

1 SENATE BILL 663

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Carroll H. Leavell

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9
10 AN ACT

11 RELATING TO INSURANCE; INCREASING CAPITAL, SURPLUS AND DEPOSIT
12 REQUIREMENTS; CHANGING DEFINITIONS AND CLASSIFICATIONS OF
13 INSURANCE; CHANGING INSURANCE LICENSING PROVISIONS; AMENDING,
14 REPEALING AND ENACTING CERTAIN SECTIONS OF THE NEW MEXICO
15 INSURANCE CODE.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 59A-5-16 NMSA 1978 (being Laws 2007,
19 Chapter 282, Section 1) is amended to read:

20 "59A-5-16. CAPITAL FUNDS, DEPOSITS, REQUIRED FOR
21 CERTIFICATE OF AUTHORITY.--

22 A. To qualify for certificate of authority to
23 transact any one kind or combination of kinds of insurance in
24 this state, an insurer shall possess:

25 (1) if a stock insurer, paid-in capital stock

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1 and, when first so authorized, surplus all as shown in Schedule
2 I of this section; or

3 (2) if a mutual, reciprocal or Lloyds insurer,
4 basic capital surplus, including guaranty funds, if any, and
5 additional unassigned surplus when first so authorized, as
6 required under Schedule I of this section.

7 B. Except that an insurer that on January 1, 1985,
8 having applied for a certificate on or before February 15,
9 1984, held a valid and subsisting certificate of authority to
10 transact insurance in this state may, if a domestic insurer,
11 continue to be so authorized until December 31, 1995, so long
12 as otherwise qualified therefor and possessing paid-in capital
13 stock, if a stock insurer, or basic capital surplus, if a
14 mutual, reciprocal or Lloyds insurer, not less than that
15 required of the insurer by the laws of this state in force on
16 January 1, 1986; and if a foreign insurer, may so continue to
17 be so authorized, if otherwise qualified therefor, while
18 possessing such capital funds (paid-in capital stock and
19 surplus if a stock insurer, and surplus if a mutual or
20 reciprocal insurer) until December 31, 1990. At the expiration
21 of such period, as applicable, the insurer shall meet the basic
22 capital requirements of this section as set forth in Schedule I
23 of this section in order to maintain its certificate of
24 authority. Upon a change in the control of either a domestic
25 insurer or foreign insurer, the insurer shall, within one year

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1 from effective date of such change of control, meet the capital
2 funds requirements of Schedule I of this section as though a
3 newly authorized insurer, but this sentence shall not act to
4 extend the otherwise applicable time period. For the purposes
5 of this subsection, "control" shall have the meaning ascribed
6 in Section 59A-37-2 NMSA 1978.

7 C. The capital funds required for authority to
8 transact insurance in this state shall be based upon all the
9 kinds of insurance the insurer transacts, wherever transacted
10 or to be transacted.

11 D. This section shall not apply as to domestic
12 Lloyds plan insurers as identified in Chapter 59A, Article 38
13 NMSA 1978 except as stated in that article.

14 E. The capital requirements of this section are set
15 forth in the following schedule:

Schedule I						
NEW MEXICO						
Minimum Capital, Surplus and Deposit Requirements						
<u>Property/Casualty Insurer</u>						
Premium Volume:	Under \$5		\$5 to \$10	\$10 to \$25	Over	
\$25						
	Million		Million	Million	Million	
	<u>Number of Kinds of Insurance</u>					
	<u>1</u>	<u>2</u>	<u>[2]</u>			
Basic Capital	500,000	600,000	700,000	800,000	900,000	1,000,000

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1	Additional Surplus	500,000	600,000	[700,000]	same as	same as	same as
2					Under	Under	Under
3					\$5 Million	\$5 Million	\$5 Million
4	General Deposit	[100,000] <u>200,000</u>	[200,000] <u>300,000</u>		[300,000]	[400,000] <u>500,000</u>	[400,000] <u>500,000</u>
5		[400,000] <u>500,000</u>					
6	Special Deposit	[100,000] <u>200,000</u>	[200,000] <u>300,000</u>		[300,000]	same as	same as
7		same as					
8					Under	Under	Under
9					\$5 Million	\$5 Million	\$5 Million
10	Life/Health Insurer						
11	Premium Volume:		Under \$5		\$5 to \$10	\$10 to \$25	Over \$25
12			Million		Million	Million	Million
13	Basic Capital		600,000		700,000	800,000	900,000
14	Additional Surplus	400,000		400,000	400,000	400,000	
15	General Deposit		[100,000] <u>200,000</u>			[100,000] <u>200,000</u>	[100,000] <u>200,000</u>
16		[100,000] <u>200,000</u>					
17	Special Deposit		[100,000] <u>200,000</u>			[100,000] <u>200,000</u>	[100,000] <u>200,000</u>
18		[100,000] <u>200,000</u>					

Notes: Premium Volume means the insurer's worldwide direct premiums earned (if Property/Casualty) or received (if Life/Health) during the previous calendar year.

Kinds of insurance pertains to the general kinds of insurance that property/casualty insurers are authorized to transact. The following groups or single kinds of insurance shall be counted as one kind of

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1 insurance when calculating the amount of required Basic
2 Capital, Additional Surplus, General Deposit and
3 Special Deposit:

4 Casualty [~~and/or Surety~~]; Property [~~and/or Marine &~~
5 ~~Transportation; Vehicle~~]; and Title.

6 When determining Basic Capital and Additional Surplus
7 amounts, the kinds of Insurance shall be based on the
8 insurer's actual or requested transaction authority
9 Worldwide.

10 When determining General Deposit and Special Deposit
11 amounts, the kinds of Insurance shall be based on the
12 insurer's actual or requested transaction authority in New
13 Mexico.

14 "Basic Capital" means paid-in capital stock (if a stock
15 insurer) or basic capital surplus (if a mutual, reciprocal
16 or Lloyds insurer).

17 General Deposit or Special Deposit funds are included
18 within, and are not additional to, required Basic Capital
19 and Additional Surplus.

20 General Deposit amounts shown above are not applicable
21 to alien insurers."

22 SECTION 2. Section 59A-7-1 NMSA 1978 (being Laws 1984,
23 Chapter 127, Section 107) is amended to read:

24 "59A-7-1. DEFINITIONS NOT MUTUALLY EXCLUSIVE--INSURING
25 POWERS--CLASSIFICATION OF INSURERS.--

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1 A. It is intended that certain insurance
2 coverages may come within more than one "kind" of insurance
3 as defined in [~~this article~~] Chapter 59A, Article 7 NMSA
4 1978, and inclusion of such coverage within one definition
5 shall not exclude it as to any other kind of insurance within
6 the definition of which the coverage is likewise reasonably
7 includable.

8 B. No insurer shall be authorized to transact any
9 kind or kinds of insurance other than those defined in [~~this~~
10 ~~article~~] Chapter 59A, Article 7 NMSA 1978. Insurers shall be
11 classified as to insuring powers according to kind or kinds
12 of insurance for which so authorized.

13 C. An insurance company may apply to engage in
14 insurance activities in one or more of the following lines of
15 insurance:

- 16 (1) life and annuities;
- 17 (2) accident and health;
- 18 (3) property;
- 19 (4) casualty; and
- 20 (5) variable life and annuity."

21 SECTION 3. Section 59A-7-2 NMSA 1978 (being Laws 1984,
22 Chapter 127, Section 108, as amended) is repealed and a new
23 Section 59A-7-2 NMSA 1978 is enacted to read:

24 "59A-7-2. [NEW MATERIAL] LIFE AND ANNUITY.--Life and
25 annuity includes:

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- 1 A. fixed annuity;
- 2 B. immediate annuity;
- 3 C. deferred annuity;
- 4 D. equity-indexed annuity;
- 5 E. endowment;
- 6 F. term life;
- 7 G. universal life;
- 8 H. whole life;
- 9 I. credit life; and
- 10 J. similar products relating to life and annuity
- 11 matters."

12 SECTION 4. Section 59A-7-3 NMSA 1978 (being Laws 1984,
13 Chapter 127, Section 109, as amended) is repealed and a new
14 Section 59A-7-3 NMSA 1978 is enacted to read:

15 "59A-7-3. [NEW MATERIAL] ACCIDENT AND HEALTH
16 INSURANCE.--Accident and health includes:

- 17 A. accident;
- 18 B. accidental death and dismemberment;
- 19 C. blanket accident and sickness;
- 20 D. credit health;
- 21 E. critical illness;
- 22 F. dental;
- 23 G. disability income;
- 24 H. excess or stop loss;
- 25 I. home health care;

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- 1 J. hospital indemnity;
- 2 K. long-term care;
- 3 L. major medical;
- 4 M. medical expense;
- 5 N. medicare supplement;
- 6 O. prescription drug;
- 7 P. sickness;
- 8 Q. specified disease;
- 9 R. vision; and
- 10 S. similar products relating to accident and
- 11 health matters."

12 SECTION 5. Section 59A-7-4 NMSA 1978 (being Laws 1984,
13 Chapter 127, Section 110) is repealed and a new Section
14 59A-7-4 NMSA 1978 is enacted to read:

- 15 "59A-7-4. [NEW MATERIAL] PROPERTY.--Property includes:
- 16 A. aircraft cargo;
 - 17 B. aircraft hull;
 - 18 C. auto commercial physical damage;
 - 19 D. baggage;
 - 20 E. builders risk;
 - 21 F. business owners;
 - 22 G. cargo;
 - 23 H. commercial inland marine;
 - 24 I. commercial multi-peril;
 - 25 J. commercial property;

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- 1 K. crop;
- 2 L. crop hail;
- 3 M. difference in conditions;
- 4 N. dwelling;
- 5 O. earthquake;
- 6 P. event cancellation;
- 7 Q. extended coverages;
- 8 R. farm and ranch property;
- 9 S. fire and allied lines;
- 10 T. flood;
- 11 U. garage;
- 12 V. marine cargo;
- 13 W. marine hull;
- 14 X. ocean marine;
- 15 Y. personal inland marine;
- 16 Z. personal property;
- 17 AA. pet insurance;
- 18 BB. travel coverage; and
- 19 CC. similar products relating to property

20 matters."

