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SENATE BILL 489

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Carroll H. Leavell

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

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1 possess a commercial driver's license to operate the motor
2 vehicle and the motor vehicle is one of the following:

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

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

9 C. "rental car agent" means a rental car company
10 that is licensed to offer, sell, bind, effect, solicit or
11 negotiate rental car insurance;

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

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

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

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1 rental period;

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

9 (3) personal effects insurance that provides
10 coverage to renters and other vehicle occupants for loss of,
11 or damage to, personal effects in the rental car during the
12 rental period;

13 (4) roadside assistance and emergency
14 sickness insurance; and

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

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

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

25 Section 3. GENERAL RULES. --

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

8 B. The superintendent of insurance may issue to a
9 rental car company that has complied with the requirements of
10 the Rental Car Insurance Limited Producer License Act, a
11 license that authorizes the rental car company to act as a
12 rental car agent in accordance with the provisions of that
13 act, in connection with and incidental to rental agreements,
14 on behalf of any insurer authorized to write such insurance in
15 this state.

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

22 A. a written application for licensure, signed by
23 the applicant or by an officer of the applicant, in the form
24 prescribed by the superintendent of insurance that includes a
25 listing of all locations at which the rental car company

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1 intends to offer, sell, bind, effect, solicit or negotiate
2 rental car insurance; and

3 B. a certificate filed by the insurer for the
4 applicant stating that the insurer has satisfied itself that
5 the applicant is trustworthy and competent to act as its
6 insurance agent limited to this purpose; that the insurer has
7 reviewed the employee training program required by Subsection
8 D of Section 5 of the Rental Car Insurance Limited Producer
9 License Act and believes that it satisfies the statutory
10 requirements; and that the insurer will appoint the applicant
11 to act as its agent to transact the kinds of insurance that
12 are permitted by the Rental Car Insurance Limited Producer
13 License Act if the license for which the applicant is applying
14 is issued by the superintendent of insurance. The
15 certification shall be subscribed by an officer or managing
16 agent of the insurer on a form prescribed by the
17 superintendent of insurance.

18 Section 5. RENTAL CAR ENDORSEES. --

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

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

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

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

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

25 C. The manager at each location of a rental car

1 agent or the direct supervisor of the rental car agent's
2 endorsees at each location shall be responsible for the
3 supervision of each rental car endorsee at the location. A
4 rental car agent shall identify the manager or direct
5 supervisor at each location in the list that it submits in
6 compliance with Paragraph (3) of Subsection A of this section.

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

13 (1) instruction about the kinds of insurance
14 specified in the Rental Car Insurance Limited Producer License
15 Act that are offered for sale to prospective renters; and

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

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

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

25 E. A rental car endorsee's authorization to offer,

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1 sell, bind, effect, solicit or negotiate rental car insurance
2 shall expire when the endorsee's employment with the rental
3 car agent has terminated.

4 Section 6. RENTAL CAR AGENT AND ENDORSEE RESTRICTIONS. --

5 No insurance may be issued, offered, sold, solicited or
6 negotiated pursuant to this section unless:

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

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

12 (1) summarize, clearly and correctly, the
13 material terms and conditions of coverage offered to renters,
14 including the identify of the insurer;

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

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

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

25 (5) state that the purchase by the renter of

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1 the rental car insurance is not required in order to rent a
2 rental car;

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

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

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

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

12 Section 7. RENTAL CAR AGENT AND ENDORSEE PROHIBITIONS. --

13 A rental car agent or endorsee shall not:

14 A. offer, sell, bind, effect, solicit or negotiate
15 the purchase of rental car insurance except in conjunction
16 with and incidental to rental agreements;

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

20 C. pay any person, including a rental car
21 endorsee, any compensation, fee or commission that is
22 dependent solely on the placement of insurance under the
23 license issued pursuant to the Rental Car Insurance Limited
24 Producer License Act. Nothing in this section shall prohibit
25 production payments or incentive payments to a person that are

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1 not dependent solely upon the sale of insurance.

2 Section 8. ENFORCEMENT. --

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

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

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

13 B. If a person offers or sells insurance in
14 connection with, or incidental to, rental agreements or holds
15 himself or a company out as a rental car agent without
16 satisfying the requirements of the Rental Car Insurance
17 Limited Producer License Act, the superintendent of insurance
18 shall be authorized to issue a cease and desist order.

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

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

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