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SENATE BILL 350

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; UPDATING CAPITAL REQUIREMENTS AND OTHER PROVISIONS; PROVIDING PENALTIES; RECOMPILING A SECTION OF THE NMSA 1978; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

Section 1. Section 59A-5-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 83, as amended by Laws 1987, Chapter 259, Section 4 and also by Laws 1987, Chapter 262, Section 1) is repealed and a new Section 59A-5-16 NMSA 1978 is enacted to read:

"59A-5-16. [NEW MATERIAL] CAPITAL FUNDS, DEPOSITS, REQUIRED FOR CERTIFICATE OF AUTHORITY.--

A. To qualify for certificate of authority to transact any one kind or combination of kinds of insurance in

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1 this state, an insurer shall possess:

2 (1) if a stock insurer, paid-in capital stock
3 and, when first so authorized, surplus all as shown in Schedule
4 I of this section; or

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

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

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

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

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

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

18 Schedule I

19 NEW MEXICO

20 Minimum Capital, Surplus and Deposit Requirements

21 Property/Casualty Insurer

22 Premium Volume:	Under \$5	\$5 to \$10	\$10 to \$25	Over \$25
	Million	Million	Million	Million

24 Number of Kinds of Insurance

25 1 2 3

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1	Basic Capital	500,000	600,000	700,000	800,000	900,000	1,000,000
2	Additional						
3	Surplus	500,000	600,000	700,000	same as	same as	same as
4					Under	Under	Under
5					\$5 Million	\$5 Million	\$5 Million
6	General Deposit	100,000	200,000	300,000	400,000	400,000	400,000
7	Special Deposit	100,000	200,000	300,000	same as	same as	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		100,000	100,000	100,000
16	Special Deposit	100,000		100,000	100,000	100,000

17 Notes: Premium Volume means the insurer's worldwide direct premiums earned
18 (if Property/Casualty) or received (if Life/Health) during the
19 previous calendar year.
20 Kinds of insurance pertains to the general kinds of insurance that
21 property/casualty insurers are authorized to transact. The following
22 groups or single kinds of insurance shall be counted as one kind of
23 insurance when calculating the amount of required Basic Capital,
24 Additional Surplus, General Deposit and Special Deposit:
25 Casualty and/or Surety;

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1 Property and/or Marine & Transportation;
2 Vehicle; and
3 Title.

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

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

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

12 General Deposit or Special Deposit funds are included within, and are
13 not additional to, required Basic Capital and Additional Surplus.

14 General Deposit amounts shown above are not applicable to alien
15 insurers."

16 Section 2. Section 59A-5-29 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 96, as amended) is amended to read:

18 "59A-5-29. ANNUAL STATEMENT.--

19 A. Each authorized insurer shall annually on or
20 before March 1, or within any reasonable extension of time
21 [~~which~~] that the superintendent for good cause may have granted
22 on or before such date, file with the superintendent and with the
23 national association of insurance commissioners a full and true
24 statement of its financial condition and of its transactions and
25 affairs as of the December 31 next preceding. The statement

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1 shall be prepared in the form of the annual statement blank
2 prescribed by the national association of insurance commissioners
3 for use in the United States for the type of insurer and kinds of
4 insurance to be reported upon, in accordance with the annual
5 statement instructions and the accounting practices and
6 procedures manual published by the national association of
7 insurance commissioners, or such other form and instructions as
8 the superintendent may prescribe, and supplemented by additional
9 information reasonably required by the superintendent; the
10 superintendent may require that the annual statement data [~~also~~]
11 be filed in electronically readable format or in lieu of filing,
12 may accept a statement or supplemental information filed in
13 electronic format with the national association of insurance
14 commissioners that is readily available to the superintendent and
15 that the superintendent can reproduce or otherwise make available
16 to the public for a period of at least five years from the date
17 that the filing is due. The statement shall be verified by the
18 oath of the insurer's president or vice president and secretary
19 or actuary, as applicable; or, in absence of the foregoing, by
20 two other principal officers; or if a reciprocal insurer or
21 Lloyds insurer, the oath of the attorney-in-fact or its like
22 officers if a corporation.