21 SECTION 6. Section 59A-7-6 NMSA 1978 (being Laws 1984,
22 Chapter 127, Section 112) is repealed and a new Section
23 59A-7-6 NMSA 1978 is enacted to read:

24 "59A-7-6. [NEW MATERIAL] CASUALTY.--Casualty includes:

- 25 A. aircraft liability;

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- 1 B. auto commercial liability;
- 2 C. auto private passenger liability;
- 3 D. auto warranty contract;
- 4 E. boiler and machinery;
- 5 F. burglary and theft;
- 6 G. collateral protection;
- 7 H. commercial excess/umbrella liability;
- 8 I. commercial general liability;
- 9 J. congenital defects;
- 10 K. contractual liability;
- 11 L. credit;
- 12 M. credit property;
- 13 N. creditor-placed dual/single interest;
- 14 O. crime;
- 15 P. directors and officers liability;
- 16 Q. employers liability;
- 17 R. elevator;
- 18 S. entertainment;
- 19 T. errors and omissions;
- 20 U. failure to file instrument;
- 21 V. farm and ranch liability;
- 22 W. fidelity bonds;
- 23 X. fidelity insurance;
- 24 Y. financial guaranty;
- 25 Z. gap;

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- 1 AA. garage liability;
- 2 BB. glass;
- 3 CC. involuntary unemployment;
- 4 DD. kidnap and ransom;
- 5 EE. leakage and fire-extinguishing equipment;
- 6 FF. legal liability;
- 7 GG. liquor liability;
- 8 HH. livestock;
- 9 II. mechanical breakdown;
- 10 JJ. medical malpractice;
- 11 KK. mobile homes under transport;
- 12 LL. money and securities;
- 13 MM. motor club service contracts;
- 14 NN. mortgage guaranty;
- 15 OO. personal excess/umbrella liability;
- 16 PP. personal effects;
- 17 QQ. personal liability;
- 18 RR. personal property floater;
- 19 SS. pollution liability;
- 20 TT. premises and operations;
- 21 UU. product liability;
- 22 VV. products and completed operations;
- 23 WW. professional liability;
- 24 XX. owners and contractors;
- 25 YY. stop loss liability;

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1 ZZ. surety;
2 AAA. title;
3 BBB. vandalism and malicious mischief;
4 CCC. workers' compensation; and
5 DDD. similar products relating to casualty
6 matters."

7 SECTION 7. Section 59A-7-7 NMSA 1978 (being Laws 1984,
8 Chapter 127, Section 113) is repealed and a new Section
9 59A-7-7 NMSA 1978 is enacted to read:

10 "59A-7-7. [NEW MATERIAL] VARIABLE LIFE AND ANNUITY.--
11 Variable life and annuity includes:

12 A. variable deferred annuity;
13 B. variable immediate annuity;
14 C. variable life; and
15 D. similar products relating to variable life and
16 annuity matters."

17 SECTION 8. Section 59A-11-1 NMSA 1978 (being Laws 1984,
18 Chapter 127, Section 180) is amended to read:

19 "59A-11-1. SCOPE OF ARTICLE.--
20 A. [~~This article~~] Chapter 59A, Article 11 NMSA
21 1978 provides [~~as to~~] procedures [~~in~~] for licensing insurance
22 [~~agents, solicitors, brokers~~] producers, surplus line brokers
23 and adjusters; agents of prepaid dental plans; agents [~~and~~
24 ~~solicitors~~] of nonprofit health care plans; bail bondsmen
25 [~~and solicitors~~]; registration of motor club representatives;

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1 licensing of insurance securities salespersons; and
2 applications for, qualifying examinations, and issuance of,
3 duration, continuation and termination of all such licenses
4 and registrations. For the purposes of [~~this~~] that article,
5 all such licenses and registrations are referred to as
6 "licenses".

7 B. [~~This article~~] Chapter 59A, Article 11 NMSA
8 1978 shall also apply [~~as~~] to all additional categories of
9 persons operating in insurance fields and related fields as
10 administrators, consultants, appraisers, or in whatever
11 similar capacity, under laws now or hereafter enacted, the
12 licensing and supervision of whom is delegated [~~by such laws~~]
13 to the superintendent.

14 C. Definitions, requirement of licenses,
15 qualifications for license and other requirements and
16 provisions as to [~~such agents, solicitors, brokers~~] insurance
17 producers, adjusters, bail bondsmen [~~and solicitors~~], motor
18 club representatives, and other categories referred to in
19 Subsection B [~~above~~] of this section, shall be as provided in
20 subsequent articles in the Insurance Code now or hereafter
21 respectively dealing with such categories; provided that
22 "insurance producer" means a person required to be licensed
23 under the laws of this state to sell, solicit or negotiate
24 insurance."

25 SECTION 9. Section 59A-11-2 NMSA 1978 (being Laws 1984,
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1 Chapter 127, Section 181, as amended) is repealed and a new
2 Section 59A-11-2 NMSA 1978 is enacted to read:

3 "59A-11-2. [NEW MATERIAL] APPLICATION FOR LICENSE--
4 INDIVIDUAL.--

5 A. A person applying for a resident insurance
6 producer license shall apply to the superintendent on the
7 uniform application and declare under penalty of refusal,
8 suspension or revocation of the license that the statements
9 made in the application are true, correct and complete to the
10 best of the applicant's knowledge and belief.

11 B. Before approving the application, the
12 superintendent shall:

- 13 (1) confirm that the applicant:
 - 14 (a) is at least eighteen years of age;
 - 15 (b) has not committed any act that is
16 a ground for denial, suspension or revocation under the
17 Insurance Code;
 - 18 (c) has paid the fees set forth in
19 Section 59A-6-1 NMSA 1978; and
 - 20 (d) has successfully passed the
21 examinations for the lines of authority for which the
22 application is made;
- 23 (2) review the applicant's answers to the
24 standard background questions on the uniform application;
- 25 (3) obtain the applicant's fingerprints; and

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1 (4) conduct state and federal criminal
2 background checks on the applicant.

3 C. The superintendent may require any documents
4 reasonably necessary to verify the information contained in
5 an application. The superintendent may obtain fingerprints
6 from licensed resident insurance producers from whom
7 fingerprints were not obtained at the time of application or
8 when adding additional lines of authority to their license.

9 D. Each insurer that sells, solicits or
10 negotiates any form of limited line credit insurance shall
11 provide to each individual whose duties will include selling,
12 soliciting or negotiating limited line credit insurance a
13 program of instruction approved by the superintendent."

14 SECTION 10. Section 59A-11-3 NMSA 1978 (being Laws
15 1984, Chapter 127, Section 182) is repealed and a new Section
16 59A-11-3 NMSA 1978 is enacted to read:

17 "59A-11-3. [NEW MATERIAL] APPLICATION BY PARTNERSHIP OR
18 CORPORATION.--

19 A. A business entity acting as an insurance
20 producer is required to obtain an insurance producer license.
21 Application shall be made using the uniform business entity
22 application. Before approving the application, the
23 superintendent shall confirm that:

24 (1) the business entity has paid the fees
25 set forth in Section 59A-6-1 NMSA 1978;

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1 (2) the business entity has designated a
2 licensed insurance producer responsible for the business
3 entity's compliance with the insurance laws of this state;
4 and

5 (3) a licensee who is to exercise license
6 powers shall be affiliated by submitting an application. The
7 application must be submitted with payment as required in
8 Section 59A-6-1 NMSA 1978.

9 B. The application shall be signed on behalf of
10 the applicant by an authorized partner or corporate officer,
11 and under oath if required by the superintendent.

12 C. The application form may require the following
13 information about the applicant:

14 (1) if the applicant is a partnership, the
15 name, residence, proof of identity, business record and
16 reputation, business experience of each partner and any other
17 information required by the superintendent;

18 (2) if the applicant is a corporation, the
19 name, residence, proof of identity, business record and
20 reputation, business experience of each officer, member of
21 the board of directors, controlling stockholder and any other
22 information required by the superintendent;

23 (3) evidence satisfactory to the
24 superintendent that transaction of business proposed to be
25 transacted under the license applied for is within the

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1 partnership agreement, if the applicant is a partnership, or
2 within the corporate powers, if the applicant is a
3 corporation; and

4 (4) such further information concerning the
5 applicant, appointment of the applicant, partners, corporate
6 officers, directors and stockholders, as the superintendent
7 may require.

8 D. If the applicant is a partnership, each
9 individual who is not a general partner and who is to
10 exercise license powers, and if the applicant is a
11 corporation, each individual, whether or not an officer,
12 director, stockholder or in other relationship to the
13 corporation, who is to exercise the license powers, shall
14 file an application as though for an individual license for
15 the same kind of business as that applied for by the
16 partnership or corporation.

17 E. The application shall be accompanied by
18 payment of the application filing fee, fee for any
19 examination required under the Insurance Code to be taken and
20 passed prior to licensing and by any bond otherwise required
21 for the license applied for. A license application filing
22 fee is required for each individual who is to exercise the
23 license powers of a corporation, or license powers of a
24 partnership if not a general partner therein.

25 F. The business entity shall comply with all

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1 other licensing and registration requirements to do business
2 in the state."

3 SECTION 11. Section 59A-11-4 NMSA 1978 (being Laws
4 1984, Chapter 127, Section 183) is repealed and a new Section
5 59A-11-4 NMSA 1978 is enacted to read:

6 "59A-11-4. [NEW MATERIAL] TEMPORARY LICENSES.--The
7 superintendent may issue a temporary insurance producer
8 license for a period not to exceed one hundred eighty days
9 without requiring an examination if the superintendent deems
10 that the temporary license is necessary for the servicing of
11 an insurance business in accordance with the Insurance Code."

12 SECTION 12. Section 59A-11-6 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 185) is repealed and a new Section
14 59A-11-6 NMSA 1978 is enacted to read:

15 "59A-11-6. [NEW MATERIAL] EXAMINATION OF APPLICANT.--

16 A. A resident individual applying for an
17 insurance producer license shall pass a written examination
18 unless exempt pursuant to Section 59A-12-8 NMSA 1978. The
19 examination shall test the knowledge of the individual
20 concerning the lines of authority for which application is
21 made, the duties and responsibilities of an insurance
22 producer and the insurance laws and rules of this state.
23 Examinations required by this section shall be developed and
24 conducted under rules promulgated by the superintendent.

