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AN ACT

RELATING TO INSURANCE; ENACTING THE SELF-SERVICE STORAGE
INSURANCE LICENSE ACT; PROVIDING EXEMPTIONS FOR SELF-SERVICE
STORAGE INSURANCE PRODUCER LICENSEES; PROVIDING PENALTIES.

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

SECTION 1. A new section of the New Mexico Insurance
Code is enacted to read:

"SHORT TITLE.--Sections 1 through 11 of this act may be
cited as the "Self-Service Storage Insurance License Act"."

SECTION 2. A new section of the New Mexico Insurance
Code is enacted to read:

"DEFINITIONS.--As used in the Self-Service Storage
Insurance License Act:

A. "occupant" means a person who is entitled to
the use of storage space at a self-service storage facility,
to the exclusion of others, under terms of a rental
agreement, including a sublessee, successor or assignee;

B. "owner" means the owner, operator, franchisee,
lessor or sublessor of a self-service storage facility, agent
or any person authorized to manage the facility or to receive
rent from an occupant under a rental agreement;

C. "personal property" means movable property not
affixed to land, and includes goods, merchandise and
household items;

1 D. "rental agreement" means any written agreement
2 or lease between the owner and the occupant that establishes
3 or modifies the terms, conditions or rules or any other
4 provisions concerning the use and occupancy of storage space
5 at a self-service storage facility;

6 E. "self-service storage facility" means any real
7 property designed and used in the business of providing
8 leased or rented storage space to occupants who have access
9 to such facility for the purpose of storing and removing
10 personal property;

11 F. "self-service storage insurance" means personal
12 or commercial property insurance offered to an occupant in
13 connection with and incidental to the rental of storage space
14 at a self-service storage facility and that provides coverage
15 for the loss of or damage to the occupant's personal property
16 that occurs at the self-service storage facility or when such
17 property is in transit to or from the facility during the
18 period of the rental agreement;

19 G. "self-service storage insurance producer" means
20 a business entity licensed only to offer insurance in
21 connection with, and incidental to, rental agreements on
22 behalf of an insurer authorized to write self-service storage
23 insurance; and

24 H. "supervising entity" means an insurer issuing
25 self-service storage insurance or a licensed insurance

1 producer licensed pursuant to Article 11 of the Insurance
2 Code that is authorized by an insurer to supervise the
3 administration of a self-service storage insurance program."

4 SECTION 3. A new section of the New Mexico Insurance
5 Code is enacted to read:

6 "SELF-SERVICE STORAGE INSURANCE PRODUCER LICENSE.--

7 A. The superintendent may issue a self-service
8 storage insurance producer license to an applicant who is
9 qualified to solicit or sell self-service storage insurance.

10 B. An owner shall not sell, solicit or offer
11 self-service storage insurance unless the owner has complied
12 with the requirements of the Self-Service Storage Insurance
13 License Act and has been issued a self-service storage
14 insurance producer license by the superintendent.

15 C. A self-service storage insurance producer
16 license authorizes the licensee and its employees and
17 authorized representatives to sell, solicit and offer
18 self-service storage insurance to occupants at any
19 self-service storage facility at which the owner conducts
20 business.

21 D. Self-service storage insurance producers shall
22 be licensed pursuant to Article 11 of the Insurance Code.

23 E. An owner is not required to be licensed as a
24 self-service storage insurance producer solely to display and
25 make available to occupants and prospective occupants

1 brochures and other promotional materials created by or on
2 behalf of an insurer, if the owner and its unlicensed
3 employees and authorized representatives do not sell, solicit
4 or offer self-service storage insurance.

5 F. A licensee pursuant to this section may provide
6 self-service storage insurance under an individual policy or
7 under a commercial, corporate, group or master policy.

8 G. An owner shall not:

9 (1) require an occupant to purchase
10 insurance offered by the owner as a requirement to lease
11 storage space at a self-service storage facility; or

12 (2) advertise, represent or otherwise hold
13 the owner's self out as a self-service storage insurance
14 producer unless licensed pursuant to the Self-Service Storage
15 Insurance License Act."

16 SECTION 4. A new section of the New Mexico Insurance
17 Code is enacted to read:

18 "REGISTRY OF AUTHORIZED LOCATIONS.--

19 A. Before offering self-service storage insurance
20 at a location, a self-service storage insurance producer
21 shall provide the superintendent with a complete list of each
22 location where the self-service storage insurance producer
23 will offer self-service storage insurance. The supervising
24 entity shall maintain a registry of each location at which a
25 self-service storage insurance producer is authorized to

1 sell, solicit or offer self-service storage insurance in this
2 state.