23 B. The statement of an alien insurer shall be
24 verified by its United States manager or other officer duly
25 authorized and shall relate only to the insurer's transactions

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1 and affairs in the United States unless the superintendent
2 requires otherwise. If the superintendent requires a statement
3 as to the alien insurer's affairs throughout the world, the
4 insurer shall file such statement with the superintendent as
5 soon as reasonably possible.

6 C. If the insurer's statement is in any language
7 other than English or in monetary amounts other than United
8 States dollars, the statement shall be accompanied by an
9 English-language translation and monetary amounts shall be
10 shown in United States dollars with statement of the basis upon
11 and date as of which the monetary conversion was made.

12 D. The superintendent may suspend or revoke the
13 certificate of authority of any insurer failing to file its
14 annual statement when due.

15 E. At time of filing, the insurer shall pay the fee
16 for filing its annual statement with the superintendent as
17 prescribed by Section 59A-6-1 NMSA 1978, and pay to the
18 national association of insurance commissioners the fee
19 established for filing, review or processing of the
20 information, unless such fee has been disapproved by the
21 superintendent.

22 F. In the absence of actual malice, members of
23 national association of insurance commissioners, their duly
24 authorized committees, subcommittees and task forces, their
25 delegates, employees and all others charged by the

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1 superintendent or the national association of insurance
2 commissioners with the responsibility of collecting, reviewing,
3 analyzing and disseminating the information developed from the
4 filing of the annual statement blanks shall be acting as agents
5 of the superintendent under the authority of the Insurance Code
6 and shall not be subject to civil liability for libel, slander
7 or any other cause of action by virtue of their collection,
8 review and analysis or dissemination of the data and
9 information collected from the filings required hereunder.

10 G. As to publication of nonstatutory financial
11 statements, refer to Section 59A-16-9 NMSA 1978."

12 Section 3. Section 59A-6-2 NMSA 1978 (being Laws 1984,
13 Chapter 127, Section 102, as amended) is amended to read:

14 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX.--

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

17 (1) each insurer authorized to transact
18 insurance in New Mexico;

19 (2) each insurer formerly authorized to
20 transact insurance in New Mexico and receiving premiums on
21 policies remaining in force in New Mexico, except that this
22 provision shall not apply as to an insurer that withdrew from
23 New Mexico prior to March 26, 1955;

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

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

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

14 B. Each such taxpayer shall pay in accordance with
15 this subsection a premium tax of three and three-thousandths
16 percent of the gross premiums and membership and policy fees
17 received or written by it, as reported in Schedule T and
18 supporting schedules of its annual financial statement on
19 insurance or contracts covering risks within this state during
20 the preceding calendar year, less all return premiums,
21 including dividends paid or credited to policyholders or
22 contract holders and premiums received for reinsurance on New
23 Mexico risks.

24 C. In addition to the premium tax imposed pursuant
25 to Subsection B of this section, each taxpayer described in
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1 Subsection A of this section that transacts health insurance in
2 New Mexico or is a plan described in Chapter 59A, Article 46 or
3 47 NMSA 1978 shall pay a health insurance premium surtax of one
4 percent of the gross health insurance premiums and membership
5 and policy fees received by it on hospital and medical expense
6 incurred insurance or contracts; nonprofit health care service
7 plan contracts, excluding dental or vision only contracts; and
8 health maintenance organization subscriber contracts covering
9 health risks within this state during the preceding calendar
10 year, less all return health insurance premiums, including
11 dividends paid or credited to policyholders or contract holders
12 and health insurance premiums received for reinsurance on New
13 Mexico risks. Except as provided in this section, all
14 references in the Insurance Code to the premium tax shall
15 include both the
16 premium tax and the health insurance premium surtax.

17 D. For each calendar quarter, an estimated payment
18 of the premium tax and the health insurance premium surtax
19 shall be made on April 15, July 15, October 15 and the
20 following January 15. The estimated payments shall be equal to
21 at least one-fourth of either the payment made during the
22 previous calendar year or eighty percent of the actual payment
23 due for the current calendar year, whichever is greater. The
24 final adjustment for payments due for the prior year shall be
25 made with the return, which shall be filed on April 15 of each
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1 year, at which time all taxes for that year are due. Dividends
2 paid or credited to policyholders or contract holders and
3 refunds, savings, savings coupons and similar returns or
4 credits applied or credited to payment of premiums for
5 existing, new or additional insurance shall, in the amount so
6 used, constitute premiums subject to tax under this section for
7 the year in which so applied or credited.