25 B. The superintendent may make arrangements,

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1 including contracting with an outside testing service, for
2 administering examinations and collecting the non-refundable
3 fee set forth in Section 59A-6-1 NMSA 1978.

4 C. Each individual applying for an examination
5 shall remit a non-refundable fee as prescribed by the
6 superintendent as set forth in Section 59A-6-1 NMSA 1978.

7 D. An individual who fails to appear for the
8 examination as scheduled or fails to pass the examination
9 shall reapply for an examination and remit all required fees
10 and forms before being rescheduled for another examination.

11 E. Where an applicant for a license is required
12 to take and pass an examination prior to issuance of a
13 license, such examinations shall be subject to the following
14 provisions:

15 (1) the examination shall be made available
16 to applicants for particular licenses at least once each
17 month at places within New Mexico designated by the
18 superintendent;

19 (2) the examination shall require answers of
20 the applicant to questions asked. If the applicant requests,
21 the examination shall be administered in the Spanish
22 language;

23 (3) all examinations shall be conducted and
24 graded in a fair and impartial manner, and without unfair
25 discrimination as between individuals examined;

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1 (4) a grade of not less than seventy is a
2 passing grade;

3 (5) any individual who has failed to pass an
4 examination may take another such examination at any
5 subsequent scheduled examination date; except, that an
6 individual who has taken and failed to pass four such
7 examinations shall not be entitled to take another such
8 examination until after six months from the date of the last
9 examination failed;

10 (6) an examination application fee, in the
11 amount stated in Section 59A-6-1 NMSA 1978, or as provided
12 for under Paragraph (8) of this subsection, shall be paid for
13 each examination;

14 (7) the superintendent may cause to be
15 prepared and made available to applicants a manual showing
16 general type and scope of examination for any license for
17 which examination is required; and

18 (8) the superintendent may contract with an
19 independent agency to prepare, conduct and grade examinations
20 for a reasonable fee."

21 SECTION 13. Section 59A-11-8 NMSA 1978 (being Laws
22 1984, Chapter 127, Section 187, as amended) is repealed and a
23 new Section 59A-11-8 NMSA 1978 is enacted to read:

24 "59A-11-8. [NEW MATERIAL] DENIAL OF APPLICATION OR
25 RENEWAL OF LICENSE.--

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1 A. If the superintendent denies an application
2 for initial issuance or renewal of a license, the
3 superintendent shall notify the applicant in writing and
4 advise the applicant of the reason for the denial.

5 B. Within thirty days of the date of issuance of
6 the denial of an application for initial issuance or renewal
7 of a license, the applicant may request in writing a hearing
8 on the denial. The hearing shall be held within thirty days
9 and shall be held pursuant to requirements of the Insurance
10 Code.

11 C. The license of a business entity may be
12 suspended, revoked or refused if the superintendent finds
13 after hearing that an individual licensee's violation was
14 known or should have been known by one or more of the
15 partners, officers or managers acting on behalf of the
16 partnership or corporation and the violation was neither
17 reported to the superintendent nor corrective action taken."

18 **SECTION 14.** Section 59A-11-9 NMSA 1978 (being Laws
19 1984, Chapter 127, Section 188) is repealed and a new Section
20 59A-11-9 NMSA 1978 is enacted to read:

21 "59A-11-9. [NEW MATERIAL] LICENSE CONTENTS--NUMBER
22 REQUIRED.--

23 A. The license shall contain the licensee's name,
24 address, personal identification number, the date of
25 issuance, the lines of authority, the expiration date and any
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1 other information the superintendent requires.

2 B. The license of an insurance producer shall not
3 specify the name of any particular insurer or underwriter's
4 department by which the licensee is appointed, and the
5 licensee may represent as agent under the one license as many
6 insurers or underwriters' departments as may be appointed as
7 agent under the Insurance Code, subject to Section 59A-11-13
8 NMSA 1978 as to certain life or health insurance agents
9 having unsettled debit balances with an insurer previously
10 represented.

11 C. The license of a partnership or corporation
12 shall also record the name of each individual authorized to
13 exercise the license powers. The superintendent may require
14 the names of each individual to be registered with the
15 insurance department."

16 SECTION 15. Section 59A-11-10 NMSA 1978 (being Laws
17 1984, Chapter 127, Section 189, as amended) is repealed and a
18 new Section 59A-11-10 NMSA 1978 is enacted to read:

19 "59A-11-10. [NEW MATERIAL] CONTINUATION--EXPIRATION OF
20 LICENSE.--

21 A. The term of the license shall be perpetual
22 contingent upon payment of fee and completion of resident
23 continuing education requirements.

24 B. Individual licenses shall renew and continue
25 on a biennial basis on the last day of the licensee's month

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1 of birth. Business entity licenses and affiliations shall
2 continue on a date certain, and for vending machines, request
3 shall be made and signed by the supervisory agent thereof.

4 C. Any license referred to in this section that
5 is not so continued shall be deemed to have terminated as of
6 midnight on the last day of the licensee's month of birth;
7 except that the superintendent may effectuate a request for
8 continuation received within thirty days thereafter if
9 accompanied by an annual continuation fee equal to one
10 hundred fifty percent of the continuation fee otherwise
11 required.

12 D. If the superintendent has reason to believe
13 that the competence of any licensee, or individual designated
14 to exercise license powers, is questionable, the
15 superintendent may require as a condition of continuation of
16 the license or license powers that the licensee or individual
17 take and pass a written examination as required under the
18 Insurance Code of new individual applicants for the same
19 license.

20 E. This section shall not apply to temporary
21 licenses, which shall be for such duration and subject to
22 extension as provided in the respective sections of the
23 Insurance Code by which such licenses are authorized.

24 F. All licenses and appointments of an insurer or
25 other principal that ceases to be authorized to transact

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1 business in this state shall automatically terminate without
2 notice as of date of such cessation.

3 G. A license shall terminate upon death of the
4 licensee, if an individual, or dissolution of a corporation
5 or change in partnership members of a partnership; provided
6 that, in the case of a partnership, the license may be
7 continued for a reasonable period while application for new
8 license is being made or pending, as provided by rule."

9 SECTION 16. Section 59A-11-12 NMSA 1978 (being Laws
10 1984, Chapter 127, Section 191) is repealed and a new Section
11 59A-11-12 NMSA 1978 is enacted to read:

12 "59A-11-12. [NEW MATERIAL] APPOINTMENT OF INSURANCE
13 PRODUCER--CONTINUATION.--

14 A. An insurance producer shall not act as an
15 agent of an insurer unless the insurance producer becomes an
16 appointed insurance producer of that insurer. An insurance
17 producer who is not acting as an agent of an insurer is not
18 required to become appointed.

19 B. To appoint an insurance producer as its agent,
20 the appointing insurer shall file in a format approved by the
21 superintendent a notice of appointment within fifteen days
22 from the date the agency contract is executed or the first
23 insurance application is submitted. An insurer may also
24 elect to appoint an insurance producer to all or some
25 insurers within the insurer's holding company system or group

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1 by the filing of a single appointment request.

2 C. Upon receipt of the notice of appointment, the
3 superintendent shall verify within a reasonable time not to
4 exceed thirty days that the insurance producer is eligible
5 for appointment. If the insurance producer is determined to
6 be ineligible for appointment, the superintendent shall
7 notify the insurer within five days of its determination.

8 D. An insurer shall pay an appointment fee in the
9 amount and method of payment set forth in Section 59A-6-1
10 NMSA 1978 for each insurance producer appointed by the
11 insurer.

12 E. An insurer shall remit in a manner prescribed
13 by the superintendent a renewal appointment fee in the amount
14 set forth in Section 59A-6-1 NMSA 1978.

15 F. Appointments shall be continuous subject to
16 payment of any applicable fees. Fees must be calculated as
17 of a date certain."

18 SECTION 17. Section 59A-11-13 NMSA 1978 (being Laws
19 1984, Chapter 127, Section 192, as amended) is repealed and a
20 new Section 59A-11-13 NMSA 1978 is enacted to read:

21 "59A-11-13. [NEW MATERIAL] INSURANCE PRODUCERS'
22 RIGHTS--CANCELLATION.--

23 A. An insurer or authorized representative of the
24 insurer that terminates the appointment, employment contract
25 or other insurance business relationship with an insurance

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1 producer shall notify the superintendent within thirty days
2 following the effective date of the termination in the format
3 prescribed by the superintendent, if the reason for
4 termination is one of the reasons set forth in Section
5 59A-11-14 NMSA 1978 or the insurer has knowledge that the
6 insurance producer was found by a court, government body or
7 self-regulatory organization authorized by law to have
8 engaged in any of the activities in Section 59A-11-14 NMSA
9 1978. Upon the written request of the superintendent, the
10 insurer shall provide additional information, documents,
11 records or other data pertaining to the termination or
12 activity of the insurance producer.

13 B. An insurer or authorized representative of the
14 insurer that terminates the appointment, employment or
15 contract with an insurance producer for any reason not set
16 forth in Section 59A-11-14 NMSA 1978 shall notify the
17 superintendent within thirty days following the effective
18 date of the termination, in the format prescribed by the
19 superintendent. Upon written request of the superintendent,
20 the insurer shall provide additional information, documents,
21 records or other data pertaining to the termination.

22 C. The insurer or the authorized representative
23 of the insurer shall promptly notify the superintendent in
24 the format prescribed by the superintendent if, upon further
25 review or investigation, the insurer discovers additional

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1 information that would have been reportable to the
2 superintendent in accordance with Subsection A of this
3 section had the insurer then known of its existence.

4 D. The insurer shall provide a copy of the
5 notification of termination or cancellation to the insurance
6 producer.

7 (1) Within fifteen days after making the
8 notification required by Subsections A, B and C of this
9 section, the insurer shall mail a copy of the notification to
10 the insurance producer at the insurance producer's last known
11 address. If the insurance producer is terminated for any of
12 the reasons listed in Section 59A-11-14 NMSA 1978, the
13 insurer shall provide a copy of the notification to the
14 insurance producer at the insurance producer's last known
15 address by certified mail, return receipt requested, postage
16 prepaid or by overnight delivery using a nationally
17 recognized carrier.

