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SENATE BILL 235

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Carroll H. Leavell

AN ACT

**RELATING TO INSURANCE; AMENDING THE NEW MEXICO INSURANCE CODE
TO CHANGE CERTAIN LICENSE FEES AND TO PROVIDE FOR NOTICE OF
CHANGE OF ADDRESS.**

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

**Section 1. Section 59A-6-1 NMSA 1978 (being Laws 1984,
Chapter 127, Section 101, as amended) is amended to read:**

**"59A-6-1. FEE SCHEDULE. --The superintendent shall
collect and receipt for, and persons so served shall pay to
the superintendent, fees, licenses and miscellaneous charges
as follows:**

A. insurer's certificate of authority -

**(1) filing application for certificate of
authority, and issuance of certificate of authority, if
issued, including filing of all charter documents, financial**

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1 statements, service of process, power of attorney, examination
2 reports and other documents included with and part of the
3 application \$1, 000. 00
4 (2) annual continuation of certificate of
5 authority, per kind of insurance, each year continued . 200. 00
6 (3) reinstatement of certificate of
7 authority, Section 59A-5-23 NMSA 1978 150. 00
8 (4) amendment to certificate of authority
9 200. 00
10 B. charter documents - filing amendment to any
11 charter document, as defined in Section 59A-5-3 NMSA
12 1978 10. 00
13 C. annual statement of insurer, filing . . 200. 00
14 D. service of process, acceptance by
15 superintendent and issuance of certificate of service, where
16 issued 10. 00
17 E. agents' licenses and appointments -
18 (1) filing application for original agent
19 license and issuance of license, if issued 30. 00
20 (2) appointment of agent -
21 (a) filing appointment, per kind of
22 insurance, each insurer 20. 00
23 (b) continuation of appointment, each
24 insurer, each year continued 20. 00
25 (3) variable annuity agent's license -

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- 1 (a) filing application for license and
- 2 issuance of license, if issued 30.00
- 3 (b) continuation of appointment
- 4 each year 20.00
- 5 (4) temporary license as to life and health
- 6 insurance or both 30.00
- 7 (a) as to property insurance 30.00
- 8 (b) as to casualty/surety insurance
- 9 30.00
- 10 (c) as to vehicle insurance 30.00
- 11 F. solicitor license -
- 12 (1) filing application for original license
- 13 and issuance of license, if issued 30.00
- 14 (2) continuation of appointment, per kind of
- 15 insurance, each year 20.00
- 16 G. broker license -
- 17 (1) filing application for license and
- 18 issuance of original license, if issued 30.00
- 19 (2) annual continuation of license 30.00
- 20 H. insurance vending machine license -
- 21 (1) filing application for original license
- 22 and issuance of license, if issued, each machine 25.00
- 23 (2) annual continuation of license, each
- 24 machine 25.00
- 25 I. examination for license, application for

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1 examination conducted directly by superintendent, each
2 grouping of kinds of insurance to be covered by the
3 examination as provided by the superintendent's rules and
4 regulations, and payable as to each instance of
5 examination 50.00

6 J. surplus line insurer - filing application for
7 qualification as eligible surplus lines insurer . . . 1,000.00

8 K. surplus line broker license -
9 (1) filing application for original license
10 and issuance of license, if issued 100.00
11 (2) annual continuation of license . 100.00

12 L. adjuster license -
13 (1) filing application for original license
14 and issuance of license, if issued 30.00
15 (2) annual continuation of license . 30.00

16 M. rating organization or rating advisory
17 organization license -
18 (1) filing application for license and
19 issuance of license, if issued 100.00
20 (2) annual continuation of license . . 100.00

21 N. nonprofit health care plans -
22 (1) filing application for preliminary permit
23 and issuance of permit, if issued 100.00
24 (2) certificate of authority, application,
25 issuance, continuation, reinstatement, charter documents -