8 E. Exempted from the taxes imposed by this section
9 are:

10 (1) premiums attributable to insurance or
11 contracts purchased by the state or a political subdivision for
12 the state's or political subdivision's active or retired
13 employees; and

14 (2) payments received by a health maintenance
15 organization from the federal secretary of health and human
16 services pursuant to a contract issued under the provisions of
17 42 U.S.C. Section 1395 mm(g)."

18 Section 4. Section 59A-6-5 NMSA 1978 (being Laws 1984,
19 Chapter 127, Section 105, as amended) is amended to read:

20 "59A-6-5. DISTRIBUTION OF DIVISION COLLECTIONS.--

21 A. All money received by the division for fees,
22 licenses, penalties and taxes shall be paid daily by the
23 superintendent to the state treasurer and [~~by him~~] credited to
24 the "insurance department suspense fund" except as provided by:

25 (1) the Law Enforcement Protection Fund Act;

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1 (2) Section 59A-6-1.1 NMSA 1978; and

2 (3) the Voter Action Act.

3 B. The superintendent may authorize refund of money
4 erroneously paid as fees, licenses, penalties or taxes from the
5 insurance department suspense fund under request for refund
6 made within three years after the erroneous payment. In the
7 case of premium taxes erroneously paid or overpaid in
8 accordance with law, refund may also be requested as a credit
9 against premium taxes due in any annual or quarterly premium
10 tax return filed within three years of the erroneous or excess
11 payment.

12 C. The "insurance operations fund" is created in
13 the state treasury. The fund shall consist of the
14 distributions made to it pursuant to Subsection D of this
15 section. The legislature shall annually appropriate from the
16 fund to the division those amounts necessary for the division
17 to carry out its responsibilities pursuant to the Insurance
18 Code and other laws. Any balance in the fund at the end of a
19 fiscal year greater than one-half of that fiscal year's
20 appropriation shall revert to the general fund.

21 D. At the end of every month, after applicable
22 refunds are made pursuant to Subsection B of this section, the
23 treasurer shall make the following transfers from the balance
24 remaining in the insurance department suspense fund:

25 (1) to the "fire protection fund", that part

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1 of the balance derived from property and vehicle insurance
2 business;

3 (2) to the insurance operations fund, that
4 part of the balance derived from the fees imposed pursuant to
5 Subsections A and E of Section 59A-6-1 NMSA 1978 other than
6 fees derived from property and vehicle insurance business; and

7 (3) to the general fund, the balance remaining
8 in the insurance department suspense fund derived from all
9 other kinds of insurance business."

10 Section 5. A new section of the New Mexico Insurance Code
11 is enacted to read:

12 "[NEW MATERIAL] DISHONORED CHECKS AND OTHER FORMS OF
13 PAYMENT--PENALTY.--When a check or an electronic payment
14 transaction for payment of fees is dishonored or reversed by
15 the payer's financial institution, the payer shall pay to the
16 insurance division a civil penalty in the amount of twenty-five
17 dollars (\$25.00). Neither the division nor the fiscal agent of
18 New Mexico is obligated to resubmit the transaction or check
19 for payment. The superintendent shall treat the transaction as
20 though payment has not been made and cancel, suspend, rescind
21 or revoke the transaction for failure to make payment. Any
22 other penalty, reinstatement fee or other cost associated with
23 failure to make the payment shall be in addition to the penalty
24 set forth in this section. In this section, "electronic
25 payment transaction" means credit card payments, electronic

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1 fund transfers, automated clearinghouse transactions and other
2 similar forms of payment."

3 Section 6. Section 59A-12-6 NMSA 1978 (being Laws 1984,
4 Chapter 127, Section 207, as amended) is amended to read:

5 "59A-12-6. LICENSE REQUIRED--PENALTY.--

6 A. No person shall in this state be, act as or
7 ~~[hold himself out to be]~~ make any representation as being, as
8 to subjects of insurance resident, located or to be performed
9 in this state or elsewhere, an agent or solicitor unless then
10 licensed as such under the Insurance Code.

