

AN ACT
RELATING TO INSURANCE; ENACTING THE RENTAL CAR INSURANCE
LIMITED PRODUCER LICENSE ACT.

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

Section 1. SHORT TITLE. -- This act may be cited as the "Rental Car Insurance Limited Producer License Act".

Section 2. DEFINITIONS. -- As used in the Rental Car Insurance Limited Producer License Act:

A. "rental agreement" means a written master, corporate, group or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company;

B. "rental car" means a motor vehicle that is intended to be rented or leased for a period of ninety consecutive days or less by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is one of the following:

(1) a private passenger motor vehicle, including a passenger van, minivan or sports utility vehicle; or

(2) a cargo vehicle, including a cargo van, pickup truck or truck with a gross vehicle weight of less than twenty-six thousand pounds;

C. "rental car agent" means a rental car company that is licensed to offer, sell, bind, effect, solicit or

negotiate rental car insurance;

D. "rental car company" means a person or entity in the business of renting rental cars to the public, including a franchisee;

E. "rental car insurance" means insurance sold in connection with and incidental to the rental of vehicles, whether at the rental office or by a preselection of coverage in master, corporate, group or individual agreements, that is nontransferable, does not apply to any vehicle other than the rental car that is the subject of the rental agreement and is limited to the following kinds of insurance:

(1) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment and reimbursement for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(2) liability insurance that, at the exclusive option of the rental car company, may include uninsured and underinsured motorist coverage, whether offered separately or in combination with other liability insurance, and that provides protection to renters and other authorized drivers of rental cars for liability arising from the operation of the rental car during the rental period;

(3) personal effects insurance that provides coverage to renters and other vehicle occupants for

loss of, or damage to, personal effects in the rental car during the rental period;

(4) roadside assistance and emergency sickness insurance; and

(5) any other travel or vehicle-related insurance coverage that a rental car company may offer in connection with and incidental to the rental of a rental car, as may be approved by the superintendent of insurance;

F. "rental car endorsee" means a rental car agent employee who offers, sells, binds, effects, solicits or negotiates rental car insurance; and

G. "renter" means a person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

Section 3. GENERAL RULES. --

A. No rental car company and no officer, director, employee or agent of a rental car company shall offer, sell, bind, effect, solicit or negotiate the purchase of rental car insurance unless that company is licensed as an insurance producer pursuant to the New Mexico Insurance Code or has complied with the requirements of the Rental Car Insurance Limited Producer License Act.

B. The superintendent of insurance may issue to a rental car company that has complied with the requirements of the Rental Car Insurance Limited Producer License Act, a license that authorizes the rental car company to act as a

rental car agent in accordance with the provisions of that act, in connection with and incidental to rental agreements, on behalf of any insurer authorized to write such insurance in this state.

Section 4. LICENSING RENTAL CAR COMPANIES AS RENTAL CAR AGENTS. --A rental car company may apply to be licensed as a rental car agent under the terms of the Rental Car Insurance Limited Producer License Act if it satisfies all of the requirements of that act and if it files the following documents with the superintendent of insurance:

A. a written application for licensure, signed by the applicant or by an officer of the applicant, in the form prescribed by the superintendent of insurance that includes a listing of all locations at which the rental car company intends to offer, sell, bind, effect, solicit or negotiate rental car insurance; and

B. a certificate filed by the insurer for the applicant stating that the insurer has satisfied itself that the applicant is trustworthy and competent to act as its insurance agent limited to this purpose; that the insurer has reviewed the employee training program required by Subsection D of Section 5 of the Rental Car Insurance Limited Producer License Act and believes that it satisfies the statutory requirements; and that the insurer will appoint the applicant to act as its agent to transact the kinds of insurance that are permitted by the Rental Car

Insurance Limited Producer License Act if the license for which the applicant is applying is issued by the superintendent of insurance. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the superintendent of insurance.

Section 5. RENTAL CAR ENDORSEES. --

A. An employee of a rental car agent may be a rental car endorsee authorized to offer, sell, bind, effect, solicit or negotiate rental car insurance under the authority of the rental car agent licensee if all of the following conditions have been satisfied:

(1) the employee is eighteen years of age or older;

(2) the employee has completed the training described in Subsection D of Section 5 of the Rental Car Insurance Limited Producer License Act; and

(3) the rental car agent, at the time it submits its rental car agent license application pursuant to Section 3 of the Rental Car Insurance Limited Producer License Act, also establishes a list of the names of all of its rental car endorsees. The list shall be maintained by the rental car agent in a form prescribed by the superintendent of insurance and updated quarterly. Each list shall be retained by the rental car agent for three years and shall be made available to the superintendent of insurance for review and inspection upon request.