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- 1 same as for insurers
- 2 (3) annual statement, filing 200.00
- 3 (4) agents and solicitors -
- 4 (a) filing application for original
- 5 license and issuance of license, if issued 30.00
- 6 (b) examination for license conducted
- 7 directly by superintendent, each instance of examination
- 8 50.00
- 9 (c) annual continuation of appointment
- 10 20.00
- 11 0. prepaid dental plans -
- 12 (1) certificate of authority, application,
- 13 issuance, continuation, reinstatement, charter documents -
- 14 same as for insurers
- 15 (2) annual report, filing 200.00
- 16 (3) agents and solicitors -
- 17 (a) filing application for original
- 18 license and issuance of license, if issued 30.00
- 19 (b) examination for license conducted
- 20 directly by superintendent, each instance of examination
- 21 50.00
- 22 (c) continuation of license,
- 23 each year 20.00
- 24 P. prearranged funeral insurance - application for
- 25 certificate of authority, issuance, continuation,

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1 reinstatement, charter documents, filing annual statement,
2 licensing of sales representatives - same as for insurers

3 Q. premium finance companies -

4 (1) filing application for original license
5 and issuance of license, if issued 100.00

6 (2) annual renewal of license 100.00

7 R. motor clubs -

8 (1) certificate of authority -

9 (a) filing application for original
10 certificate of authority and issuance of certificate of
11 authority, if issued 200.00

12 (b) annual continuation of certificate
13 of authority 100.00

14 (2) sales representatives -

15 (a) filing application for registration
16 or license and issuance of registration or license, if issued,
17 each representative [~~20.00~~] 30.00

18 (b) annual continuation of registration
19 or license, each representative [~~20.00~~] 30.00

20 S. bail bondsmen -

21 (1) filing application for original license
22 as bail bondsman or solicitor, and issuance of license, if
23 issued 30.00

24 (2) examination for license conducted
25 directly by superintendent, each instance of examination

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1 50.00

2 (3) continuation of appointment, each year
3 20.00

4 T. securities salesperson license -

5 (1) filing application for license and
6 issuance of license, if issued 25.00

7 (2) renewal of license, each year 25.00

8 U. for each signature and seal of the
9 superintendent affixed to any instrument 10.00

10 V. required filing of forms or rates - by all
11 lines of business other than property or casualty

12 (1) rates 50.00

13 (2) major form - each new policy and each
14 package submission which can include multiple policy forms,
15 application forms, rider forms, endorsement forms or amendment
16 forms 30.00

17 (3) incidental forms and rates - forms filed
18 for informational purposes; riders, applications, endorsements
19 and amendments filed individually; rate service organization
20 reference filings; rates filed for informational purposes
21 15.00

22 W. health maintenance organizations -

23 (1) filing an application for a certificate
24 of authority 1,000.00

25 (2) annual continuation of certificate of

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1	authority, each year continued	200.00
2	(3) filing each annual report	200.00
3	(4) filing an amendment to organizational	
4	documents requiring approval	200.00
5	(5) filing informational amendments .	50.00
6	(6) agents and solicitors -	
7	(a) filing application for original	
8	license and issuance of license, if issued	30.00
9	(b) examination for license, each	
10	instance of examination	50.00
11	(c) annual continuation of appointment	
12	20.00
13	X. purchasing groups and foreign risk retention	
14	groups -	
15	(1) original registration	500.00
16	(2) annual continuation of registration	
17	200.00
18	(3) agent or broker fees - same as for	
19	authorized insurers	
20	<u>Y. third party administrators -</u>	
21	<u>(1) filing application for original</u>	
22	<u>individual insurance administrator license</u>	<u>30.00</u>
23	<u>(2) filing application for original officer,</u>	
24	<u>manager or partner insurance administrator license . . .</u>	<u>30.00</u>
25	<u>(3) continuation or renewal of annual license</u>	

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1 30.00

2 (4) examination for license conducted
3 directly by the superintendent, each examination 75.00

4 (5) each request for a duplicate license or
5 for each name change 30.00

6 (6) filing of annual report 50.00

7 (7) each seal or signature affixed to an
8 instrument 10.00.

