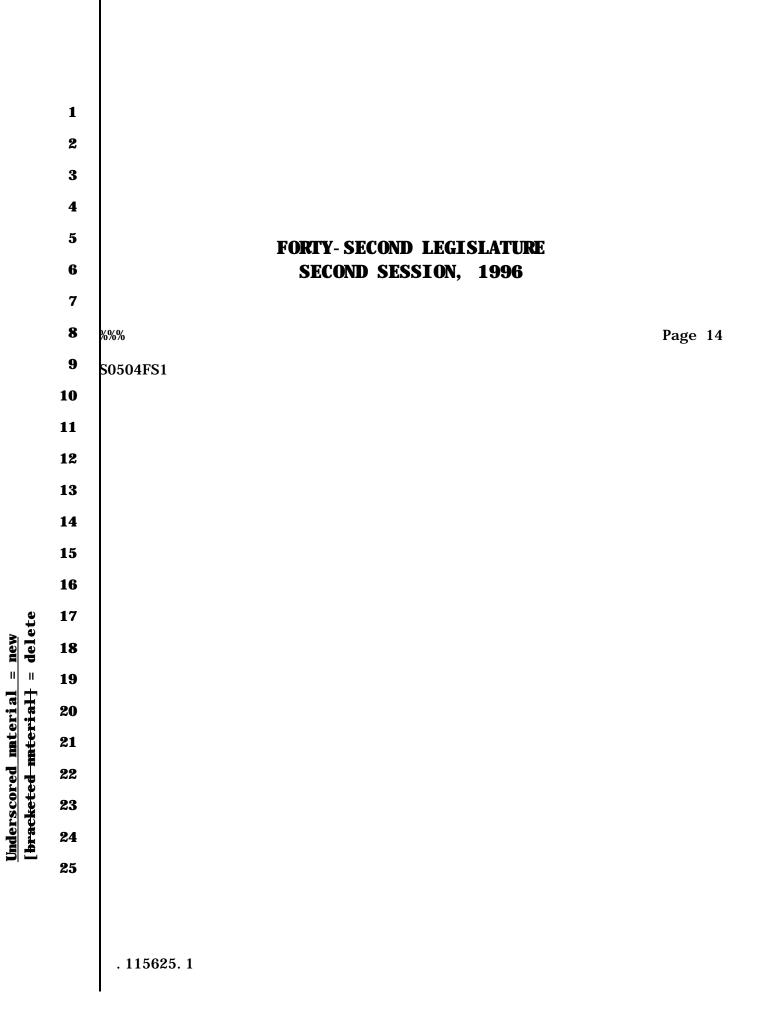23   of the unexpired portion thereof.]"

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997   SB 504/a

February 13, 1997

Mr. President:

Your **CORPORATIONS & TRANSPORTATION COMMITTEE**, to whom has been referred

SENATE BILL 504

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1.   On page 6, strike lines 23 and 24.

2.   On page 6, line 25, strike "(5)".

Respectfully submitted,

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Roman M Maes, III, Chairman

Adopted_____   Not Adopted_____

         (Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was __8__ For __0__ Against

Yes: 8

No: 0

Excused: Griego, Maes

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997   SB 504/a

February 13, 1997

Mr. President:

    Your **CORPORATIONS & TRANSPORTATION COMMITTEE**, to whom has been referred

SENATE BILL 504

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

     1.   On page 6, strike lines 23 and 24.

     2.   On page 6, line 25, strike "(5)".

             Respectfully submitted,

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4   _____

5   **Roman M Maes, III, Chairman**

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9   Adopted_____   Not Adopted_____

10   (Chief Clerk)   (Chief Clerk)

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13   Date _____

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16   The roll call vote was _8_ For _0_ Against

17   Yes: 8

18   No: 0

19   Excused: Griego, Maes

20   Absent: None

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23   S0504CT1   .116608.1

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FORTY-SECOND LEGISLATURE
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SECOND SESSION, 1996
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9   FORTY-THIRD LEGISLATURE

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17   SENATE FLOOR AMENDMENT number _____ to SENATE BILL 504, as

18   amended

19

20   AMENDMENT sponsored by SENATOR FIDEL

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23   1.)   On page 5, line 9, strike the underlined word "has".
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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Senator Fidel

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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State of New Mexico

House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

March 18, 1997

Mr. Speaker:

　　Your **BUSINESS AND INDUSTRY COMMITTEE,** to whom has been referred

SENATE BILL 504, as amended

has had it under consideration and reports same with recommendation that it **DO PASS.**

Respectfully submitted,

_____

Fred Luna, Chairman

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2 Adopted _____   Not Adopted _____

3   (Chief Clerk)   (Chief Clerk)

4   Date _____

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6 The roll call vote was_9_ For_0_ Against

7 Yes: 9

8 Excused: Alwin, Hobbs, Varela

9 Absent: Getty

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