11 B. No authorized insurer shall accept insurance of
12 ~~[any]~~ a subject located, resident or to be performed in this
13 state through ~~[any]~~ a person acting as insurance agent in this
14 state if the insurer knows, or reasonably should have known,
15 that such person was not then licensed as an agent as to ~~[such]~~
16 the insurance or not appointed as its agent by the insurer.

17 C. No license as agent or broker shall be issued to
18 ~~[any]~~ an entity other than an individual, firm (partnership) or
19 corporation.

20 D. No agent or solicitor shall solicit or take an
21 application for, or place for others, any kind of insurance as
22 to which not then so licensed.

23 E. No agent shall place any insurance with ~~[any]~~ an
24 insurer as to which not then licensed or appointed as agent
25 under the Insurance Code, except as permitted by Section

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1 59A-11-10 NMSA 1978.

2 F. A license as agent or solicitor, or appointment
3 as agent of a particular insurer, shall not be in effect until
4 the license has actually been delivered to the agent or
5 solicitor or to the solicitor's employer agent or the
6 appointment has been duly filed with and approved by the
7 superintendent.

8 G. In addition to any applicable denial, suspension
9 or revocation of license, refusal to continue license, or
10 administrative fine, violation of this section shall be a
11 misdemeanor punishable by a fine of from one hundred dollars
12 (\$100) to five hundred dollars (\$500) and by forfeiture to the
13 state of New Mexico of an amount equal to all compensation for
14 services as agent or solicitor received or to be received by
15 the violator by reason of the prohibited transactions."

16 Section 7. Section 59A-12-18 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 219, as amended by Laws 2002, Chapter 24,
18 Section 1 and by Laws 2002, Chapter 87, Section 1) is amended
19 to read:

20 "59A-12-18. LIMITED LICENSE.--

21 A. The superintendent may issue a limited agent's
22 license to:

23 (1) individual applicants qualified ~~[therefor~~
24 ~~under]~~ pursuant to Chapter 59A, Article 12 NMSA 1978 and
25 employed as transportation ticket sellers by public carriers,

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1 who in the course of such employment solicit or sell insurance
2 incidental to transportation of persons or storage or
3 transportation of baggage, [~~and~~] provided that the license is
4 limited to that insurance [~~so transacted~~]; or [~~to~~]

5 (2) individual applicants employed full time
6 by a vendor of merchandise or other property or by a financial
7 institution making consumer loans, on terms with respect to
8 which credit life [~~and~~] insurance or health [~~insurances or~~
9 ~~either~~] insurance, under individual policies is customarily
10 required of or offered to the purchaser or borrower, covering
11 only [~~such~~] that credit life and health insurance.

12 B. The superintendent may issue a limited agent's
13 license to applicants who are [~~employees, agents or authorized~~
14 ~~representatives of~~] retail vendors or lessors of communication
15 equipment or services. The license shall authorize the
16 licensee, in connection with the lease, retail sale or
17 provision of communication equipment or communication services
18 for communication equipment, to sell insurance covering the
19 loss, theft, mechanical failure or malfunction of or damage to
20 the communication equipment. [~~Licenses pursuant to this~~
21 ~~subsection shall receive initial training from, and shall be~~
22 ~~under the oversight of, a general lines agent licensed pursuant~~
23 ~~to Chapter 59A, Article 12 NMSA 1978.] The licensee shall
24 provide for the training of its employees who are authorized to
25 sell that insurance. The conduct of the licensee's business~~

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1 under the limited license by its employees shall be attributed
2 to the licensee. As used in this subsection, "communication
3 equipment" means handsets, pagers, personal digital assistants,
4 portable computers, automatic answering devices, batteries and
5 other devices or their accessories used to originate or receive
6 communication signals or service, and includes services related
7 to the use of such devices such as access to a network.

8 C. No holder of a limited license issued pursuant
9 to this section shall concurrently be otherwise licensed
10 under the Insurance Code."

