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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;

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

(c) insurers that wish to use workers'  
compensation subclassifications, rating plans, loss costs or  
other supplementary rate information that differs from items  
filed by the advisory organization designated by the  
superintendent shall file with the superintendent relevant

1 subclassifications, rating plans, rates, loss costs, other  
2 supplementary rate information and supporting information in  
3 accordance with the requirements and provisions of Subsection  
4 B of this section; and

5 (3) for filings by advisory organizations:

6 (a) with the exception of workers'  
7 compensation filings, an advisory organization shall file  
8 with the superintendent rates, supplementary rate information  
9 and supporting information prior to their use in New Mexico;  
10 and

11 (b) regarding workers' compensation  
12 filings, the advisory organization designated by the  
13 superintendent shall file with the superintendent rates,  
14 supplementary rate information and supporting information in  
15 accordance with the requirements and provisions of Subsection  
16 B of this section.

17 B. In regard to filings in noncompetitive, reverse  
18 competitive and residual markets:

19 (1) an insurer or advisory organization  
20 shall file with the superintendent rates, supplementary rate  
21 information and supporting information for noncompetitive,  
22 reverse competitive and residual markets at least thirty days  
23 before the proposed effective date;

24 (2) the superintendent may give written or  
25 electronic notice, within thirty days of receipt of the

1 filing, that the superintendent needs additional time, not to  
2 exceed thirty days from the date of such notice, to consider  
3 the filing;

4 (3) upon written or electronic application  
5 of the insurer or advisory organization, the superintendent  
6 may authorize rates to be effective before the expiration of  
7 the waiting period or an extension of the waiting period;

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

13 (5) the operation of the deemer provision  
14 shall be suspended during a period of not more than sixty  
15 days upon written or electronic notice to the insurer or  
16 advisory organization that made the filing that additional  
17 information is needed to complete the review of the filing.  
18 The suspension of the deemer provision may occur only once  
19 for a filing. Failure of the insurer or advisory organization  
20 to provide the requested information within sixty days shall  
21 be deemed a request to withdraw the filing from further  
22 consideration. The superintendent shall either approve or  
23 disapprove the filing within thirty days of receipt of the  
24 requested additional information. Failure of the  
25 superintendent to act within the thirty-day period shall

1 result in the filing being deemed to meet the requirements of  
2 the Insurance Rate Regulation Law. Neither the insurer nor  
3 the superintendent may waive the timeliness requirements of  
4 the deemer provisions of this section; and

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

7 C. In regard to reference filings, an insurer may  
8 file its rates either by filing its final rates or by filing  
9 a multiplier and, if applicable, an expense constant  
10 adjustment to be applied to prospective loss costs that have  
11 been filed by an advisory organization on behalf of the  
12 insurer as permitted by Section 59A-17-17 NMSA 1978. Such  
13 reference filings shall be made prior to their use or by  
14 other methods the superintendent may allow by rule. An  
15 insurer that chooses to adopt the prospective loss costs or  
16 rates that have been filed by an advisory organization on its  
17 behalf for a competitive commercial line other than workers'  
18 compensation or medical professional liability need not file.

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

23 Section 2. Section 59A-18-12 NMSA 1978 (being Laws  
24 1984, Chapter 127, Section 342, as amended) is amended to  
25 read:

1 "59A-18-12. FILING OF FORMS AND CLASSIFICATIONS--REVIEW  
2 OF EFFECT UPON INSURED.--

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

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

25 (2) if the superintendent has exempted a

1 person or a class of persons or a market segment from a part  
2 or all of the provisions of the Insurance Rate Regulation Law  
3 pursuant to Subsection C of Section 59A-17-2 NMSA 1978, the  
4 superintendent also may exempt by rule that person, class of  
5 persons or market segment from a part or all of the  
6 provisions of this subsection;

7 (3) an insurer subject to the Insurance Rate  
8 Regulation Law may authorize an advisory organization to file  
9 policy forms, endorsements and other contract language and  
10 related attachment rules on its behalf. Reference filings  
11 shall be made prior to their use or by other methods the  
12 superintendent may allow by rule; and

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

17 B. A workers' compensation insurance policy  
18 covering a risk arising from the employment of a worker  
19 performing work for an employer in New Mexico when that  
20 employer is not domiciled in New Mexico shall not be issued  
21 or become effective, nor shall any endorsement or rider  
22 covering such a risk be issued or become effective, until a  
23 copy of the form and the classification of risks pertaining  
24 thereto have been filed with the superintendent.

25 C. An insured may in writing request the insurer

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

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

21 Section 3. Section 59A-18-13 NMSA 1978 (being Laws  
22 1984, Chapter 127, Section 343, as amended) is amended to  
23 read:

24 "59A-18-13. APPROVAL OR DISAPPROVAL OF HEALTH INSURANCE  
25 FORMS.--

1           A. With policy, endorsement, rider and application  
2 forms and classification of risks filed by the insurer with  
3 the superintendent under Section 59A-18-12 NMSA 1978 as to  
4 health insurance, the insurer shall also file with the  
5 superintendent its premium rates applicable to such health  
6 insurance forms. An insurer shall not use any such form or  
7 premium that has not been approved by the superintendent or  
8 that is not in effect in accordance with Section 59A-18-14  
9 NMSA 1978.

10           B. An increase in a health insurance premium shall  
11 not be effective without sixty days' written notice to the  
12 policyholder.

13           C. All filings submitted pursuant to this section  
14 shall be filed electronically. The superintendent may  
15 designate an entity to receive the electronic filings  
16 submitted pursuant to this section."

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