18 (2) Within thirty days after the insurance
19 producer has received the original or additional notification
20 of termination, the insurance producer may file written
21 comments concerning the substance of the notification with
22 the superintendent. The insurance producer shall, by the
23 same means, simultaneously send a copy of the comments to the
24 reporting insurer, and the comments shall become a part of
25 the superintendent's file and accompany every copy of a

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1 report distributed or disclosed for any reason about the
2 insurance producer as permitted under Subsection E of this
3 section.

4 E. The documents and materials related to
5 termination or cancellation of an insurance producer's
6 appointment shall be deemed confidential as follows:

7 (1) any documents, materials or other
8 information in the control or possession of the insurance
9 department that is furnished by an insurer, insurance
10 producer or an employee or agent thereof acting on behalf of
11 the insurer or insurance producer, or obtained by the
12 superintendent in an investigation pursuant to this section,
13 shall be confidential and shall not be subject to the
14 Inspection of Public Records Act. Nothing in this section
15 shall be construed as a grant of privilege or confidentiality
16 or a bar to production of that information by an insurer or
17 the insurance producer in a civil suit, whether or not the
18 superintendent is a party; provided that the superintendent
19 may use the documents, materials or other information in a
20 regulatory or legal action brought in the course of the
21 superintendent's official duties. The documents, materials
22 or other information shall not be made public by the
23 superintendent or any other person, except to insurance
24 departments of other states, unless the superintendent
25 determines that the interests of the policyholders,

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1 shareholders or the public will be served by the publication
2 of them, in which case the superintendent may publish all or
3 any part of them in the manner the superintendent deems
4 appropriate;

5 (2) in order to assist in the performance of
6 the superintendent's duties, the superintendent may:

7 (a) share documents, materials or
8 other information, including the confidential documents,
9 materials or information subject to this section, with other
10 state, federal and international regulatory agencies, with
11 the national association of insurance commissioners, its
12 affiliates or subsidiaries and with state, federal and
13 international law enforcement authorities; provided that the
14 recipient agrees to maintain the confidentiality of the
15 document, material or other information;

16 (b) receive documents, materials or
17 information, including otherwise confidential documents,
18 materials or information from the national association of
19 insurance commissioners, its affiliates or subsidiaries and
20 from regulatory and law enforcement officials of other
21 foreign or domestic jurisdictions, and shall maintain as
22 confidential or privileged any document, material or
23 information received with notice or the understanding that it
24 is confidential or privileged under the laws of the
25 jurisdiction that is the source of the document, material or

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1 information; and

2 (c) enter into agreements governing
3 sharing and use of information consistent with this
4 subsection. The language in this subsection assumes the
5 recipient has the authority to protect the applicable
6 confidentiality or privilege, but does not address the
7 verification of that authority that would presumably occur in
8 the context of a broader information-sharing agreement;

9 (3) no waiver of any privilege or claim of
10 confidentiality in the documents, materials or information
11 shall occur as a result of disclosure to the superintendent
12 under this section or as a result of sharing as authorized in
13 this section; and

14 (4) nothing in this act shall prohibit the
15 superintendent from releasing final adjudicated actions,
16 including for-cause terminations that are open to public
17 inspection pursuant to the Inspection of Public Records Act,
18 to a database or other clearinghouse service maintained by
19 the national association of insurance commissioners, its
20 affiliates or subsidiaries of the national association of
21 insurance commissioners.

22 F. An insurer, the authorized representative of
23 the insurer or insurance producer that fails to report as
24 required under the provisions of this section or that is
25 found by a court of competent jurisdiction to have reported

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1 with actual malice may, after notice and hearing, have its
2 license or certificate of authority suspended or revoked and
3 may be fined in accordance with the Insurance Code."

4 SECTION 18. Section 59A-11-14 NMSA 1978 (being Laws
5 1984, Chapter 127, Section 193, as amended) is repealed and a
6 new Section 59A-11-14 NMSA 1978 is enacted to read:

7 "59A-11-14. [NEW MATERIAL] SUSPENSION--REVOCATION--
8 REFUSAL TO CONTINUE LICENSE--GROUNDS.--

9 A. The superintendent may place on probation,
10 suspend, revoke or refuse to issue or renew an insurance
11 producer's license or may levy a civil penalty in accordance
12 with Section 59A-1-18 or 59A-2-9 NMSA 1978 or any combination
13 of actions, for any of the following causes:

14 (1) providing incorrect, misleading,
15 incomplete or materially untrue information in the license
16 application;

17 (2) violating any insurance law or violating
18 any regulation, subpoena or order of the superintendent or of
19 another state's superintendent or commissioner of insurance;

20 (3) obtaining or attempting to obtain a
21 license through misrepresentation or fraud;

22 (4) improperly withholding, misappropriating
23 or converting any money or properties received in the course
24 of doing insurance business;

25 (5) intentionally misrepresenting the terms

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1 of an actual or proposed insurance contract or application
2 for insurance;

3 (6) having been convicted of a felony;

4 (7) having admitted or been found to have
5 committed any insurance unfair trade practice or fraud;

6 (8) using fraudulent, coercive or dishonest
7 practices, or demonstrating incompetence, untrustworthiness
8 or financial irresponsibility in the conduct of business in
9 this state or elsewhere;

10 (9) having an insurance producer license, or
11 its equivalent, denied, suspended or revoked in any other
12 state, province, district or territory;

13 (10) forging another's name to an
14 application for insurance or to any document related to an
15 insurance transaction;

16 (11) improperly using notes or any other
17 reference material to complete an examination for an
18 insurance license;

19 (12) knowingly accepting insurance business
20 from an individual who is not licensed;

21 (13) failing to comply with an
22 administrative or court order imposing a child support
23 obligation; or

24 (14) failing to pay state income tax or
25 comply with any administrative or court order directing

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1 payment of state income tax.

2 B. If the superintendent denies an initial or
3 renewal application for a license, the superintendent shall
4 notify the applicant in writing and advise the applicant of
5 the reason for the denial or non-renewal of the application.
6 Within thirty days of the date of issuance of the denial of
7 application for initial issuance or renewal of a license, the
8 applicant may request in writing a hearing on the denial.
9 The hearing shall be held within ninety days and shall be
10 held otherwise pursuant to Section 59A-4-15 NMSA 1978.

11 C. The license of a business entity may be
12 suspended, revoked or refused if the superintendent finds,
13 after hearing, that an individual licensee's violation was
14 known or should have been known by one or more of the
15 partners, officers or managers acting on behalf of the
16 partnership or corporation and the violation was neither
17 reported to the superintendent nor corrective action taken.

18 D. In addition to or in lieu of any applicable
19 denial, suspension or revocation of a license, a person may,
20 after hearing, be subject to an administrative fine according
21 to Section 59A-1-18 NMSA 1978.

22 E. The superintendent shall retain the authority
23 to enforce the provisions of and impose any penalty or remedy
24 authorized by this section against any person who is under
25 investigation for or charged with a violation of this section

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1 even if the person's license or registration has been
2 surrendered or has lapsed by operation of law."

3 SECTION 19. Section 59A-11-15 NMSA 1978 (being Laws
4 1984, Chapter 127, Section 194) is repealed and a new Section
5 59A-11-15 NMSA 1978 is enacted to read:

6 "59A-11-15. [NEW MATERIAL] PROCEDURE FOR SUSPENSION,
7 REVOCATION OR REFUSAL TO CONTINUE LICENSE.--

8 A. Within fifteen days after making the
9 notification as required, the insurer shall mail a copy of
10 the notification to the insurance producer at the insurance
11 producer's last known address. If the insurance producer is
12 terminated for cause for any of the reasons listed in Section
13 59A-11-14 NMSA 1978, the insurer shall provide a copy of the
14 notification to the insurance producer at the insurance
15 producer's last known address by certified mail, return
16 receipt requested, postage prepaid or by overnight delivery
17 using a nationally recognized carrier.

18 B. Within thirty days after the insurance
19 producer has received the original or additional
20 notification, the insurance producer may file written
21 comments concerning the substance of the notification with
22 the superintendent. The insurance producer shall, by the
23 same means, simultaneously send a copy of the comments to the
24 reporting insurer, and the comments shall become a part of
25 the superintendent's file and accompany every copy of a

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1 report distributed or disclosed for any reason about the
2 insurance producer permitted under Section 59A-11-13 NMSA
3 1978.

4 C. Denial or revocation and imposition of civil
5 penalties at a minimum shall be as established in Section
6 59A-11-14 NMSA 1978. The state shall participate in the
7 national association of insurance commissioners attachment
8 warehouse personal information capture system alerts or
9 another appropriate mechanism to monitor actions against
10 existing licensees and take necessary action, when warranted
11 based on the information obtained through such
12 notifications."

13 SECTION 20. A new section of Chapter 59A, Article 11
14 NMSA 1978 is enacted to read:

15 "[NEW MATERIAL] DUTY TO REPORT.--

16 A. A licensee shall report to the superintendent
17 any administrative action taken against the licensee in
18 another jurisdiction or by another governmental agency in
19 this state within thirty days of the final disposition of the
20 matter. The report shall include a copy of the order,
21 consent to order or other relevant legal documents.

22 B. Within thirty days of the initial pretrial
23 hearing date, a licensee shall report to the superintendent
24 any criminal prosecution of the licensee taken in any
25 jurisdiction. The report shall include a copy of the initial

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1 complaint filed, the order resulting from the hearing and any
2 other relevant legal documents."

3 SECTION 21. A new section of Chapter 59A, Article 11
4 NMSA 1978 is enacted to read:

5 "[NEW MATERIAL] RECIPROCITY.--

6 A. The superintendent shall waive any
7 requirements for a nonresident license applicant with a valid
8 license from the applicant's home state, except the
9 requirements imposed by Section 59A-11-8 NMSA 1978, if the
10 applicant's home state awards nonresident licenses to
11 residents of this state on the same basis.