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

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

14 A. For the purposes of the Insurance Code:

15 (1) "adjuster" is a person that:

16 (a) investigates, negotiates, settles or
17 adjusts a loss or claim arising under an insurance contract on
18 behalf of an insurer, insured or self-insurer, for a fee,
19 commission or other compensation; however, an adjuster acting on
20 behalf of an insured shall not investigate, negotiate, settle or
21 adjust a claim involving personal injury to the insured; and

22 (b) advises the insured of [~~his~~] the
23 insured's rights to settlement and [~~his~~] the insured's rights to
24 settle, arbitrate and litigate the dispute;

25 (2) "staff adjuster" is an adjuster individual

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1 who is a salaried employee of an insurer or affiliates of the
2 employer insurer, representing and adjusting claims solely under
3 policies of the employer insurer; and

4 (3) "independent adjuster" is an adjuster who is
5 not a staff adjuster and includes a representative and an employee
6 of an independent adjuster.

7 B. Except as otherwise provided, "adjuster" does not
8 include:

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

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

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

19 (4) a salaried or part-time claims agent or
20 investigator employed by a self-insured person."

21 Section 9. Section 59A-13-8 NMSA 1978 (being Laws 1984,
22 Chapter 127, Section 236) is amended to read:

23 "59A-13-8. POWERS CONFERRED BY ADJUSTER LICENSE.--An
24 independent adjuster shall have ~~[power to investigate and report~~
25 ~~to the principal represented upon, and if so authorized by such~~

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1 ~~principal]~~ the powers granted by its principal to investigate,
2 report upon, adjust and settle claims on behalf of an insurer or
3 self insurer and have [~~such~~] additional powers as to claims and
4 losses as may be conferred by the principal. A staff adjuster
5 shall have only such powers with respect to claims and losses as
6 granted by the adjuster's employer or affiliates of the adjuster's
7 employer. A temporary adjuster shall, as to claims and losses,
8 have the powers of the employer, subject to extension or
9 limitation by contract."

10 Section 10. Section 59A-13-9 NMSA 1978 (being Laws 1984,
11 Chapter 127, Section 237, as amended) is amended to read:

12 "59A-13-9. PLACE OF BUSINESS.--A licensed adjuster shall
13 [~~have and~~] maintain a principal place of business [~~in the state~~]
14 that is easily accessible to the public and is the place where the
15 adjuster principally conducts transactions under the license. The
16 address of the principal place of business shall appear on the
17 application for license and on the license. The licensee shall
18 promptly notify the superintendent of a change of address of the
19 principal place of business. Failure to notify the superintendent
20 of a change of address within twenty days shall subject the
21 licensee to a penalty in the amount of fifty dollars (\$50.00)."

22 Section 11. Section 59A-34-37 NMSA 1978 (being Laws 1984,
23 Chapter 127, Section 583) is amended to read:

24 "59A-34-37. PRESERVATION OF OLD CHARTER IN MERGER,
25 CONSOLIDATION.--

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1 A. In any merger or consolidation of a foreign stock
2 or mutual insurer into or with a domestic insurer under [~~this~~
3 ~~article~~] Chapter 59A, Article 34 NMSA 1978, the continuing New
4 Mexico corporation shall for all purposes [~~by~~] be deemed to be
5 continuation of the corporate existence of the foreign
6 corporation, with New Mexico as the adoptive state of domicile and
7 with date of corporate origin the same as the original date of
8 incorporation of the foreign insurer in its original domiciliary
9 state or country, subject to the following conditions:

10 (1) the plan and agreement of merger or
11 consolidation shall provide for such continuation of corporate
12 existence, with designation of New Mexico as the state of domicile
13 of the foreign corporation by adoption, and shall specify the
14 original date of incorporation of the foreign corporation in its
15 original domiciliary state or country as being the date of
16 incorporation of the New Mexico corporation pursuant to this
17 section;

18 (2) the articles of corporation of the New
19 Mexico corporation shall provide, or be amended to provide, that
20 the corporation is a continuance of the corporate existence,
21 through adoption of New Mexico as the corporate domicile, of the
22 foreign corporation, and shall specify the original date of
23 incorporation of the foreign corporation in its original
24 domiciliary state or country as being the date of incorporation of
25 the New Mexico corporation pursuant to this section; and

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1 (3) the continuing New Mexico corporation shall
2 as of merger or consolidation effective date have paid-in capital
3 stock and [~~initial~~] additional surplus in amount not less than as
4 required of a newly-authorized foreign stock insurer under Section
5 [~~83 of the Insurance Code~~] 59A-5-16 NMSA 1978 to transact the same
6 [~~kind(s)~~] kinds of insurance, and shall have all the rights and
7 obligations of, and be given recognition in all respects as, a
8 corporation formed under the laws of this state as of the date of
9 incorporation of the foreign corporation in its original
10 domiciliary state or country. This provision shall not be deemed
11 to impose upon the continuing New Mexico corporation any liability
12 or obligation as to filings, fees, taxes or otherwise [~~which~~] that
13 might have accrued prior to effective date of the merger or
14 consolidation.