3 B. The registry shall be made available for
4 inspection by the superintendent upon reasonable request.

5 C. A self-service storage insurance producer shall
6 notify the superintendent within thirty days after:

7 (1) engaging in the sale or solicitation of
8 self-service storage insurance at any additional location in
9 the state; or

10 (2) ceasing to sell, solicit or offer
11 self-service storage insurance."

12 SECTION 5. A new section of the New Mexico Insurance
13 Code is enacted to read:

14 "DISCLOSURE OF TERMS.--

15 A. A self-service storage insurance producer shall
16 not sell, solicit or offer self-service storage insurance to
17 occupants at any location unless the licensee makes available
18 a brochure or other written or electronic material that:

19 (1) discloses that self-service storage
20 insurance may provide a duplication of coverage already
21 provided by an occupant's homeowner's insurance policy,
22 renter's insurance policy, vehicle insurance policy,
23 watercraft insurance policy or other property insurance
24 coverage;

25 (2) states that the purchase by the occupant

1 of the self-service storage insurance offered by the owner is
2 not required in order to lease storage space at the
3 self-service storage facility;

4 (3) provides the actual terms of the
5 self-service storage insurance coverage or summarizes the
6 material terms of the self-service storage insurance
7 coverage, including:

8 (a) the identity of the insurer;

9 (b) the price of coverage and how
10 payment shall be made;

11 (c) the identity of the supervising
12 entity;

13 (d) deductibles, exclusions and
14 conditions;

15 (e) benefits of the coverage; and

16 (f) key terms and conditions of
17 coverage;

18 (4) summarizes the process for filing a
19 claim; and

20 (5) states that an occupant that purchases
21 self-service storage insurance may cancel the insurance at
22 any time by notifying the insurer or the supervising entity
23 in writing and shall receive a refund of any unearned premium
24 within twenty days of cancellation.

25 B. The written or electronic material required

1 pursuant to this section shall be submitted to the
2 superintendent for approval upon request."

3 SECTION 6. A new section of the New Mexico Insurance
4 Code is enacted to read:

5 "AUTHORIZED EMPLOYEES AND REPRESENTATIVES.--

6 A. At the time of filing a self-service storage
7 insurance producer license application, the applicant shall
8 establish a list of the names of all employees and authorized
9 representatives whose duties may include offering and selling
10 self-service storage insurance. The list shall be:

11 (1) maintained by the licensee in a form
12 prescribed by the superintendent;

13 (2) updated annually; and

14 (3) retained by the self-service storage
15 facility for three years and made available to the
16 superintendent for review and inspection upon request.

17 B. An employee or authorized representative of a
18 self-service storage insurance producer who is at least
19 eighteen years of age and has been trained pursuant to
20 Section 8 of the Self-Service Storage Insurance Act may act
21 on behalf and under the supervision of the self-service
22 storage insurance producer in matters relating to the conduct
23 of business under that producer's license.

24 C. An employee or authorized representative of a
25 self-service storage insurance producer may sell, solicit and

1 offer self-service storage insurance to occupants and shall
2 not be subject to licensure as an insurance producer."

3 SECTION 7. A new section of the New Mexico Insurance
4 Code is enacted to read:

5 "COMMISSIONS.--A self-service storage insurance producer
6 shall not compensate an employee or authorized representative
7 based primarily on the number of occupants that purchase
8 self-service storage insurance from the self-service storage
9 insurance producer unless that compensation is incidental to
10 the employee's or authorized representative's overall
11 compensation."

12 SECTION 8. A new section of the New Mexico Insurance
13 Code is enacted to read:

14 "REQUIRED TRAINING PROGRAMS.--

15 A. The supervising entity shall supervise the
16 administration of the self-service storage insurance program,
17 including development of a training program approved by the
18 superintendent for employees and authorized representatives
19 of the self-service storage insurance producer.

20 B. The training program shall be provided to an
21 employee or authorized representative of a self-service
22 storage insurance producer prior to that person engaging in
23 the activity of selling, soliciting or offering self-service
24 storage insurance.

