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SENATE BILL 181

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; AMENDING THE NEW MEXICO INSURANCE CODE  
TO CHANGE CERTAIN LICENSE FEES AND TO PROVIDE FOR NOTICE OF  
CHANGE OF ADDRESS; PERMITTING SURCHARGE PROCEEDS TO BE  
APPROPRIATED FOR CERTAIN ACTIVITIES; PROVIDING PENALTIES.

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

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

"59A-6-1. FEE SCHEDULE. -- The superintendent shall collect  
~~[and receipt for, and persons so served shall pay to the~~  
~~superintendent, fees, licenses and miscellaneous charges as~~  
follows] the following fees:

A. insurer's certificate of authority -

(1) filing application for certificate of  
authority, and issuance of certificate of authority, if issued,

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

. 143692. 2

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- 1                   (a) filing application for license and
- 2 issuance of license, if issued . . . . . 30.00
- 3                   (b) continuation of appointment each
- 4 year . . . . . 20.00
- 5                   (4) temporary license as to life and health
- 6 insurance or both . . . . . 30.00
- 7                   (a) as to property insurance . . . . . 30.00
- 8                   (b) as to casualty/surety insurance
- 9 . . . . . 30.00
- 10                  (c) as to vehicle insurance . . . . . 30.00
- 11                  F. solicitor license -
- 12                   (1) filing application for original license
- 13 and issuance of license, if issued . . . . . 30.00
- 14                   (2) continuation of appointment, per kind of
- 15 insurance, each year . . . . . 20.00
- 16                  G. broker license -
- 17                   (1) filing application for license and
- 18 issuance of original license, if issued . . . . . 30.00
- 19                   (2) annual continuation of license . . . . . 30.00
- 20                  H. insurance vending machine license -
- 21                   (1) filing application for original license
- 22 and issuance of license, if issued, each machine . . . . . 25.00
- 23                   (2) annual continuation of license, each
- 24 machine . . . . . 25.00
- 25                  I. examination for license, application for

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1 examination conducted directly by superintendent, each grouping  
2 of kinds of insurance to be covered by the examination as  
3 provided by the superintendent's rules [~~and regulations~~], and  
4 payable as to each instance of examination . . . . . 50.00

5 J. surplus line insurer - filing application for  
6 qualification as eligible surplus lines insurer . . . . . 1,000.00

7 K. surplus line broker license -  
8 (1) filing application for original license  
9 and issuance of license, if issued . . . . . 100.00  
10 (2) annual continuation of license . . . . . 100.00

11 L. adjuster license -  
12 (1) filing application for original license  
13 and issuance of license, if issued . . . . . 30.00  
14 (2) annual continuation of license . . . . . 30.00

15 M. rating organization or rating advisory  
16 organization license -  
17 (1) filing application for license and  
18 issuance of license, if issued . . . . . 100.00  
19 (2) annual continuation of license . . . . . 100.00

20 N. nonprofit health care plans -  
21 (1) filing application for preliminary permit  
22 and issuance of permit, if issued . . . . . 100.00  
23 (2) certificate of authority, application,  
24 issuance, continuation, reinstatement, charter documents - same  
25 as for insurers

. 143692. 2

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- 1                   (3) annual statement, filing . . . . . 200.00
- 2                   (4) agents and solicitors -
- 3                   (a) filing application for original
- 4 license and issuance of license, if issued . . . . . 30.00
- 5                   (b) examination for license conducted
- 6 directly by superintendent, each instance of examination
- 7 . . . . . 50.00
- 8                   (c) annual continuation of appointment
- 9 . . . . . 20.00
- 10                  0. prepaid dental plans -
- 11                   (1) certificate of authority, application,
- 12 issuance, continuation, reinstatement, charter documents - same
- 13 as for insurers
- 14                   (2) annual report, filing . . . . . 200.00
- 15                   (3) agents and solicitors -
- 16                   (a) filing application for original
- 17 license and issuance of license, if issued . . . . . 30.00
- 18                   (b) examination for license conducted
- 19 directly by superintendent, each instance of examination
- 20 . . . . . 50.00
- 21                   (c) continuation of license, each year
- 22 . . . . . 20.00
- 23                  P. prearranged funeral insurance - application for
- 24 certificate of authority, issuance, continuation,
- 25 reinstatement, charter documents, filing annual statement,

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1 licensing of sales representatives - same as for insurers

