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SENATE BILL 114

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; REQUIRING INSURERS TO SUBMIT RATE AND  
POLICY FORM FILINGS ELECTRONICALLY.

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

Section 1. Section 59A-17-9 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 305, as amended) is amended to read:

"59A-17-9. FILING OF RATES.--

A. In regard to filings in competitive markets:

(1) for purposes of this section, reverse  
competitive markets and residual markets are not competitive  
markets;

(2) for filings by insurers:

(a) an insurer shall file with the  
superintendent rates and supplementary rate information prior  
to their use in New Mexico;

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1 (b) rates to be used in a competitive  
2 market for commercial insurance other than workers'  
3 compensation and medical professional liability need not be  
4 filed; and

5 (c) insurers that wish to use workers'  
6 compensation subclassifications, rating plans, loss costs or  
7 other supplementary rate information that differs from items  
8 filed by the advisory organization designated by the  
9 superintendent shall file with the superintendent relevant  
10 subclassifications, rating plans, rates, loss costs, other  
11 supplementary rate information and supporting information in  
12 accordance with the requirements and provisions of Subsection B  
13 of this section; and

14 (3) for filings by advisory organizations:

15 (a) with the exception of workers'  
16 compensation filings, an advisory organization shall file with  
17 the superintendent rates, supplementary rate information and  
18 supporting information prior to their use in New Mexico; and

19 (b) regarding workers' compensation  
20 filings, the advisory organization designated by the  
21 superintendent shall file with the superintendent rates,  
22 supplementary rate information and supporting information in  
23 accordance with the requirements and provisions of Subsection B  
24 of this section.

25 B. In regard to filings in noncompetitive, reverse

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1 competitive and residual markets:

2 (1) an insurer or advisory organization shall  
3 file with the superintendent rates, supplementary rate  
4 information and supporting information for noncompetitive,  
5 reverse competitive and residual markets at least thirty days  
6 before the proposed effective date;

7 (2) the superintendent may give written or  
8 electronic notice, within thirty days of receipt of the filing,  
9 that the superintendent needs additional time, not to exceed  
10 thirty days from the date of such notice, to consider the  
11 filing;

12 (3) upon written or electronic application of  
13 the insurer or advisory organization, the superintendent may  
14 authorize rates to be effective before the expiration of the  
15 waiting period or an extension of the waiting period;

16 (4) a filing shall be deemed to meet the  
17 requirements of this section and to become effective unless  
18 disapproved pursuant to Section 59A-17-13 NMSA 1978 by the  
19 superintendent before the expiration of the waiting period or  
20 an extension of the waiting period;

21 (5) the operation of the deemer provision  
22 shall be suspended during a period of not more than sixty days  
23 upon written or electronic notice to the insurer or advisory  
24 organization that made the filing that additional information  
25 is needed to complete the review of the filing. The suspension

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1 of the deemer provision may occur only once for a filing.  
2 Failure of the insurer or advisory organization to provide the  
3 requested information within sixty days shall be deemed a  
4 request to withdraw the filing from further consideration. The  
5 superintendent shall either approve or disapprove the filing  
6 within thirty days of receipt of the requested additional  
7 information. Failure of the superintendent to act within the  
8 thirty-day period shall result in the filing being deemed to  
9 meet the requirements of the Insurance Rate Regulation Law.  
10 Neither the insurer nor the superintendent may waive the  
11 timeliness requirements of the deemer provisions of this  
12 section; and

13 (6) residual market mechanisms or advisory  
14 organizations may file residual market rates.

15 C. In regard to reference filings, an insurer may  
16 file its rates either by filing its final rates or by filing a  
17 multiplier and, if applicable, an expense constant adjustment  
18 to be applied to prospective loss costs that have been filed by  
19 an advisory organization on behalf of the insurer as permitted  
20 by Section 59A-17-17 NMSA 1978. Such reference filings shall  
21 be made prior to their use or by other methods the  
22 superintendent may allow by rule. An insurer that chooses to  
23 adopt the prospective loss costs or rates that have been filed  
24 by an advisory organization on its behalf for a competitive  
25 commercial line other than workers' compensation or medical

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1 professional liability need not file.

2 D. All filings submitted pursuant to this section  
3 shall be filed electronically. The superintendent may  
4 designate an entity to receive the electronic filings submitted  
5 pursuant to this section."