25 C. The training shall inform employees and

1 authorized representatives:

2 (1) that employees and authorized
3 representatives of an owner are prohibited from advertising,
4 representing or otherwise holding themselves out as insurance
5 producers;

6 (2) about ethical sales practices; and

7 (3) about the self-service storage insurance
8 offered to occupants and regarding the disclosures required
9 pursuant to the Self-Service Storage Insurance License Act.

10 D. The training materials used by or on behalf of
11 the self-service storage facility to train employees and
12 authorized representatives shall be submitted to the
13 superintendent at the time the owner applies for a
14 self-service storage insurance producer license and whenever
15 modified. Any changes to those training materials shall be
16 submitted to the superintendent prior to their use by the
17 licensee and in a form prescribed by the superintendent.

18 E. Training materials and changes to those
19 materials that are submitted to the superintendent in
20 accordance with this section shall be deemed approved for use
21 by the supervising entity unless the superintendent notifies
22 the supervising entity otherwise.

23 F. Failure by a self-service storage facility to
24 submit training materials or changes for the superintendent's
25 review, or use of disapproved training materials, shall

1 constitute grounds for the denial of an application for
2 license, nonrenewal of a license or a suspension of a
3 license."

4 SECTION 9. A new section of the New Mexico Insurance
5 Code is enacted to read:

6 "COLLECTION OF FEES.--

7 A. Charges for self-service storage insurance
8 coverage may be billed and collected by a self-service
9 storage insurance producer.

10 B. A charge to an occupant for coverage that is
11 not included in the cost associated with the rental of
12 storage space shall be separately itemized on the occupant's
13 bill.

14 C. If self-service storage insurance coverage is
15 included with the rental of storage space, the self-service
16 storage insurance producer shall clearly and conspicuously
17 disclose to the occupant in the rental invoice or otherwise
18 that the self-service storage insurance coverage is included
19 with charges for the rental of storage space.

20 D. An occupant that purchases self-service storage
21 insurance may cancel the insurance at any time by notifying
22 the insurer or the supervising entity in writing and shall
23 receive a refund of any unearned premium within twenty days
24 of cancellation."

25 SECTION 10. A new section of the New Mexico Insurance

1 Code is enacted to read:

2 "FIDUCIARY FUNDS.--

3 A. Self-service storage insurance producers
4 billing and collecting charges shall comply with the
5 fiduciary requirements set forth in Section 59A-12-22
6 NMSA 1978, except that, pursuant to Paragraph (1) of
7 Subsection B of Section 59A-12-22 NMSA 1978, the self-service
8 storage insurance producer may remit received premiums, less
9 applicable commissions, if any, and return premiums to the
10 insurer or supervising entity within a time established by
11 contract with the insurer or supervising entity, not to
12 exceed sixty days after such receipt.

13 B. All money received by a self-service storage
14 insurance producer or its employees or authorized
15 representatives from an occupant for the sale of self-service
16 storage insurance shall be held by the self-service storage
17 insurance producer in a fiduciary capacity for the benefit of
18 the insurer. A self-service storage insurance producer may
19 receive compensation for billing and collection services, as
20 established by contract with the insurer or supervising
21 entity."

22 SECTION 11. A new section of the New Mexico Insurance
23 Code is enacted to read:

24 "PENALTIES.--After notice and hearing by the
25 superintendent, the superintendent may impose by

1 administrative penalty upon a person who violates a provision
2 of the Self-Service Storage Insurance License Act the
3 following:

4 A. a fine not to exceed one thousand dollars
5 (\$1,000) per violation and not to exceed a total of ten
6 thousand dollars (\$10,000);

7 B. suspension of transacting self-service storage
8 insurance at specific locations where violations have
9 occurred;

10 C. suspension or revocation of the rights of
11 individual employees or authorized representatives of a
12 self-service storage insurance producer to act under the
13 license; or

14 D. suspension or revocation of the self-service
15 storage insurance producer's or supervising entity's license
16 to transact insurance in this state."

17 SECTION 12. Section 59A-12-16 NMSA 1978 (being
18 Laws 1984, Chapter 127, Section 217, as amended) is amended
19 to read:

20 "59A-12-16. EXAMINATION FOR LICENSE.--

21 A. A resident individual applying for an insurance
22 producer license shall, prior to issuance of license,
23 personally take and pass a written examination. The
24 examination shall test the knowledge of the individual
25 concerning the lines of authority for which application is

1 made, the duties and responsibilities of an insurance
2 producer and the insurance laws and rules of this state.
3 Examinations required by this section shall be developed and
4 conducted under rules prescribed by the superintendent.