12 B. A nonresident licensee's satisfaction of the
13 nonresident licensee's home state's continuing education
14 requirements shall constitute satisfaction of the continuing
15 education requirements if the nonresident licensee's home
16 state recognizes the satisfaction of its continuing education
17 requirements imposed upon licensees from New Mexico on the
18 same basis."

19 SECTION 22. A new section of Chapter 59A, Article 11
20 NMSA 1978 is enacted to read:

21 "[NEW MATERIAL] NONRESIDENT LICENSE--REQUIREMENTS.--

22 A. Unless denied a license pursuant to Section
23 59A-11-8 NMSA 1978, a nonresident person shall receive a
24 nonresident license if:

25 (1) the person is currently licensed as a

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1 resident in good standing in the person's home state;

2 (2) the person has submitted the proper
3 request for licensure and has paid the fees required by
4 Section 59A-6-1 NMSA 1978;

5 (3) the person has submitted or transmitted
6 to the superintendent the application for licensure that the
7 person submitted to the person's home state or a completed
8 uniform application; and

9 (4) the person's home state awards
10 nonresident licenses to residents of this state on the same
11 basis.

12 B. The superintendent may verify the applicant's
13 licensing status through the insurance producer database
14 maintained by the national association of insurance
15 commissioners, its affiliates or subsidiaries.

16 C. A nonresident licensee who moves from one
17 state to another state or a resident licensee who moves from
18 this state to another state shall file a change of address
19 and provide certification from the new resident state within
20 thirty days of the change of legal residence.

21 D. Notwithstanding any other provision of this
22 section, a person licensed as a surplus lines producer in the
23 person's home state shall receive a nonresident surplus lines
24 producer license pursuant to Subsection A of this section.

25 Except as provided in Subsection A of this section, nothing

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1 in this section otherwise amends or supersedes any provision
2 of Chapter 59A, Article 14 NMSA 1978.

3 E. Notwithstanding any other provision of this
4 section, a person licensed as a limited lines credit
5 insurance or other type of limited lines producer in the
6 person's home state shall receive a nonresident limited lines
7 producer license, pursuant to Subsection A of this section,
8 granting the same scope of authority as granted under the
9 license issued by the producer's home state. For the
10 purposes of this subsection, limited line insurance is any
11 authority granted by the home state that restricts the
12 authority of the license to less than the total authority
13 prescribed in the associated major lines pursuant to Chapter
14 59A, Article 7 NMSA 1978."

15 SECTION 23. Section 59A-12-1 NMSA 1978 (being Laws
16 1984, Chapter 127, Section 201) is repealed and a new Section
17 59A-12-1 NMSA 1978 is enacted to read:

18 "59A-12-1. [NEW MATERIAL] PURPOSE AND SCOPE.--Chapter
19 59A, Article 12 NMSA 1978 governs the qualifications and
20 procedures for the licensing of insurance producers. Chapter
21 59A, Article 12 NMSA 1978 does not apply to surplus lines
22 brokers licensed pursuant to Chapter 59A, Article 14 NMSA
23 1978, except as provided in Sections 21 and 22 of this 2015
24 act."

25 SECTION 24. Section 59A-12-2 NMSA 1978 (being Laws
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1 1984, Chapter 127, Section 202) is repealed and a new Section
2 59A-12-2 NMSA 1978 is enacted to read:

3 "59A-12-2. [NEW MATERIAL] DEFINITIONS.--As used in
4 Chapter 59A, Article 12 NMSA 1978:

5 A. "affiliate" means a person that controls, is
6 controlled by or is under common control with the insurance
7 producer;

8 B. "business entity" means a corporation,
9 association, partnership, limited liability company, limited
10 liability partnership or other legal entity;

11 C. "home state" means the District of Columbia
12 and any state or territory of the United States in which an
13 insurance producer maintains the insurance producer's
14 principal place of residence or principal place of business
15 and is licensed to act as an insurance producer;

16 D. "insurance" means any of the lines of
17 authority in Chapter 59A, Article 7 NMSA 1978;

18 E. "insurance producer" means a person required
19 to be licensed under the laws of this state to sell, solicit
20 or negotiate insurance;

21 F. "insurer" means every person engaged as
22 principal and as indemnitor, surety or contractor in the
23 business of entering into contracts of insurance;

24 G. "license" means a document issued by the
25 superintendent authorizing a person to act as an insurance

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1 producer for the lines of authority specified in the
2 document. The license itself does not create any authority,
3 actual, apparent or inherent, in the holder to represent or
4 commit an insurance carrier;

5 H. "limited line credit insurance" includes
6 credit life, credit disability, credit property, credit
7 unemployment, involuntary unemployment, mortgage life,
8 mortgage guaranty, mortgage disability, guaranteed automobile
9 protection insurance and any other form of insurance offered
10 in connection with an extension of credit that is limited to
11 partially or wholly extinguishing that credit obligation;

12 I. "limited line credit insurance producer" means
13 a person who sells, solicits or negotiates one or more forms
14 of limited line credit insurance coverage to individuals
15 through a master, corporate, group or individual policy;

16 J. "limited lines insurance" means those lines of
17 insurance referred to in Section 59A-12-20 NMSA 1978 or any
18 other line of insurance that the superintendent deems
19 necessary to recognize for the purposes of complying with
20 Section 22 of this 2015 act;

21 K. "limited lines producer" means a person
22 authorized by the superintendent to sell, solicit or
23 negotiate limited lines insurance;

24 L. "negotiate" means the act of conferring
25 directly with or offering advice directly to a purchaser or

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1 prospective purchaser of a particular contract of insurance
2 concerning any of the substantive benefits, terms or
3 conditions of the contract; provided that the person engaged
4 in that act either sells insurance or obtains insurance from
5 insurers for purchasers;

6 M. "sell" means to exchange a contract of
7 insurance by any means, for money or its equivalent, on
8 behalf of an insurance company;

9 N. "solicit" means attempting to sell insurance
10 or asking or urging a person to apply for a particular kind
11 of insurance from a particular company;

12 O. "terminate" means the cancellation of the
13 relationship between an insurance producer and the insurer or
14 the termination of an insurance producer's authority to
15 transact insurance;

16 P. "uniform application" means the current
17 version of the national association of insurance
18 commissioners uniform application for resident and
19 nonresident insurance producer licensing; and

20 Q. "uniform business entity application" means
21 the current version of the national association of insurance
22 commissioners uniform business entity application for
23 resident and nonresident business entities."

24 **SECTION 25.** Section 59A-12-3 NMSA 1978 (being Laws
25 1984, Chapter 127, Section 203) is repealed and a new Section
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1 59A-12-3 NMSA 1978 is enacted to read:

2 "59A-12-3. [NEW MATERIAL] LICENSE REQUIRED.--A person
3 shall not sell, solicit or negotiate insurance in this state
4 for any class or classes of insurance unless the person is
5 licensed for that line of authority in accordance with the
6 Insurance Code."

7 SECTION 26. Section 59A-12-4 NMSA 1978 (being Laws
8 1984, Chapter 127, Section 205, as amended by Laws 1999,
9 Chapter 272, Section 5 and also by Laws 1999, Chapter 289,
10 Section 6) is repealed and a new Section 59A-12-4 NMSA 1978
11 is enacted to read:

12 "59A-12-4. [NEW MATERIAL] EXCEPTIONS TO LICENSING.--

13 A. Nothing in Chapter 59A, Article 12 NMSA 1978
14 shall be construed to require an insurer to obtain an
15 insurance producer license. In this section, the term
16 "insurer" does not include an insurer's officers, directors,
17 employees, subsidiaries or affiliates.

18 B. A license as an insurance producer shall not
19 be required of the following:

20 (1) an officer, director or employee of an
21 insurer or of an insurance producer; provided that the
22 officer, director or employee does not receive any commission
23 on policies written or sold to insure risks residing, located
24 or to be performed in this state and:

25 (a) the officer's, director's or

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1 employee's activities are executive, administrative,
2 managerial, clerical or a combination of these, and are only
3 indirectly related to the sale, solicitation or negotiation
4 of insurance;

5 (b) the officer's, director's or
6 employee's function relates to underwriting, loss control,
7 inspection or the processing, adjusting, investigating or
8 settling of a claim on a contract of insurance; or

9 (c) the officer, director or employee
10 is acting in the capacity of a special agent or agency
11 supervisor assisting insurance producers where the person's
12 activities are limited to providing technical advice and
13 assistance to licensed insurance producers and do not include
14 the sale, solicitation or negotiation of insurance;

15 (2) a person who receives no commission and
16 who secures and furnishes information for the purpose of
17 group life insurance, group property and casualty insurance,
18 group annuities, group or blanket accident and health
19 insurance, or enrolls individuals, issues certificates or
20 otherwise assists in administering plans, or performs
21 administrative services related to mass marketed property and
22 casualty insurance;

23 (3) an employer or association or its
24 officers, directors, employees or the trustees of an employee
25 trust plan, to the extent that the employers, officers,

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1 employees, director or trustees are engaged in the
2 administration or operation of a program of employee benefits
3 for the employer's or association's own employees or the
4 employees of its subsidiaries or affiliates, which program
5 involves the use of insurance issued by an insurer, as long
6 as the employers, associations, officers, directors,
7 employees or trustees are not in any manner compensated,
8 directly or indirectly, by the company issuing the contract;

9 (4) employees of insurers or organizations
10 employed by insurers who are engaging in the inspection,
11 rating or classification of risks, or in the supervision of
12 the training of insurance producers and who are not
13 individually engaged in the sale, solicitation or negotiation
14 of insurance;

15 (5) a person whose activities in this state
16 are limited to advertising without the intent to solicit
17 insurance in this state through communications in printed
18 publications or other forms of electronic mass media whose
19 distribution is not limited to residents of the state;
20 provided that the person does not sell, solicit or negotiate
21 insurance that would insure risks residing, located or to be
22 performed in this state;

23 (6) person who is not a resident of this
24 state who sells, solicits or negotiates a contract of
25 insurance for commercial property and casualty risks to an

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1 insured with risks located in more than one state insured
2 under that contract; provided that that person is otherwise
3 licensed as an insurance producer to sell, solicit or
4 negotiate that insurance in the state where the insured
5 maintains its principal place of business and the contract of
6 insurance insures risks located in that state; or

7 (7) a salaried full-time employee who
8 counsels or advises the employee's employer relative to the
9 insurance interests of the employer or of the subsidiaries or
10 business affiliates of the employer; provided that the
11 employee does not sell or solicit insurance or receive a
12 commission."