6 Section 2. Section 59A-18-12 NMSA 1978 (being Laws 1984,  
7 Chapter 127, Section 342, as amended) is amended to read:

8 "59A-18-12. FILING OF FORMS AND CLASSIFICATIONS--REVIEW  
9 OF EFFECT UPON INSURED.--

10 A. An insurance policy or annuity contract shall  
11 not be delivered or issued for delivery in this state, nor  
12 shall an assumption certificate, endorsement, rider or  
13 application that becomes a part of a policy be used, until a  
14 copy of the form and the classification of risks pertaining to  
15 the policy have been filed with the superintendent. A filing  
16 shall be made at least sixty days before its proposed effective  
17 date. A filing made pursuant to this section shall not become  
18 effective nor shall it be used until approved by the  
19 superintendent pursuant to Section 59A-18-14 NMSA 1978, at  
20 which time it may be used. A filing for any kind of insurance  
21 other than life insurance or health insurance, as defined in  
22 the Insurance Rate Regulation Law, shall be deemed to meet the  
23 requirements of Chapter 59A, Article 18 NMSA 1978 to become  
24 effective unless disapproved pursuant to Section 59A-18-14 NMSA  
25 1978 by the superintendent before the expiration of the waiting

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1 period or an extension of the waiting period. Provided, that:

2 (1) this subsection shall not apply as to  
3 policies, contracts, endorsements or riders of unique and  
4 special character not for general use or offering but designed  
5 and used solely as to a particular insured or risk;

6 (2) if the superintendent has exempted a  
7 person or a class of persons or a market segment from a part or  
8 all of the provisions of the Insurance Rate Regulation Law  
9 pursuant to Subsection C of Section 59A-17-2 NMSA 1978, the  
10 superintendent also may exempt by rule that person, class of  
11 persons or market segment from a part or all of the provisions  
12 of this subsection;

13 (3) an insurer subject to the Insurance Rate  
14 Regulation Law may authorize an advisory organization to file  
15 policy forms, endorsements and other contract language and  
16 related attachment rules on its behalf. Reference filings  
17 shall be made prior to their use or by other methods the  
18 superintendent may allow by rule; and

19 (4) the superintendent may, by rule, exempt  
20 various lines and kinds of commercial insurance, as defined in  
21 the Insurance Rate Regulation Law, from some or all of the  
22 requirements of this subsection.

23 B. A workers' compensation insurance policy  
24 covering a risk arising from the employment of a worker  
25 performing work for an employer in New Mexico when that

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1 employer is not domiciled in New Mexico shall not be issued or  
2 become effective, nor shall any endorsement or rider covering  
3 such a risk be issued or become effective, until a copy of the  
4 form and the classification of risks pertaining thereto have  
5 been filed with the superintendent.

6 C. An insured may in writing request the insurer to  
7 review the manner in which its filing has been applied as to  
8 insurance afforded the insured. If the insurer fails to make a  
9 review and grant appropriate relief within thirty days after  
10 the request is received, the insured may file a written  
11 complaint and request for a hearing with the superintendent,  
12 stating grounds relied upon. If the complaint charges a  
13 violation of the Insurance Code and the superintendent finds  
14 that the complaint was made in good faith and that the insured  
15 would be aggrieved if the violation is proved, the  
16 superintendent shall hold a hearing, with notice to the insured  
17 and insurer stating the grounds of complaint. If upon the  
18 hearing the superintendent finds the complaint justified, the  
19 superintendent shall order the insurer to correct the matter  
20 complained of within a reasonable time specified but not less  
21 than twenty days after a copy of the order was mailed to or  
22 served upon the insurer.

23 D. All filings submitted pursuant to this section  
24 shall be filed electronically. The superintendent may  
25 designate an entity to receive the electronic filings submitted

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1 pursuant to this section."

2 Section 3. Section 59A-18-13 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 343, as amended) is amended to read:

4 "59A-18-13. APPROVAL OR DISAPPROVAL OF HEALTH INSURANCE  
5 FORMS.--

6 A. With policy, endorsement, rider and application  
7 forms and classification of risks filed by the insurer with the  
8 superintendent under Section 59A-18-12 NMSA 1978 as to health  
9 insurance, the insurer shall also file with the superintendent  
10 its premium rates applicable to such health insurance forms.

11 An insurer shall not use any such form or premium that has not  
12 been approved by the superintendent or that is not in effect in  
13 accordance with Section 59A-18-14 NMSA 1978.

14 B. An increase in a health insurance premium shall  
15 not be effective without sixty days' written notice to the  
16 policyholder.

17 C. All filings submitted pursuant to this section  
18 shall be filed electronically. The superintendent may  
19 designate an entity to receive the electronic filings submitted  
20 pursuant to this section."