2 Q. premium finance companies -

3 (1) filing application for original license

4 and issuance of license, if issued . . . . . 100.00

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

6 R. motor clubs -

7 (1) certificate of authority -

8 (a) filing application for original

9 certificate of authority and issuance of certificate of

10 authority, if issued . . . . . 200.00

11 (b) annual continuation of certificate

12 of authority . . . . . 100.00

13 (2) sales representatives -

14 (a) filing application for registration

15 or license and issuance of registration or license, if issued,

16 each representative . . . . . 20.00

17 (b) annual continuation of registration

18 or license, each representative . . . . . 20.00

19 S. bail bondsmen -

20 (1) filing application for original license as

21 bail bondsman or solicitor, and issuance of license, if issued

22 . . . . . 30.00

23 (2) examination for license conducted directly

24 by superintendent, each instance of examination

25 . . . . . 50.00

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1 (3) continuation of appointment, each year  
2 . . . . . 20.00

3 T. securities salesperson license -

4 (1) filing application for license and  
5 issuance of license, if issued . . . . . 25.00

6 (2) renewal of license, each year . . . 25.00

7 U. for each signature and seal of the  
8 superintendent affixed to any instrument . . . . . 10.00

9 V. required filing of forms or rates - by all lines  
10 of business other than property or casualty

11 (1) rates . . . . . 50.00

12 (2) major form - each new policy and each  
13 package submission, which can include multiple policy forms,  
14 application forms, rider forms, endorsement forms or amendment  
15 forms . . . . . 30.00

16 (3) incidental forms and rates - forms filed  
17 for informational purposes; riders, applications, endorsements  
18 and amendments filed individually; rate service organization  
19 reference filings; rates filed for informational purposes  
20 . . . . . 15.00

21 W. health maintenance organizations -

22 (1) filing an application for a certificate of  
23 authority . . . . . 1,000.00

24 (2) annual continuation of certificate of  
25 authority, each year continued . . . . . 200.00

. 143692. 2

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- 1 (3) filing each annual report . . . . . 200.00
- 2 (4) filing an amendment to organizational
- 3 documents requiring approval . . . . . 200.00
- 4 (5) filing informational amendments . . . 50.00
- 5 (6) agents and solicitors -
- 6 (a) filing application for original
- 7 license and issuance of license, if issued . . . . . 30.00
- 8 (b) examination for license, each
- 9 instance of examination . . . . . 50.00
- 10 (c) annual continuation of appointment
- 11 . . . . . 20.00
- 12 X. purchasing groups and foreign risk retention
- 13 groups -
- 14 (1) original registration . . . . . 500.00
- 15 (2) annual continuation of registration
- 16 . . . . . 200.00
- 17 (3) agent or broker fees same as for
- 18 authorized insurers
- 19 Y. third party administrators -
- 20 (1) filing application for original individual
- 21 insurance administrator license . . . . . 30.00
- 22 (2) filing application for original officer,
- 23 manager or partner insurance administrator license . . . 30.00
- 24 (3) continuation or renewal of annual license
- 25 . . . . . 30.00

. 143692. 2

- 1                                   (4) examination for license conducted directly
- 2 by the superintendent, each examination . . . . . 75.00
- 3                                   (5) each request for a duplicate license or
- 4 for each name change . . . . . 30.00
- 5                                   (6) filing of annual report . . . . . 50.00
- 6                                   (7) each seal or signature affixed to an
- 7 instrument . . . . . 10.00.

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

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1           ~~[Except as to certain appointment fees as specified in~~  
2 ~~Section 59A-11-8 NMSA 1978]~~ All fees are ~~[deemed]~~ earned when  
3 paid and are not refundable. "

4           Section 2. Section 59A-11-8 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 187) is amended to read:

6           "59A-11-8. ISSUANCE, REFUSAL OF LICENSE ~~[REFUNDABILITY OF~~  
7 ~~FEES]. -- [A.]~~ If the superintendent finds that the application  
8 is complete, that the applicant has passed all required  
9 examinations and is otherwise qualified for the license applied  
10 for, ~~[he]~~ the superintendent shall promptly issue the license.  
11 Otherwise, the superintendent shall refuse to issue the license  
12 and promptly notify the applicant and the appointing insurer,  
13 employer or principal, where applicable, of ~~[such]~~ the refusal  
14 and ~~[stating]~~ state the grounds ~~[therefor]~~ for refusal.