9 Notwithstanding the fees required in this subsection, an
10 insurer shall be subject to additional fees or charges, termed
11 retaliatory or reciprocal requirements, or both, whenever any
12 form or rate-filing fees in excess of those imposed by the
13 laws of this state are charged to insurers in New Mexico doing
14 business in another state or whenever any condition precedent
15 to the right to issue policies in another state is imposed by
16 the laws of that state over and above the conditions imposed
17 upon insurers by the laws of New Mexico; in those cases, the
18 same form or rate-filing fees [~~shall~~] may be imposed upon
19 every insurer from every other state transacting or applying
20 to transact business in New Mexico so long as the higher fees
21 remain in force in the other state. If an insurer fails to
22 comply with the additional retaliatory or reciprocal
23 requirement charges imposed under this subsection, the
24 superintendent [~~shall~~] may refuse to grant or [~~shall~~] may
25 withdraw approval of the tendered form or rate filing.

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1 ~~[Except as to certain appointment fees as specified in~~
2 ~~Section 59A-11-8 NMSA 1978]~~ All fees are deemed earned when
3 paid and are not refundable. "

4 Section 2. Section 59A-12-20 NMSA 1978 (being Laws 1984,
5 Chapter 127, Section 221, as amended by Laws 1999, Chapter
6 272, Section 12 and also by Laws 1999, Chapter 289, Section
7 13) is amended to read:

8 "59A-12-20. PLACE OF BUSINESS--DISPLAY OF LICENSE. --

9 A. Every general lines agent shall have and
10 maintain a place of business accessible to the public, wherein
11 the licensee conducts transactions under the license. [~~The~~
12 ~~address of the place of business shall appear upon the~~
13 ~~application for license when issued, and the licensee shall~~
14 ~~promptly notify the superintendent in writing of any change of~~
15 ~~address.~~] Nothing in this section shall prohibit maintenance
16 of the place of business in the licensee's residence.

17 B. The licenses of the licensee and those of
18 solicitors employed by him shall be conspicuously displayed in
19 the place of business in a part customarily open to the
20 public.

21 C. This section does not apply to life insurance,
22 annuity contracts or health insurance. "

23 Section 3. A new section of Chapter 59A, Article 12 NMSA
24 is enacted to read:

25 "[NEW MATERIAL] CHANGE OF ADDRESS--NOTICE REQUIRED--

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1 PENALTY. --The address of the licensee's place of business
2 shall appear on the application for the license and on the
3 license, and the licensee shall promptly notify the
4 superintendent in writing of any change of address. Failure
5 to notify the superintendent of a change of address within
6 twenty days shall subject the licensee to a penalty in the
7 amount of fifty dollars (\$50.00). "

8 Section 4. Section 59A-13-2 NMSA 1978 (being Laws 1984,
9 Chapter 127, Section 230, as amended) is amended to read:

10 "59A-13-2. DEFINITIONS. --

11 A. For the purposes of the Insurance Code:

12 (1) "adjuster" is any person:

13 (a) who or ~~[which]~~ that investigates,
14 negotiates, settles or adjusts losses or claims arising under
15 insurance contracts on behalf of an insurer, insured or self-
16 insurer, for fee, commission or other compensation; however,
17 an adjuster acting on behalf of an insured shall not
18 investigate, negotiate, settle or adjust any claims involving
19 personal injury to the insured; and

20 (b) who ~~[shall advise]~~ advises the
21 insured of his rights to settlement and his rights to settle,
22 arbitrate and litigate the dispute;

23 (2) "staff adjuster" is an adjuster
24 individual who is a salaried employee of an insurer,
25 representing and adjusting claims solely under policies of the

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1 employer insurer; and

2 (3) "independent adjuster" is every adjuster
3 not a staff adjuster and includes representatives and
4 employees of such an independent adjuster.

