

1 HOUSE BILL 127

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Nate Gentry

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10 AN ACT

11 RELATING TO INSURANCE; AMENDING A SECTION OF THE NEW MEXICO
12 INSURANCE CODE TO PROVIDE FOR ELECTRONIC CLAIMS PAYMENT.

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

15 SECTION 1. Section 59A-16-21 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 287, as amended) is amended to read:

17 "59A-16-21. PAYMENT OF CLAIM BY CHECK, [~~OR~~] DRAFT OR
18 ELECTRONIC TRANSFER--FAILURE TO PAY--INTEREST.--

19 A. An insurer shall pay claims arising under its
20 policies with checks or drafts [~~which~~] or, if a claimant
21 requests, by electronic transfers that are promptly paid.

22 Without amending other statutes dealing with checks, [~~and~~]
23 drafts and electronic transfers of funds, a resident of New
24 Mexico is granted a cause of action for ten percent of the
25 amount of any check, [~~or~~] draft or electronic transfer of funds

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1 that is not paid or lawfully rejected within ten days of
2 forwarding by a New Mexico financial institution, but in no
3 case to be less than five hundred dollars (\$500) plus costs of
4 suit and [~~attorneys~~] attorney fees. The insurer shall not be
5 required to pay such civil damages for delay if it proves that
6 the delay in processing and payment was caused by a financial
7 institution or postal or delivery service and the check, [~~or~~]
8 draft or electronic transfer of funds was paid or lawfully
9 rejected within forty-eight hours of actual receipt of the
10 draft, [~~or~~] check or electronic transfer of funds by the person
11 on whom drawn.

12 B. Notwithstanding any provision of the Insurance
13 Code, any insurer issuing any policy, certificate or contract
14 of insurance, surety, guaranty or indemnity of any kind or
15 nature [~~which~~] that fails for a period of forty-five days,
16 after required proof of loss has been furnished, to pay to the
17 person entitled the amount justly due shall be liable for the
18 amount due and unpaid with interest on that amount at the rate
19 of one and one-half times the prime lending rate, as determined
20 by the superintendent, for New Mexico banks per year during the
21 period the claim is unpaid.

22 C. Subsection B of this section shall not apply to
23 any claims in arbitration or litigation."