HOUSE BILL 754

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO INSURANCE; PROVIDING COVERAGE FOR ACTUAL CASH VALUE
OF PROPERTY IN CERTAIN INSURANCE CONTRACTS; INCLUDING
ADMINISTRATORS AND SERVICING CARRIERS UNDER PROVISIONS PURSUANT
TO THE FAIR PLAN ACT.

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

Section 1. Section 59A-18-17 NMSA 1978 (being Laws 1984,
Chapter 127, Section 346, as amended) is amended to read:

"59A-18-17. STANDARD PROVISIONS, IN GENERAL.--

A. Insurance contracts shall contain such standard
or uniform provisions as are required by applicable provisions
of the Insurance Code pertaining to contracts of particular
kinds of insurance.

B. No policy shall contain a provision inconsistent
with or contradictory to a standard or uniform provision used

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1   or required to be used, but the superintendent may approve a

2   substitute provision that is, in the superintendent's opinion,

3   not less favorable in any particular to the insured, owner or

4   beneficiary than the provision otherwise required or that is

5   designed to comply with Chapter 59A, Article 19 NMSA 1978.

6   C.   Insurance coverage provided in residential

7   property insurance policies shall provide coverage for the cost

8   to repair or replace without deduction for depreciation;

9   provided that policies issued by or on behalf of the New Mexico

10   property insurance program, its administrators or its servicing

11   carrier, pursuant to the FAIR Plan Act, shall provide insurance

12   coverage for the actual cash value of insured property. If the

13   insured elects to effectuate repairs to the property by the

14   insured's own self, a reasonable overhead expense shall be

15   allowed.

16   D.   In lieu of the provisions required by the

17   Insurance Code for contracts for particular kinds of insurance,

18   substantially similar provisions required by the laws of the

19   domicile of a foreign or alien insurer may be used when

20   approved by the superintendent.

21   E.   A policy issued by a domestic insurer for

22   delivery in another jurisdiction may contain any provision

23   required or permitted under the laws of such jurisdiction.

24   F.   To protect consumers as well as enhance the

25   value of consumer information systems, the superintendent may

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1   specify minimum coverage provisions that homeowners insurance

2   policies, private passenger non-fleet automobile insurance

3   policies or other lines or kinds of insurance policies that are

4   priced in a consumer information system shall contain, provided

5   that such minimum coverage provisions are contained in the

6   majority of policies in force in New Mexico for that line or

7   kind of insurance. An insurer that does not offer a policy

8   that contains the minimum coverage provisions specified by the

9   superintendent for a line or kind of insurance shall not be

10   included in a consumer information system for that line or kind

11   of insurance. The superintendent shall not compel an insurer

12   to offer a policy containing minimum coverage provisions

13   specified by the superintendent."

14   Section 2. Section 59A-29-7 NMSA 1978 (being Laws 1985,

15   Chapter 61, Section 7) is amended to read:

16   "59A-29-7. IMMUNITY.--There shall be no liability on the

17   part of and no cause of action of any nature shall arise

18   against any member insurer, the association or its agents or

19   employees, the governing committee, administrators, servicing

20   carriers or the superintendent or [his] the superintendent's

21   representative for any action taken by them in the performance

22   of their powers and duties under the FAIR Plan Act. The

23   meetings, activities, recommendations and decisions of the

24   governing committee of the association as required or permitted

25   in [that] the FAIR Plan Act shall not be open to public

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1   inspection [nor] or be considered public documents [nor] or be

2   subject to Sections 10-15-1 through 10-15-4 NMSA 1978."

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