5 B. Except as provided hereafter, "adjuster" does
6 not include:

7 (1) an attorney-at-law who adjusts insurance
8 losses or claims from time to time incidental to practice of
9 law and who does not advertise or represent himself to be an
10 adjuster;

11 (2) a licensed agent or general agent of an
12 authorized insurer, or an employee of such an agent or general
13 agent, who adjusts claims or losses under specific authority
14 from such insurer and solely under policies issued by such
15 insurer;

16 (3) an agent or employee of a life or health
17 insurer who adjusts claims or losses under such insurer's
18 policies or contracts to administer the policies or benefits;
19 or

20 (4) salaried or part-time claims agents or
21 investigators employed by self-insured persons [~~subject to~~
22 ~~regulation pursuant to Section 7, Article II of the~~
23 ~~constitution of New Mexico~~]. "

24 Section 5. Section 59A-13-9 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 237) is amended to read:

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1 "59A-13-9. PLACE OF BUSINESS. -- Every licensed adjuster
2 shall have in this state and while so licensed shall maintain
3 a principal place of business easily accessible to the public
4 and from which the adjuster principally conducts transactions
5 under the license. The address of the principal place of
6 business shall appear on the application for license and on
7 the license. The licensee shall promptly notify the
8 superintendent of any change of address of principal place of
9 business. Failure to notify the superintendent of a change of
10 address within twenty days shall subject the licensee to a
11 penalty in the amount of fifty dollars (\$50.00)."

12 Section 6. Laws 1996, Chapter 6, Section 3 is amended to
13 read:

14 "NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--
15 APPROPRIATION. --

16 A. The New Mexico finance authority may issue and
17 sell revenue bonds in compliance with the New Mexico Finance
18 Authority Act in installments or at one time in an amount not
19 exceeding one million dollars (\$1,000,000) for the purpose of
20 financing information and communication equipment, including
21 computer hardware and software, for the [department of]
22 insurance division of the public regulation commission.

23 B. The New Mexico finance authority may issue and
24 sell revenue bonds authorized by this section when the
25 superintendent of insurance certifies the need for issuance of

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1 the bonds. The net proceeds from the sale of the bonds are
2 appropriated to the [~~department of~~] insurance division for the
3 purposes described in Subsection A of this section.

4 C. The proceeds from the surcharge shall be
5 distributed monthly to the New Mexico finance authority
6 pursuant to Section 59A-6-1.1 NMSA 1978 to be pledged
7 irrevocably for the payment of the principal, interest and any
8 other expenses or obligations related to the bonds.

9 D. The surcharge proceeds distributed to the New
10 Mexico finance authority shall be deposited in a separate fund
11 or account of the authority. At the end of each fiscal year,
12 any money remaining in the separate fund or account from
13 distributions made to the authority during that fiscal year,
14 after all principal, interest and any other expenses or
15 obligations related to the bonds in that fiscal year are fully
16 paid, may be appropriated by the legislature to the
17 [~~department of~~] insurance division for acquisition,
18 maintenance and operation of information and communication
19 equipment, including computer hardware, [~~and~~] software,
20 systems planning, deployment and training. Upon payment of
21 all principal, interest and any other expenses or obligations
22 related to the bonds, the authority shall certify to the
23 [~~department of~~] insurance division that all obligations for
24 the bonds issued pursuant to this section have been fully
25 discharged and direct the [~~department~~] division to cease

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1 distributing money pursuant to Section 59A-6-1.1 NMSA 1978 to
2 the authority.

3 E. Any law authorizing the imposition or
4 distribution of the surcharge or that affects the surcharge
5 shall not be amended, repealed or otherwise directly or
6 indirectly modified so as to impair any outstanding revenue
7 bonds that may be secured by a pledge of the surcharge
8 collections, unless the revenue bonds have been discharged in
9 full or provisions have been made for a full discharge. "