B. A rental car endorsee shall act on behalf of its rental car agent in the offering, sale, binding, effectuation, solicitation or negotiation of rental car insurance. A rental car agent is responsible for, and must supervise, all actions of its endorsees related to the offering, sale, binding, effectuation, solicitation or negotiation of rental car insurance. The conduct of a rental car endorsee acting within the scope of his employment or agency shall be deemed the conduct of the rental car agent for purposes of the Rental Car Insurance Limited Producer License Act.

C. The manager at each location of a rental car agent or the direct supervisor of the rental car agent's endorsees at each location shall be responsible for the supervision of each rental car endorsee at the location. A rental car agent shall identify the manager or direct supervisor at each location in the list that it maintains in compliance with Paragraph (3) of Subsection A of this section.

D. A rental car agent shall provide training for each rental car endorsee prior to allowing him to offer, sell, bind, effect, solicit or negotiate rental car insurance. The training program shall be submitted to the superintendent of insurance for approval prior to use and shall meet the following minimum standards:

- (1) instruction about the kinds of

insurance specified in the Rental Car Insurance Limited Producer License Act that are offered for sale to prospective renters; and

(2) disclosures to be given to prospective renters that are required under the Rental Car Insurance Limited Producer License Act, including:

(a) that the purchase of the rental car insurance is not required in order for the renter to rent a rental car; and

(b) that the renter may have insurance policies in place that already provide the coverage being offered by the rental car company.

E. A rental car endorsee's authorization to offer, sell, bind, effect, solicit or negotiate rental car insurance shall expire when the endorsee's employment with the rental car agent has terminated.

Section 6. RENTAL CAR AGENT AND ENDORSEE RESTRICTIONS. --No insurance may be issued, offered, sold, solicited or negotiated pursuant to this section unless:

A. the rental period of the rental agreement is ninety consecutive days or less;

B. at every location where rental agreements are executed, brochures or other written materials are readily available to the prospective renter that:

(1) summarize, clearly and correctly, the material terms and conditions of coverage offered to

renters, including the identify of the insurer;

(2) describe the process for filing a claim in the event the renter elects to purchase coverage, including a toll-free telephone number to report a claim;

(3) provide the rental car agent's name, address, telephone number and license number, as well as the consumer hotline number for the superintendent of insurance;

(4) state that the rental car insurance offered by the rental car agent or endorsee may provide a duplication of coverage already provided by a renter's personal automobile policy or by another source of coverage;

(5) state that the purchase by the renter of the rental car insurance is not required in order to rent a rental car;

(6) state that neither the rental car agent nor its endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverages;

(7) set forth the costs for the rental car insurance in the rental agreement; and

(8) contain any additional information as the superintendent of insurance may prescribe; and

C. evidence of the rental car insurance purchased is disclosed on the face of the rental agreement.

Section 7. RENTAL CAR AGENT AND ENDORSEE

PROHIBITIONS. --A rental car agent or endorsee shall not:

A. offer, sell, bind, effect, solicit or

negotiate the purchase of rental car insurance except in conjunction with and incidental to rental agreements;

B. advertise, represent or otherwise portray itself or any of its employees or agents as licensed insurers, insurance agents or insurance brokers; or

C. pay any person, including a rental car endorsee, any compensation, fee or commission that is dependent solely on the placement of insurance under the license issued pursuant to the Rental Car Insurance Limited Producer License Act. Nothing in this section shall prohibit production payments or incentive payments to a person that are not dependent solely upon the sale of insurance.

Section 8. ENFORCEMENT. --

A. In the event a provision of the Rental Car Insurance Limited Producer License Act is violated by a rental car agent or endorsee, the superintendent of insurance may:

(1) after notice and hearing, revoke or suspend the license issued under the Rental Car Insurance Limited Producer License Act; or

(2) after notice and hearing, impose other penalties, including suspending the transaction of insurance at specific rental locations where violations of the Rental Car Insurance Limited Producer License Act have occurred.

B. If a person offers or sells insurance in

connection with, or incidental to, rental agreements or holds himself or a company out as a rental car agent without satisfying the requirements of the Rental Car Insurance Limited Producer License Act, the superintendent of insurance shall be authorized to issue a cease and desist order.

Section 9. TRUST ACCOUNTS. --Notwithstanding any provision of the Rental Car Insurance Limited Producer License Act or any other rule or statute, a licensee pursuant to that act shall not be required to treat money collected from renters purchasing rental car insurance when renting rental cars as funds received in a fiduciary capacity or to hold the funds in separate trust accounts.

Section 10. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. _____