15           ~~[B. If the license is refused, the superintendent~~  
16 ~~shall refund any applicable appointment fee tendered with the~~  
17 ~~application for license. The fee for filing application for~~  
18 ~~license or for examination shall be deemed earned when paid and~~  
19 ~~shall not be refundable.]"~~

20           Section 3. Section 59A-12-20 NMSA 1978 (being Laws 1984,  
21 Chapter 127, Section 221, as amended by Laws 1999, Chapter 272,  
22 Section 12 and also by Laws 1999, Chapter 289, Section 13) is  
23 amended to read:

24           "59A-12-20. PLACE OF BUSINESS--DISPLAY OF LICENSE. --

25           A. ~~[Every]~~ A general lines agent shall have and

. 143692. 2

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1 maintain a place of business accessible to the public,  
2 [~~wherein~~] where the licensee conducts transactions under the  
3 license. [~~The address of the place of business shall appear~~  
4 ~~upon the application for license when issued, and the licensee~~  
5 ~~shall promptly notify the superintendent in writing of any~~  
6 ~~change of address.~~] Nothing in this section shall prohibit  
7 maintenance of the place of business in the licensee's  
8 residence.

9 B. The licenses of the licensee and [~~those~~] of  
10 solicitors employed by [~~him~~] the licensee shall be  
11 conspicuously displayed in the place of business in a part  
12 customarily open to the public.

13 C. This section does not apply to life insurance,  
14 annuity contracts or health insurance. "

15 Section 4. Section 59A-12-26 NMSA 1978 (being Laws 1984,  
16 Chapter 127, Section 227, as amended by Laws 1999, Chapter 272,  
17 Section 16 and also by Laws 1999, Chapter 289, Section 17) is  
18 amended to read:

19 "59A-12-26. CONTINUED EDUCATION. --

20 A. For protection of the public and to preserve and  
21 improve competence of licensees, the superintendent may in his  
22 sole discretion require as a condition to continuation of  
23 license as agent, solicitor or broker under this article that  
24 during the twelve months next preceding expiration of the  
25 current license period the licensee has attended the minimum

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1 number of hours of formal class instruction, lectures or  
2 seminars required and approved by the superintendent covering  
3 the kinds of insurance for which licensed.

4 B. [~~Such~~] Instruction shall be designed to refresh  
5 the licensee's understanding of basic principles and coverages  
6 involved, recent and prospective changes [~~therein~~], applicable  
7 laws and rules [~~and regulations~~] of the superintendent, proper  
8 conduct of the licensee's business and duties and  
9 responsibilities of the licensee.

10 C. The superintendent may permit licensees who  
11 because of remoteness of residence or business cannot with  
12 reasonable convenience attend [~~such~~] formal instruction  
13 sessions [~~to take~~] and successfully complete an equivalent  
14 course of study and instruction by mail.

15 D. The superintendent shall promulgate rules [~~and~~  
16 ~~regulations~~] for [~~effectuation of~~] the purposes and  
17 requirements of this section and may impose a penalty not to  
18 exceed fifty dollars (\$50.00) for a licensee's failure to  
19 timely report continuing education credits.

20 E. For the purposes of this section, the  
21 superintendent shall charge, at the time of certifying each  
22 licensee's continuing education credits as a condition of  
23 continuation of license, a fee of [~~five dollars (\$5.00)~~] one  
24 dollar (\$1.00) per credit hour of continuing education;  
25 provided that the superintendent may contract with an

1 established and experienced independent agency to receive and  
2 review continuing education compliance reports and, in such a  
3 case, the fee shall be a reasonable amount fixed by the  
4 superintendent and payable to the contracting agency.

5 F. This section shall not apply to holders of  
6 limited license issued under Section 59A-12-18 NMSA 1978. "

7 Section 5. A new section of Chapter 59A, Article 12 NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] CHANGE OF ADDRESS--NOTICE REQUIRED--  
10 PENALTY.--The address of the licensee's place of business shall  
11 appear on the application for the license and on the license.  
12 The licensee shall promptly notify the superintendent in  
13 writing of a change of address. Failure to notify the  
14 superintendent of a change of address within twenty days shall  
15 subject the licensee to a penalty of fifty dollars (\$50.00). "

16 Section 6. 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 [~~any~~] a person:

21 (a) who or [~~which~~] that investigates,  
22 negotiates, settles or adjusts [~~losses or claims~~] a loss or  
23 claim arising under an insurance [~~contracts~~] contract on behalf  
24 of an insurer, insured or self-insurer, for a fee, commission  
25 or other compensation; however, an adjuster acting on behalf of

. 143692. 2

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1 an insured shall not investigate, negotiate, settle or adjust  
2 [~~any claims~~] a claim involving personal injury to the insured;  
3 and

4 (b) who [~~shall advise~~] advises the  
5 insured of his rights to settlement and his rights to settle,  
6 arbitrate and litigate the dispute;

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

11 (3) "independent adjuster" is [~~every~~] an  
12 adjuster who is not a staff adjuster and includes  
13 [~~representatives~~] a representative and [~~employees~~] an employee  
14 of [~~such~~] an independent adjuster.

