

1 AN ACT  
2 RELATING TO TAXATION; REVISING THE EXEMPTIONS FROM THE  
3 PREMIUM TAX; DECLARING AN EMERGENCY.  
4

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

6 Section 1. Section 59A-6-2 NMSA 1978 (being Laws 1984,  
7 Chapter 127, Section 102, as amended) is amended to read:

8 "59A-6-2. PREMIUM TAX. --

9 A. The premium tax provided for in this section  
10 shall apply as to the following taxpayers:

11 (1) each insurer authorized to transact  
12 insurance in New Mexico;

13 (2) each insurer formerly authorized to  
14 transact insurance in New Mexico and receiving premiums on  
15 policies remaining in force in New Mexico, except that this  
16 provision shall not apply as to an insurer that withdrew  
17 from New Mexico prior to March 26, 1955;

18 (3) each plan operating under provisions of  
19 Chapter 59A, Articles 46 through 49 NMSA 1978;

20 (4) each property bondsman, as that person  
21 is defined in Section 59A-51-2 NMSA 1978, as to any  
22 consideration received as security or surety for a bail bond  
23 in connection with a judicial proceeding, which  
24 consideration shall be considered "gross premiums" for the  
25 purposes of this section; and

1                   (5) each unauthorized insurer that has  
2 assumed a contract or policy of insurance directly or  
3 indirectly from an authorized or formerly authorized insurer  
4 and is receiving premiums on such policies remaining in  
5 force in New Mexico, except that this provision shall not  
6 apply if a ceding insurer continues to pay the tax provided  
7 in this section as to such policy or contract.

8                   B. Each such taxpayer shall pay in accordance  
9 with this subsection three percent of the gross premiums and  
10 membership and policy fees received by it on insurance or  
11 contracts covering risks within this state during the  
12 preceding calendar year, less all return premiums, including  
13 dividends paid or credited to policyholders or contract  
14 holders and premiums received for reinsurance on New Mexico  
15 risks. For each calendar quarter, an estimated payment  
16 shall be made on April 15, July 15, October 15 and the  
17 following January 15. The estimated payments shall be equal  
18 to at least one-fourth of either the payment made during the  
19 previous calendar year or eighty percent of the actual  
20 payment due for the current calendar year, whichever is  
21 greater. The final adjustment for payments due for the  
22 prior year shall be made with the return which shall be  
23 filed on April 15 of each year, at which time all taxes for  
24 that year are due. Dividends paid or credited to  
25 policyholders or contract holders and refunds, savings,

1 savings coupons and similar returns or credits applied or  
2 credited to payment of premiums for existing, new or  
3 additional insurance shall, in the amount so used,  
4 constitute premiums subject to tax under this section for  
5 the year in which so applied or credited, except that:

6 (1) as to every insurer that throughout  
7 such preceding calendar year had at least forty percent of  
8 its admitted assets invested in New Mexico investments, as  
9 the same are defined in Subsection C of this section, the  
10 rate of such tax shall be nine-tenths percent in lieu of  
11 three percent; and

12 (2) effective January 1, 1992, the rate  
13 shall be one and four-tenths percent; effective July 1,  
14 1992, the rate shall be one and nine-tenths percent;  
15 effective January 1, 1993, the rate shall be two and four-  
16 tenths percent; and effective July 1, 1993 and thereafter,  
17 the rate shall be three percent.

18 C. New Mexico investments for the purpose of  
19 Subsection B of this section are defined as follows:

20 (1) real estate located within New Mexico;

21 (2) bonds or obligations of New Mexico or  
22 of any county or other subdivision thereof;

23 (3) bonds, debentures or secured  
24 obligations of any corporation that has fifty percent of its  
25 assets located within New Mexico;

1 (4) first mortgages secured by real estate  
2 located within New Mexico;

3 (5) deposits in state banks, national banks  
4 and trust companies having their principal place of business  
5 within New Mexico;

6 (6) policy loans to residents of New  
7 Mexico; and

8 (7) preferred and common stock of  
9 corporations having at least fifty percent of their assets  
10 located within New Mexico.

11 D. Nothing contained in Subsection C of this  
12 section shall be construed to affect any provision of  
13 Chapter 59A, Article 9 NMSA 1978.

14 E. Exempted from the tax imposed by Subsection B  
15 of this section are:

16 (1) premiums attributable to insurance or  
17 contracts purchased by the state or a political subdivision  
18 for the state's or political subdivision's active or retired  
19 employees; and

20 (2) payments received by a health  
21 maintenance organization from the federal secretary of  
22 health and human services pursuant to a contract issued  
23 under the provisions of 42 U.S.C. Section 1395 mm(g). "

24 Section 2. TEMPORARY PROVISION-- TRANSITION. -- A  
25 taxpayer that makes an estimated payment for the first

1 quarter of 2003 on April 15, 2003 pursuant to Section 59A-6-  
2 2 NMSA 1978 as it is amended in this act and, in determining  
3 that payment, is required to include premiums that would  
4 have been exempt pursuant to the law in effect prior to  
5 January 1, 2003 shall not be subject to interest and penalty  
6 charges for late payment or underpayment of that estimated  
7 payment or the underlying tax liability.

8 Section 3. APPLICABILITY. -- The provisions of this act  
9 apply to premiums received in the 2003 and subsequent  
10 calendar years.

11 Section 4. EMERGENCY. -- It is necessary for the public  
12 peace, health and safety that this act take effect  
13 immediately. \_\_\_\_\_

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