13 SECTION 27. Section 59A-12-5 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 206) is repealed and a new Section
15 59A-12-5 NMSA 1978 is enacted to read:

16 "59A-12-5. [NEW MATERIAL] APPLICATION FOR
17 EXAMINATION.--

18 A. A resident individual applying for an
19 insurance producer license shall pass a written examination
20 unless exempt pursuant to Section 59A-12-8 NMSA 1978. The
21 examination shall test the knowledge of the individual
22 concerning the lines of authority for which application is
23 made, the duties and responsibilities of an insurance
24 producer and the insurance laws and rules of this state.
25 Examinations required by this section shall be developed and

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1 conducted under rules prescribed by the superintendent.

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

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

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

13 SECTION 28. Section 59A-12-6 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 207, as amended) is repealed and a
15 new Section 59A-12-6 NMSA 1978 is enacted to read:

16 "59A-12-6. [NEW MATERIAL] APPLICATION FOR LICENSE.--

17 A. A person applying for a resident insurance
18 producer license shall apply to the superintendent on the
19 uniform application and declare under penalty of refusal,
20 suspension or revocation of the license that the statements
21 made in the application are true, correct and complete to the
22 best of the individual's knowledge and belief. Before
23 approving the application, the superintendent shall confirm
24 that the individual:

25 (1) is at least eighteen years of age;

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1 (2) has not committed any act that is a
2 ground for denial, suspension or revocation set forth in
3 Sections 59A-11-8 and 59A-11-14 NMSA 1978;

4 (3) has paid the fees set forth in Section
5 59A-6-1 NMSA 1978; and

6 (4) has successfully passed the examinations
7 for the lines of authority for which the person has applied.

8 B. A business entity acting as an insurance
9 producer is required to obtain an insurance producer license.
10 Application shall be made using the uniform business entity
11 application. Before approving the application, the
12 superintendent shall confirm that:

13 (1) the business entity has paid the fees
14 set forth in Section 59A-6-1 NMSA 1978; and

15 (2) the business entity has designated a
16 licensed insurance producer responsible for the business
17 entity's compliance with the insurance laws of this state."

18 **SECTION 29.** Section 59A-12-7 NMSA 1978 (being Laws
19 1984, Chapter 127, Section 208) is repealed and a new Section
20 59A-12-7 NMSA 1978 is enacted to read:

21 "59A-12-7. [NEW MATERIAL] LICENSE.--

22 A. Unless denied licensure pursuant to Sections
23 59A-11-8 and 59A-11-14 NMSA 1978, persons who have met the
24 requirements of Sections 59A-12-5 and 59A-12-6 NMSA 1978
25 shall be issued an insurance producer license. An insurance

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1 producer may receive qualification for a license in one or
2 more of the following lines of authority:
3 (1) life insurance coverage on human lives,
4 including benefits of endowment and annuities, and may
5 include benefits in the event of death or dismemberment by
6 accident and benefits for disability income;
7 (2) accident and health or sickness
8 insurance coverage for sickness, bodily injury or accidental
9 death and may include benefits for disability income;
10 (3) property insurance coverage for the
11 direct or consequential loss or damage to property of every
12 kind;
13 (4) casualty insurance coverage against
14 legal liability, including that for death, injury or
15 disability or damage to real or personal property;
16 (5) variable life and variable annuity
17 products insurance coverage provided under variable life
18 insurance contracts and variable annuities;
19 (6) personal lines property and casualty
20 insurance coverage sold to individuals and families for
21 primarily noncommercial purposes;
22 (7) credit limited line credit insurance;
23 and
24 (8) any other line of insurance permitted
25 under state laws.

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1 B. An insurance producer license shall remain in
2 effect unless revoked or suspended as long as the fee set
3 forth in Section 59A-6-1 NMSA 1978 is paid and education
4 requirements for resident insurance producers are met by the
5 due date.

6 C. An insurance producer who allows the insurance
7 producer's license to lapse may, within twelve months from
8 the due date of the renewal fee, reinstate the same license
9 without the necessity of passing a written examination.
10 However, a penalty in the amount of double the unpaid renewal
11 fee shall be required for any renewal fee received after the
12 due date.

13 D. A licensed insurance producer who is unable to
14 comply with license renewal procedures due to military
15 service or some other extenuating circumstance may request a
16 waiver of those procedures. The insurance producer may also
17 request a waiver of any examination requirement or any other
18 fine or sanction imposed for failure to comply with renewal
19 procedures.

20 E. The license shall contain the licensee's name,
21 address and personal identification number, the date of
22 issuance, the lines of authority, the expiration date and any
23 other information the superintendent deems necessary.

24 F. Licensees shall inform the superintendent in
25 the format prescribed by the superintendent of a change of

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1 address within thirty days of the change. Failure to timely
2 inform the superintendent of a change in legal name or
3 address shall result in a penalty of fifty dollars (\$50.00).

4 G. The superintendent may contract with non-
5 governmental entities, including the national association of
6 insurance commissioners or any affiliates or subsidiaries
7 that the national association of insurance commissioners
8 oversees, to perform any ministerial functions, including the
9 collection of fees, related to insurance producer licensing
10 that the superintendent and the non-governmental entity may
11 deem appropriate."

12 SECTION 30. Section 59A-12-8 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 209, as amended by Laws 1999,
14 Chapter 272, Section 6 and also by Laws 1999, Chapter 289,
15 Section 7) is repealed and a new Section 59A-12-8 NMSA 1978
16 is enacted to read:

17 "59A-12-8. [NEW MATERIAL] EXEMPTION FROM
18 EXAMINATION.--

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

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

8 B. A person licensed as an insurance producer in
9 another state who moves to this state shall make application
10 within ninety days of establishing legal residence to become
11 a resident licensee pursuant to Section 59A-12-6 NMSA 1978.
12 No examination shall be required of that person to obtain any
13 line of authority previously held in the prior state except
14 where the superintendent determines otherwise by rule."

15 SECTION 31. Section 59A-12-9 NMSA 1978 (being Laws
16 1984, Chapter 127, Section 210, as amended) is repealed and a
17 new Section 59A-12-9 NMSA 1978 is enacted to read:

18 "59A-12-9. [NEW MATERIAL] ASSUMED NAMES.--An insurance
19 producer shall not do business under any name other than the
20 insurance producer's legal name without written prior
21 approval of the superintendent."

22 SECTION 32. Section 59A-12-10 NMSA 1978 (being Laws
23 1997, Chapter 48, Section 1, as amended) is repealed and a
24 new Section 59A-12-10 NMSA 1978 is enacted to read:

25 "59A-12-10. [NEW MATERIAL] TEMPORARY LICENSING.--

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1 A. The superintendent may issue a temporary
2 insurance producer license for a period not to exceed one
3 hundred eighty days without requiring an examination if the
4 superintendent deems that the temporary license is necessary
5 for the servicing of an insurance business in the following
6 cases:

7 (1) to the surviving spouse or court-
8 appointed personal representative of a licensed insurance
9 producer who dies or becomes mentally or physically disabled
10 to allow adequate time for the sale of the insurance business
11 owned by the insurance producer or for the recovery or return
12 of the insurance producer to the business or to provide for
13 the training and licensing of new personnel to operate the
14 insurance producer's business;

15 (2) to a member or employee of a business
16 entity licensed as an insurance producer, upon the death or
17 disability of an individual designated in the business entity
18 application or the license;

19 (3) to the designee of a licensed insurance
20 producer entering active service in the armed forces of the
21 United States; or

22 (4) in any other circumstance where the
23 superintendent deems that the public interest will best be
24 served by the issuance of the license.

25 B. The superintendent may by order limit the

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1 authority of any temporary licensee in any way deemed
2 necessary to protect insureds and the public. The
3 superintendent may require the temporary licensee to have a
4 suitable sponsor who is a licensed insurance producer or
5 insurer and who assumes responsibility for all acts of the
6 temporary licensee and may impose other similar requirements
7 designed to protect insureds and the public. The
8 superintendent may by order revoke a temporary license if the
9 interest of insureds or the public is endangered. A
10 temporary license shall not continue after the owner or the
11 personal representative disposes of the business."

12 SECTION 33. Section 59A-12-11 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 212) is repealed and a new Section
14 59A-12-11 NMSA 1978 is enacted to read:

15 "59A-12-11. [NEW MATERIAL] COMMISSIONS.--

16 A. An insurance company or insurance producer
17 shall not pay a commission, service fee, brokerage or other
18 valuable consideration to a person for selling, soliciting or
19 negotiating insurance in this state if that person is
20 required to be licensed under Chapter 59A, Article 12 NMSA
21 1978 and is not so licensed.

22 B. A person shall not accept a commission,
23 service fee, brokerage or other valuable consideration for
24 selling, soliciting or negotiating insurance in this state if
25 that person is required to be licensed under Chapter 59A,

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1 Article 12 NMSA 1978 and is not so licensed.

2 C. Renewal or other deferred commissions may be
3 paid to a person for selling, soliciting or negotiating
4 insurance in this state if the person was required to be
5 licensed under Chapter 59A, Article 12 NMSA 1978 at the time
6 of the sale, solicitation or negotiation and was so licensed
7 at that time.

8 D. An insurer or insurance producer shall not pay
9 or assign commissions, service fees, brokerages or other
10 valuable consideration to an insurance agency or to persons
11 who do not sell, solicit or negotiate insurance in this
12 state."