15 B. Except as [~~provided hereafter~~] otherwise  
16 provided, "adjuster" does not include:

17 (1) an attorney-at-law who adjusts insurance  
18 losses or claims from time to time incidental to practice of  
19 law and who does not advertise or represent [~~himself to be~~] as  
20 an adjuster;

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

. 143692. 2

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

5 (4) a salaried or part-time claims ~~[agents]~~  
6 agent or ~~[investigators]~~ investigator employed by a self-  
7 insured ~~[persons subject to regulation pursuant to Section 7,~~  
8 ~~Article II of the constitution of New Mexico]~~ person. "

9 Section 7. Section 59A-13-9 NMSA 1978 (being Laws 1984,  
10 Chapter 127, Section 237) is amended to read:

11 "59A-13-9. PLACE OF BUSINESS. -- ~~[Every]~~ A licensed  
12 adjuster shall have ~~[in this state and while so licensed shall]~~  
13 and maintain a principal place of business in the state that is  
14 easily accessible to the public and ~~[from which]~~ is the place  
15 where the adjuster principally conducts transactions under the  
16 license. The address of the principal place of business shall  
17 appear on the application for license and on the license. The  
18 licensee shall promptly notify the superintendent of ~~[any]~~ a  
19 change of address of the principal place of business. Failure  
20 to notify the superintendent of a change of address within  
21 twenty days shall subject the licensee to a penalty in the  
22 amount of fifty dollars (\$50.00). "

23 Section 8. Laws 1996, Chapter 6, Section 3 is amended to  
24 read:

25 "NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--

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1        APPROPRIATION. --

2                A.    The New Mexico finance authority may issue and  
3        sell revenue bonds in compliance with the New Mexico Finance  
4        Authority Act in installments or at one time in an amount not  
5        exceeding one million dollars (\$1,000,000) for the purpose of  
6        financing information and communication equipment, including  
7        computer hardware and software, for the [~~department of~~]  
8        insurance division of the public regulation commission.

9                B.    The New Mexico finance authority may issue and  
10       sell revenue bonds authorized by this section when the  
11       superintendent of insurance certifies the need [~~for issuance~~  
12       ~~of~~] to issue the bonds.    The net proceeds from the sale of the  
13       bonds are appropriated to the [~~department of~~] insurance  
14       division for the purposes described in Subsection A of this  
15       section.

16               C.    The proceeds from the surcharge imposed pursuant  
17       to Section 59A-6-1.1 NMSA 1978 shall be distributed monthly to  
18       the New Mexico finance authority [~~pursuant to Section 59A-6-1.1~~  
19       ~~NMSA 1978~~] to be pledged irrevocably for the payment of the  
20       principal, interest and any other expenses or obligations  
21       related to the bonds.

22               D.    The surcharge proceeds distributed to the New  
23       Mexico finance authority shall be deposited in a separate fund  
24       or account of the authority.    At the end of each fiscal year,  
25       any money remaining in the separate fund or account from

. 143692. 2

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1 distributions made to the authority during that fiscal year,  
2 after all principal, interest and any other expenses or  
3 obligations related to the bonds in that fiscal year are fully  
4 paid, may be appropriated by the legislature to the [~~department~~  
5 ~~of~~] insurance division for acquisition, maintenance and  
6 operation of information and communication equipment, including  
7 computer hardware, [~~and~~] software, systems planning, deployment  
8 and training. Upon payment of all principal, interest and any  
9 other expenses or obligations related to the bonds, the  
10 authority shall certify to the [~~department of~~] insurance  
11 division that all obligations for the bonds issued pursuant to  
12 this section have been fully discharged and direct the  
13 [~~department~~] division to cease distributing money pursuant to  
14 Section 59A-6-1.1 NMSA 1978 to the authority.

15 E. Any law authorizing the imposition or  
16 distribution of the surcharge or that affects the surcharge  
17 shall not be amended, repealed or otherwise directly or  
18 indirectly modified [~~so as~~] to impair any outstanding revenue  
19 bonds that may be secured by a pledge of the surcharge  
20 collections, unless the revenue bonds have been discharged in  
21 full or provisions have been made for a full discharge."