15 [~~C.~~] B. This section shall not be deemed in any manner
16 to preserve, after effective date of merger or consolidation, the
17 corporate existence of the foreign corporation as a corporation of
18 its original domiciliary state or country."

19 Section 12. Section 59A-48-19 NMSA 1978 (being Laws 1984,
20 Chapter 127, Section 898, as amended) is amended to read:

21 "59A-48-19. OTHER PROVISIONS APPLICABLE.--In addition to
22 those referred to in Chapter 59A, Article 48 NMSA 1978, the
23 following articles and provisions of the Insurance Code shall also
24 apply, to the extent reasonably applicable and subject to the
25 provisions of that article, as to prepaid dental plan

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1 organizations, their sponsors, directors, officers, personnel and
2 representatives and member contracts. For the purposes of this
3 provision, such organizations may be referred to as "insurers" and
4 such contracts as "policies":

- 5 A. Chapter 59A, Article 1 NMSA 1978;
- 6 B. Chapter 59A, Article 2 NMSA 1978;
- 7 C. Chapter 59A, Article 4 NMSA 1978;
- 8 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 9 E. Section 59A-5-33 NMSA 1978;
- 10 F. Sections 59A-6-1, 59A-6-3, 59A-6-4 and 59A-6-6 NMSA
11 1978;
- 12 G. Section 59A-7-11 NMSA 1978;
- 13 H. Chapter 59A, Article 8 NMSA 1978;
- 14 I. Chapter 59A, Article 10 NMSA 1978;
- 15 J. Section 59A-12-22 NMSA 1978;
- 16 K. the Insurance Fraud Act;
- 17 L. Chapter 59A, Article 18 NMSA 1978;
- 18 M. the Policy Language Simplification Law; ~~and~~
- 19 N. Section 59A-34-10 NMSA 1978, as to domestic prepaid
20 dental plans; and
21 O. The Insurance Holding Company Law."

22 Section 13. Section 59A-58-6 NMSA 1978 (being Laws 2001,
23 Chapter 206, Section 6) is amended to read:

24 "59A-58-6. SECURITY REQUIRED FOR REGISTRATION OF
25 PROVIDER.--

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underscored material = new
[bracketed material] = delete

1 A. To [~~assure~~] ensure the faithful performance of a
2 provider's obligations to [~~his~~] the provider's contract holders, a
3 provider shall maintain a deposit with the superintendent as
4 provided in this section.

5 B. A provider of a service contract shall deposit
6 fifty thousand dollars (\$50,000) unless the contract covers the
7 following, in which case [~~he~~] the provider shall deposit one
8 hundred thousand dollars (\$100,000):

9 (1) a motor vehicle; and

10 (2) mechanical, plumbing and electrical systems
11 and appliances at a residential dwelling when the service contract
12 was sold in conjunction with the sale of the residential dwelling.

13 C. Deposits required pursuant to Subsection B of this
14 section shall be:

15 (1) a surety bond issued by a surety company
16 authorized to do business in New Mexico on a form acceptable to
17 the superintendent;

18 (2) securities of the type eligible for deposit
19 by an insurance company; or

20 ~~[(3) cash; or~~

21 ~~(4)]~~ (3) a clean and irrevocable letter of
22 credit issued by a financial institution acceptable to the
23 superintendent.

24 D. Additional financial security may be required of
25 any provider when it is determined by the superintendent that an

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underscored material = new
~~[bracketed material]~~ = delete

1 additional deposit is necessary for the protection of the public.

2 E. The provisions of this section shall not apply to
3 major manufacturing companies' service contracts."

4 Section 14. TEMPORARY PROVISION--RECOMPILATION.--The
5 compiler shall recompile Section 8-8-9.2 NMSA 1978 (being Laws
6 2003, Chapter 235, Section 3) as part of the New Mexico Insurance
7 Code.