13 SECTION 34. Section 59A-12-12 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 213, as amended by Laws 1999,
15 Chapter 272, Section 8 and also by Laws 1999, Chapter 289,
16 Section 9) is repealed and a new Section 59A-12-12 NMSA 1978
17 is enacted to read:

18 "59A-12-12. [NEW MATERIAL] COMPENSATION DISCLOSURE.--

19 A. Where any insurance producer or any affiliate
20 of the insurance producer receives any compensation from the
21 customer for the placement of insurance or represents the
22 customer with respect to that placement, neither that
23 insurance producer nor the affiliate shall accept or receive
24 any compensation from an insurer or other third party for
25 that placement of insurance unless the insurance producer

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1 has, prior to the customer's purchase of insurance:

2 (1) obtained the customer's documented
3 acknowledgment that such compensation will be received by the
4 insurance producer or affiliate; and

5 (2) disclosed the amount of compensation
6 from the insurer or other third party for that placement. If
7 the amount of compensation is not known at the time of
8 disclosure, the insurance producer shall disclose the
9 specific method for calculating the compensation and, if
10 possible, a reasonable estimate of the amount.

11 B. Subsection A of this section does not apply to
12 an insurance producer who:

13 (1) does not receive compensation from the
14 customer for the placement of insurance;

15 (2) represents an insurer that has appointed
16 the insurance producer in connection with that placement of
17 insurance; and

18 (3) discloses to the customer prior to the
19 purchase of insurance:

20 (a) that the insurance producer will
21 receive compensation from an insurer in connection with that
22 placement; or

23 (b) that, in connection with that
24 placement of insurance, the insurance producer represents the
25 insurer and that the insurance producer may provide services

1 to the customer for the insurer.

2 C. A person shall not be considered a customer
3 for purposes of this section if the person is merely:

4 (1) a participant or beneficiary of an
5 employee benefit plan; or

6 (2) covered by a group or blanket insurance
7 policy or group annuity contract sold, solicited or
8 negotiated by the insurance producer or affiliate.

9 D. This section does not apply to:

10 (1) a person licensed as an insurance
11 producer who acts only as an intermediary between an insurer
12 and the customer's insurance producer, for example, a
13 managing general agent, a sales manager or wholesale broker;
14 or

15 (2) a reinsurance intermediary.

16 E. For purposes of this section:

17 (1) "compensation from an insurer or other
18 third party" means payments, commissions, fees, awards,
19 overrides, bonuses, contingent commissions, loans, stock
20 options, gifts, prizes or any other form of valuable
21 consideration, whether or not payable pursuant to a written
22 agreement; and

23 (2) "documented acknowledgment" means the
24 customer's written consent obtained prior to the customer's
25 purchase of insurance. In the case of a purchase over the

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1 telephone or by electronic means for which written consent
2 cannot reasonably be obtained, consent documented by the
3 producer shall be acceptable."

4 SECTION 35. Section 59A-12-14 NMSA 1978 (being Laws
5 1984, Chapter 127, Section 215) is repealed and a new Section
6 59A-12-14 NMSA 1978 is enacted to read:

7 "59A-12-14. [NEW MATERIAL] NO LICENSE WHERE SHARES OR
8 INTEREST USED AS INDUCEMENT TO INSURANCE.--The superintendent
9 shall not license an insurance producer, or permit any such
10 license to continue, if the superintendent finds that the
11 licensee did, or that the applicant for license intends to,
12 offer, give or sell stock or other ownership or participating
13 interest in the agency or brokerage as inducement to or in
14 connection with purchase of insurance."

15 SECTION 36. Section 59A-12-15 NMSA 1978 (being Laws
16 1984, Chapter 127, Section 216, as amended by Laws 1999,
17 Chapter 272, Section 9 and also by Laws 1999, Chapter 289,
18 Section 10) is repealed and a new Section 59A-12-15 NMSA 1978
19 is enacted to read:

20 "59A-12-15. [NEW MATERIAL] CONTINUING EDUCATION.--

21 A. The superintendent may require as a condition
22 to continuation of an insurance producer license that during
23 the twenty-four months next preceding expiration of the
24 current license period the licensee has attended the minimum
25 number of hours of formal class instruction, lectures or

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1 seminars required and approved by the superintendent covering
2 the kinds of insurance for which licensed.

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

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

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

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

25 F. This section does not apply to holders of

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1 limited licenses issued under Section 59A-12-21 NMSA 1978."

2 SECTION 37. Section 59A-12-16 NMSA 1978 (being Laws
3 1984, Chapter 127, Section 217, as amended) is repealed and a
4 new Section 59A-12-16 NMSA 1978 is enacted to read:

5 "59A-12-16. [NEW MATERIAL] CONTINUING EDUCATION
6 FUND.--There is created in the state treasury a fund that
7 shall be known as the "insurance licensee continuing
8 education fund". All fees imposed by the provisions of this
9 section shall be deposited in the insurance licensee
10 continuing education fund and shall be used for the purpose
11 of administering the continuing education program."

12 SECTION 38. Section 59A-12-17 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 218, as amended) is repealed and a
14 new Section 59A-12-17 NMSA 1978 is enacted to read:

15 "59A-12-17. [NEW MATERIAL] PLACE OF BUSINESS--DISPLAY
16 OF LICENSE.--An insurance producer shall have and maintain a
17 place of business accessible to the public where the licensee
18 conducts transactions under the license. Nothing in this
19 section shall prohibit maintenance of the place of business
20 in the licensee's residence."

21 SECTION 39. Section 59A-12-18 NMSA 1978 (being Laws
22 1984, Chapter 127, Section 219, as amended) is repealed and a
23 new Section 59A-12-18 NMSA 1978 is enacted to read:

24 "59A-12-18. [NEW MATERIAL] RECORDS OF GENERAL LINES
25 PRODUCER.--

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1 A. Every insurance producer shall keep in the
2 insurance producer's place of business complete records of
3 transactions under the insurance producer's license. The
4 records shall show the following information for each
5 insurance policy placed by or through the licensee:
6 (1) the names of the insurer and insured;
7 (2) the number and expiration date of each
8 policy;
9 (3) the premium payable for each policy;
10 (4) the names of all other persons from whom
11 business is accepted or to whom commissions are promised or
12 paid;
13 (5) all premiums collected; and
14 (6) any additional information the
15 superintendent may require.

16 B. The records shall be open to the
17 superintendent's examination, and the superintendent may at
18 any reasonable time require the licensee to furnish, in the
19 manner and form as the superintendent may require, any
20 information kept or required to be kept in such records.

21 C. Records as to a particular policy may be
22 destroyed on expiration of three years after the policy's
23 expiration."

24 **SECTION 40.** Section 59A-12-19 NMSA 1978 (being Laws
25 1984, Chapter 127, Section 220) is repealed and a new Section
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1 59A-12-19 NMSA 1978 is enacted to read:

2 "59A-12-19. [NEW MATERIAL] SPECIAL REQUIREMENTS--TITLE
3 INSURANCE PRODUCERS.--

4 A. The superintendent shall not issue or permit
5 to continue an insurance producer license for title insurance
6 except for an applicant who, in addition to other applicable
7 qualifications and requirements, owns, operates or controls
8 an abstract plant consisting of a set of records in which an
9 entry has been made of all documents or matters that under
10 law impart constructive notice of matters affecting title to
11 real property or any interest therein or encumbrance thereon,
12 which have been filed or recorded in the county for which
13 such title plant is maintained for a period of not less than
14 twenty years immediately prior to date of application for
15 license. Such records shall consist of:

16 (1) an index or indices in which notations
17 of or references to any such documents that describe property
18 affected thereby are posted, entered or otherwise included,
19 according to the property described therein, or copies or
20 briefs of all such documents that describe the property
21 affected thereby that are sorted and filed according to such
22 property; and

23 (2) an index or indices in which all other
24 such documents are posted, entered or otherwise included,
25 according to the name or names of the parties whose title to

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1 real property or any interest therein or encumbrances thereon
2 is affected.

3 B. Every applicant who, on January 1, 1965, was
4 licensed as an agent to issue title insurance shall be
5 exempted from the requirement of having a twenty-year
6 abstract plant, if an abstract plant is maintained on a
7 current basis commencing July 1, 1965.

8 C. A license as producer to issue title insurance
9 shall permit the licensee to issue policies only on property
10 located in the county or counties for which the licensee has
11 the necessary abstract plant."

12 SECTION 41. Section 59A-12-20 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 221, as amended) is repealed and a
14 new Section 59A-12-20 NMSA 1978 is enacted to read:

15 "59A-12-20. [NEW MATERIAL] LIMITED LINES.--

16 A. The superintendent may issue a limited
17 insurance producer license to individual applicants employed
18 full time by a vendor of merchandise or other property, or by
19 a financial institution making consumer loans on terms with
20 respect to which credit life insurance, credit health
21 insurance, credit property insurance or credit involuntary
22 unemployment insurance under individual policies is
23 customarily required of or offered to the purchaser or
24 borrower, covering only that credit life, credit health,
25 credit property or credit involuntary unemployment insurance.

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1 B. The superintendent may issue a limited
2 insurance producer license to vendors in accordance with the
3 provisions of the Portable Electronics Insurance Act. The
4 application shall provide:

5 (1) the name, residence address and other
6 information required by the superintendent for an employee or
7 officer of the vendor that is designated by the applicant as
8 the person responsible for the vendor's compliance with the
9 requirements of the Portable Electronics Insurance Act. If
10 the vendor derives more than fifty percent of its revenue
11 from the sale of portable electronics insurance, the
12 information noted above shall be provided for all officers,
13 directors and shareholders of record having beneficial
14 ownership of ten percent or more of any class of securities
15 registered under the federal securities law; and

16 (2) the location of the applicant's home
17 office.

18 C. No holder of a limited license issued pursuant
19 to Subsection A of this section shall concurrently be
20 otherwise licensed under the Insurance Code."

21 **SECTION 42.** Section 59A-12-21 NMSA 1978 (being Laws
22 1984, Chapter 127, Section 222) is repealed and a new Section
23 59A-12-21 NMSA 1978 is enacted to read:

24 "59A-12-21. [NEW MATERIAL] LIMITED LICENSES--TRAVEL
25 INSURANCE.--

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1 A. The superintendent may issue a limited lines
2 travel insurance producer license to applicants who are
3 qualified to solicit or sell travel insurance.

