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AN ACT

RELATING TO INSURANCE; AMENDING A SECTION OF THE NEW MEXICO  
INSURANCE CODE TO PROVIDE FOR ELECTRONIC CLAIMS PAYMENT.

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

SECTION 1. Section 59A-16-21 NMSA 1978 (being Laws  
1984, Chapter 127, Section 287, as amended) is amended to  
read:

"59A-16-21. PAYMENT OF CLAIM BY CHECK, DRAFT OR  
ELECTRONIC TRANSFER--FAILURE TO PAY--INTEREST.--

A. An insurer shall pay promptly claims arising  
under its policies with checks or drafts or, if a claimant  
requests, may pay by electronic transfers. Without amending  
other statutes dealing with checks, drafts and electronic  
transfers of funds, a resident of New Mexico is granted a  
cause of action for ten percent of the amount of any check,  
draft or electronic transfer of funds that is not paid or  
lawfully rejected within ten days of forwarding by a New  
Mexico financial institution, but in no case to be less than  
five hundred dollars (\$500) plus costs of suit and attorney  
fees. The insurer shall not be required to pay such civil  
damages for delay if it proves that the delay in processing  
and payment was caused by a financial institution or postal  
or delivery service and the check, draft or electronic  
transfer of funds was paid or lawfully rejected within forty-

1 eight hours of actual receipt of the draft, check or  
2 electronic transfer of funds by the person on whom drawn.

3 B. Notwithstanding any provision of the Insurance  
4 Code, any insurer issuing any policy, certificate or contract  
5 of insurance, surety, guaranty or indemnity of any kind or  
6 nature that fails for a period of forty-five days, after  
7 required proof of loss has been furnished, to pay to the  
8 person entitled the amount justly due shall be liable for the  
9 amount due and unpaid with interest on that amount at the  
10 rate of one and one-half times the prime lending rate, as  
11 determined by the superintendent, for New Mexico banks per  
12 year during the period the claim is unpaid.

13 C. Subsection B of this section shall not apply to  
14 any claims in arbitration or litigation." \_\_\_\_\_

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