5 B. The superintendent may contract with an outside
6 testing service for administering examinations and collecting
7 the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

8 C. Each individual applying for an examination
9 shall remit a nonrefundable fee as prescribed by the
10 superintendent as set forth in Section 59A-6-1 NMSA 1978.

11 D. An individual who fails to appear for the
12 examination as scheduled or fails to pass the examination
13 shall reapply for an examination and remit all required fees
14 and forms before being rescheduled for another examination.

15 E. No examination shall be required:

16 (1) for renewal or continuance of an
17 existing license, except as provided in Subsection D of
18 Section 59A-11-10 NMSA 1978;

19 (2) of an applicant for limited license as
20 provided in Section 59A-12-18 NMSA 1978;

21 (3) of applicants with respect to life and
22 annuities or accident and health insurances who hold the
23 chartered life underwriter designation by the American
24 college of financial services;

25 (4) of applicants with respect to property

1 and casualty insurance who hold the designation of chartered
2 property and casualty underwriter designation by the American
3 institute for chartered property casualty underwriters;

4 (5) of applicants for temporary license as
5 provided for in Section 59A-12-19 NMSA 1978;

6 (6) of an applicant for a license covering
7 the same kind or kinds of insurance as to which licensed in
8 this state under a similar license within five years
9 preceding date of application for the new license, unless the
10 previous license was suspended, revoked or continuation
11 thereof refused by the superintendent;

12 (7) of an applicant for insurance producer
13 license, if the applicant took and passed a similar
14 examination in a state in which already licensed, subject to
15 Section 59A-5-33 NMSA 1978; or

16 (8) of an applicant for self-service storage
17 insurance producer license.

18 F. An individual who applies for an insurance
19 producer license in this state who was previously licensed
20 for the same lines of authority in another state shall not be
21 required to take an examination. This exemption is only
22 available if the person is currently licensed in that state
23 or if the application is received within ninety days of the
24 cancellation of the applicant's previous license and if the
25 prior state issues a certification that, at the time of

1 cancellation, the applicant was in good standing in that
2 state or the state's insurance producer database records,
3 maintained by the national association of insurance
4 commissioners, its affiliates or subsidiaries, indicate that
5 the insurance producer is or was licensed in good standing
6 for the line of authority requested.

7 G. A person licensed as an insurance producer in
8 another state who moves to this state shall apply within
9 ninety days of establishing legal residence to become a
10 resident insurance producer. No examination shall be
11 required of that person to obtain any line of authority
12 previously held in the prior state except where the
13 superintendent determines otherwise by rule."

14 SECTION 13. Section 59A-12-26 NMSA 1978 (being
15 Laws 1984, Chapter 127, Section 227, as amended) is amended
16 to read:

17 "59A-12-26. CONTINUING EDUCATION.--

18 A. The superintendent shall require as a condition
19 to continuation of an insurance producer license that during
20 the twenty-four months next preceding expiration of the
21 current license period the licensee has attended the minimum
22 number of hours of formal class instruction, lectures or
23 seminars required and approved by the superintendent covering
24 the kinds of insurance for which licensed.

25 B. Instruction shall be designed to refresh the

1 licensee's understanding of basic principles and coverages
2 involved, recent and prospective changes, applicable laws and
3 rules of the superintendent, proper conduct of the licensee's
4 business and duties and responsibilities of the licensee.

5 C. The superintendent may permit licensees who
6 because of remoteness of residence or business cannot with
7 reasonable convenience attend formal instruction sessions to
8 successfully complete an equivalent course of study and
9 instruction online or by mail.

10 D. The superintendent may impose a penalty not to
11 exceed fifty dollars (\$50.00) for a licensee's failure to
12 timely report continuing education credits.

13 E. The superintendent shall charge, at the time of
14 certifying each licensee's continuing education credits as a
15 condition of continuation of license, a fee of one dollar
16 (\$1.00) per credit hour of continuing education; provided
17 that the superintendent may contract with an independent
18 agency to receive and review continuing education compliance
19 reports and, in such a case, the fee shall be a reasonable
20 amount fixed by the superintendent and payable to the
21 contracting agency.

22 F. This section shall not apply to holders of:

23 (1) limited license issued under
24 Section 59A-12-18 NMSA 1978; and

25 (2) self-service storage insurance producer