4 B. A travel retailer may offer travel insurance
5 under the license of a limited lines travel insurance
6 producer only if:

7 (1) the limited lines travel insurance
8 producer or travel retailer provides to purchasers of travel
9 insurance:

10 (a) a description of the material
11 terms of the insurance coverage;

12 (b) a description of the process for
13 filing a claim;

14 (c) a description of the travel
15 insurance policy's cancellation process; and

16 (d) the identity and contact
17 information of the insurer and limited lines travel insurance
18 producer;

19 (2) the limited lines travel insurance
20 producer:

21 (a) establishes at the time of
22 licensure on a form prescribed by the superintendent a
23 register of each travel retailer that offers travel insurance
24 on behalf of the limited lines travel insurance producer;

25 (b) includes in the register each

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1 travel retailer's federal tax identification number and the
2 name, address and contact information of each travel retailer
3 and an officer or person who directs or controls the travel
4 retailer's operations;

5 (c) maintains the register and updates
6 it at least once a year;

7 (d) submits the register to the
8 superintendent upon reasonable request; and

9 (e) certifies that each travel
10 retailer on the register complies with federal laws;

11 (3) the limited lines travel insurance
12 producer has selected a designated responsible agent who is
13 one of its licensed individual limited lines travel insurance
14 producer employees and who is responsible for the limited
15 lines travel insurance producer's compliance with the travel
16 insurance laws and rules of this state;

17 (4) the designated responsible insurance
18 producer, president, secretary, treasurer and all other
19 officers or persons who direct or control the limited lines
20 travel insurance producer's insurance operations comply with
21 the fingerprinting requirements for insurance producers of
22 the resident state of the limited lines travel insurance
23 producer;

24 (5) the limited lines travel insurance
25 producer has paid all applicable insurance producer licensing

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1 fees pursuant to state law; and

2 (6) the limited lines travel insurance
3 producer requires each employee and authorized representative
4 of the travel retailer whose duties include offering and
5 disseminating travel insurance to receive a program of
6 instruction or training that the superintendent may review
7 and that, at a minimum, contains instructions on the types of
8 insurance offered, ethical sales practices and required
9 disclosures to prospective customers.

10 C. A travel retailer that offers and disseminates
11 travel insurance shall make available to prospective
12 purchasers brochures or other written materials that:

13 (1) identify and provide the contact
14 information of the insurer and the limited lines travel
15 insurance producer;

16 (2) explain that the purchase of travel
17 insurance is not a prerequisite to the purchase of any other
18 product or service of the travel retailer; and

19 (3) explain that an unlicensed travel
20 retailer may provide general information about the insurance
21 offered and disseminated by the travel retailer, including a
22 description of the coverage and price, but is not qualified
23 or authorized to answer technical questions about the terms
24 and conditions of the insurance offered by the travel
25 retailer or to evaluate the adequacy of the customer's

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1 existing insurance coverage.

2 D. A travel retailer's employee or authorized
3 representative who is not licensed as a limited lines travel
4 insurance producer shall not:

5 (1) evaluate or interpret the technical
6 terms, benefits or conditions of the travel insurance
7 coverage offered;

8 (2) evaluate or provide advice concerning a
9 prospective purchaser's existing insurance coverage; or

10 (3) make representation as being a licensed
11 insurer, licensed limited lines travel insurance producer or
12 insurance expert.

13 E. A travel retailer and its employees and
14 authorized representatives whose insurance-related activities
15 are limited to the offering and dissemination of travel
16 insurance on behalf of and under the direction of a limited
17 lines travel insurance producer that complies with this
18 section may conduct and receive compensation for those
19 activities.

20 F. A travel retailer may place insurance under an
21 individual policy or under a group or master policy.

22 G. As the insurer designee, a limited lines
23 travel insurance producer shall be responsible for the acts
24 of the travel retailer and shall use reasonable means to
25 ensure that the travel retailer complies with the provisions

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1 of this section.

2 H. As used in this section:

3 (1) "limited lines travel insurance
4 producer" means a licensed managing general agent or
5 third-party administrator or a licensed insurance producer;

6 (2) "offer and disseminate" means providing
7 general information, including a description of coverage and
8 price, processing applications, collecting premiums and
9 performing other non-licensable activities permitted by this
10 state;

11 (3) "travel insurance" means insurance
12 coverage for personal risks incident to planned travel,
13 including the interruption or cancellation of a trip or
14 event; the loss of baggage or personal effects; damage to
15 accommodations or rental vehicles; or sickness, accident,
16 disability or death during travel. "Travel insurance" does
17 not include major medical plans that provide comprehensive
18 medical protection for travelers on trips of six months or
19 longer, such as for those working overseas as expatriates or
20 deployed military personnel; and

21 (4) "travel retailer" means a business
22 entity that makes, arranges or offers travel services."

23 SECTION 43. Section 59A-12-22 NMSA 1978 (being Laws
24 1984, Chapter 127, Section 223, as amended) is amended to
25 read:

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1 "59A-12-22. FIDUCIARY FUNDS-- ~~[AGENTS, BROKERS,~~
2 ~~SOLICITORS]~~ INSURANCE PRODUCERS, SURPLUS LINE BROKERS, BAIL
3 BONDSMEN, MOTOR CLUB AGENTS AND OTHERS.--

4 A. All funds of others received by ~~[any]~~ a person
5 licensed or acting as an insurance ~~[agent, broker, solicitor]~~
6 producer, surplus line broker, bail bondsman ~~[or solicitor]~~,
7 motor club agent or agent ~~[or solicitor]~~ for health care
8 plan, prepaid dental plan, or in ~~[any]~~ a similar capacity for
9 which licensing of ~~[such]~~ the person is required under the
10 Insurance Code, are received and held by ~~[such]~~ the person in
11 a fiduciary capacity. Any such person who diverts or
12 appropriates ~~[such]~~ funds to ~~[his]~~ the person's own use, or
13 takes or secretes with intent to embezzle, all without
14 consent of the person entitled to ~~[such]~~ the funds, is guilty
15 of larceny by embezzlement.

16 B. Subject to the terms of any agreement between
17 such person or licensee and ~~[his]~~ the person's or licensee's
18 principal or obligee, each such person who does not make
19 immediate remittance of such funds to the insurer or other
20 person entitled thereto, shall elect and follow as to funds
21 received for account of a particular insurer or person either
22 of the following methods:

23 (1) remit received premiums (less applicable
24 commissions, if any) and return premiums to the insurer or
25 other person entitled thereto within fifteen days after

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1 [such] receipt; or

2 (2) establish and maintain in a commercial
3 bank or other established financial institution depository
4 one or more accounts, separate from accounts holding general
5 personal, firm or corporate funds, and forthwith deposit and
6 retain therein pending transmittal to the insurer or other
7 person entitled thereto, all such premiums (net of applicable
8 commissions, if any) and return premiums. Funds belonging to
9 more than one principal may be as deposited and held in the
10 same [such] account so long as the amount held for each
11 [such] principal is readily ascertainable from the records of
12 the depositor. The depositor may commingle with such
13 fiduciary funds in a particular [such] account such
14 additional funds as the licensee deems prudent for advancing
15 premiums, reserves for payment of return commissions or for
16 other contingencies arising in the business of receiving and
17 transmitting premiums or return premiums.

18 C. [~~Such~~] The person may commingle with [~~his~~] the
19 person's own funds to an unlimited amount funds of a
20 particular principal who has in writing in advance expressly
21 waived the segregation requirements of Subsection B of this
22 section.

23 D. Any commingling of funds with funds of any
24 [such] person permitted under this section shall not alter
25 the fiduciary capacity of [such] the person as to funds of

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underscored material = new
[bracketed material] = delete

1 others."

2 SECTION 44. Section 59A-12-23 NMSA 1978 (being Laws
3 1984, Chapter 127, Section 224, as amended by Laws 1999,
4 Chapter 272, Section 13 and also by Laws 1999, Chapter 289,
5 Section 14) is amended to read:

6 "59A-12-23. INSURANCE VENDING MACHINES.--

7 A. A licensed [~~agent~~] insurance producer may
8 solicit for and issue personal travel accident insurance
9 policies of an authorized insurer by means of mechanical
10 vending machines supervised by the [~~agent~~] insurance producer
11 and placed at airports and other places of convenience to the
12 traveling public, if the superintendent finds that:

13 (1) the policy provides reasonable coverage
14 and benefits, is suitable for sale and issuance by vending
15 machine and use of such a machine in a proposed location
16 would be of material convenience to the public;

17 (2) the type of machine proposed to be used
18 is reasonably suitable for the purpose;

19 (3) reasonable means are provided for
20 informing prospective purchasers of policy coverages and
21 restrictions;

22 (4) reasonable means are provided for refund
23 of money inserted in defective machines and for which
24 insurance so paid for is not received; and

25 (5) the cost of maintaining such a machine

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underscored material = new
[bracketed material] = delete

1 at a particular location is reasonable.

2 B. For each machine to be used the superintendent
3 shall issue to the applicant a special vending machine
4 license. The license shall state the name and address of the
5 insurer and ~~[agent]~~ insurance producer, name of the policy to
6 be sold and serial number and operating location of the
7 machine. The license shall be subject to annual
8 continuation, to expiration, suspension or revocation
9 coincidentally with that of the agent. The superintendent
10 shall also revoke the license as to any machine as to which
11 ~~[he]~~ the superintendent finds that license qualifications no
12 longer exist. Proof of existence of a subsisting license
13 shall be displayed on or about each machine in use in ~~[such]~~
14 the manner ~~[as]~~ that the superintendent reasonably requires."

15 SECTION 45. REPEAL.--Sections 59A-7-5, 59A-7-8,
16 59A-7-9, 59A-11-19, 59A-12-18.1 and 59A-12-20.1 NMSA 1978
17 (being Laws 1984, Chapter 127, Sections 111, 114, 115 and
18 199, Laws 2013, Chapter 140, Section 3 and Laws 2003, Chapter
19 306, Section 5, as amended) are repealed.

20 SECTION 46. SEVERABILITY.--If any part or application
21 of this act is held invalid, the remainder or its application
22 to other situations or persons shall not be affected.

23 SECTION 47. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2016.