

AN ACT

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RELATING TO TAXATION; DELETING EXEMPTIONS FROM THE PREMIUM TAX;
DECLARING AN EMERGENCY.

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

Section 1. Section 59A-6-2 NMSA 1978 (being Laws 1984, Chapter 127,
Section 102, as amended) is amended to read:

"59A-6-2. PREMIUM TAX.--

A. The premium tax provided for in this section shall apply as to the
following taxpayers:

- (1) each insurer authorized to transact insurance in New Mexico;
- (2) each insurer formerly authorized to transact insurance in New Mexico and receiving premiums on policies remaining in force in New Mexico, except that this provision shall not apply as to an insurer that withdrew from New Mexico prior to March 26, 1955;
- (3) each plan operating under provisions of Chapter 59A, Articles 46 through 49 NMSA 1978;
- (4) each property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978, as to any consideration received as security or surety for a bail bond in connection with a judicial proceeding, which consideration shall be considered "gross premiums" for the purposes of this section; and
- (5) each unauthorized insurer that has assumed a contract or policy of insurance directly or indirectly from an authorized or formerly authorized

insurer and is receiving premiums on such policies remaining in force in New Mexico, except that this provision shall not apply if a ceding insurer continues to pay the tax provided in this section as to such policy or contract.

B. Each such taxpayer shall pay in accordance with this subsection three percent of the gross premiums and membership and policy fees received by it on insurance or contracts covering risks within this state during the preceding calendar year, less all return premiums, including dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks. For each calendar quarter, an estimated payment shall be made on April 15, July 15, October 15 and the following January 15. The estimated payments shall be equal to at least one-fourth of either the payment made during the previous calendar year or eighty percent of the actual payment due for the current calendar year, whichever is greater. The final adjustment for payments due for the prior year shall be made with the return which shall be filed on April 15 of each year, at which time all taxes for that year are due. Dividends paid or credited to policyholders or contract holders and refunds, savings, savings coupons and similar returns or credits applied or credited to payment of premiums for existing, new or additional insurance shall, in the amount so used, constitute premiums subject to tax under this section for the year in which so applied or credited, except that:

(1) as to every insurer which throughout such preceding calendar year had at least forty percent of its admitted assets invested in New Mexico investments, as the same are defined in Subsection C of this section, the rate of such tax shall be nine-tenths percent in lieu of three percent; and

(2) effective January 1, 1992, the rate shall be one and four-

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tenths percent; effective July 1, 1992, the rate shall be one and nine-tenths percent; effective January 1, 1993, the rate shall be two and four-tenths percent; and effective July 1, 1993 and thereafter, the rate shall be three percent.

C. New Mexico investments for the purpose of Subsection B of this section are defined as follows:

- (1) real estate located within New Mexico;
- (2) bonds or obligations of New Mexico or of any county or other subdivision thereof;
- (3) bonds, debentures or secured obligations of any corporation that has fifty percent of its assets located within New Mexico;
- (4) first mortgages secured by real estate located within New Mexico;
- (5) deposits in state banks, national banks and trust companies having their principal place of business within New Mexico;
- (6) policy loans to residents of New Mexico; and
- (7) preferred and common stock of corporations having at least fifty percent of their assets located within New Mexico.

D. Nothing contained in Subsection C of this section shall be construed to affect any provision of Chapter 59A, Article 9 NMSA 1978.

E. Exempted from the tax imposed by Subsection B of this section are:

- (1) premiums attributable to insurance or contracts purchased by the state or a political subdivision for the state's or political subdivision's active or retired employees; and
- (2) payments received by a health maintenance organization

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from the federal secretary of health and human services pursuant to a contract issued
under the provisions of 42 U.S.C. Section 1395 mm(g)." H
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Section 2. TEMPORARY PROVISION--TRANSITION.--A taxpayer that makes
an estimated payment for the first quarter of 2003 on April 15, 2003 pursuant to
Section 59A-6-2 NMSA 1978 as it is amended in this act and, in determining that
payment, is required to include premiums that would have been exempt pursuant to the
law in effect prior to January 1, 2003 shall not be subject to interest and penalty
charges for late payment or underpayment of that estimated payment or the underlying
tax liability. 1
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Section 3. APPLICABILITY.--The provisions of this act apply to premiums
received in the 2003 and subsequent calendar years.

Section 4. EMERGENCY.--It is necessary for the public peace, health and
safety that this act take effect immediately. H
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