

AN ACT

RELATING TO LICENSURE; CHANGING PROVISIONS CONCERNING  
LICENSURE OF CERTAIN OCCUPATIONS, PROFESSIONS AND BUSINESSES;  
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 36-2-27 NMSA 1978 (being Laws 1909,  
Chapter 53, Section 26, as amended) is amended to read:

"36-2-27. PRACTICE WITHOUT ADMISSION--CONTEMPT OF  
COURT--FOREIGN ATTORNEYS.--No person shall practice law in a  
court of this state, except a magistrate court, nor shall a  
person commence, conduct or defend an action or proceeding  
unless he has been granted a certificate of admission to the  
bar under the provisions of Chapter 36 NMSA 1978. No person  
not licensed as provided in that chapter shall advertise or  
display any matter or writing whereby the impression may be  
gained that he is an attorney or counselor at law or hold  
himself out as an attorney or counselor at law, and all  
persons violating the provisions of that chapter shall be  
deemed guilty of contempt of the court in which the violation  
occurred, as well as of the supreme court of the state;  
provided, however, that nothing in this section shall be  
construed to prohibit persons residing beyond the limits of  
this state, otherwise qualified, from assisting resident  
counsel in participating in an action or proceeding."

Section 2. Section 59A-6-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 101, as amended) is amended to read:

"59A-6-1. FEE SCHEDULE.--The superintendent shall collect and receipt for, and persons so served shall pay to the superintendent, fees, licenses and miscellaneous charges as follows:

- A. insurer's certificate of authority -
  - (1) filing application for certificate of authority, and issuance of certificate of authority, if issued, including filing of all charter documents, financial statements, service of process, power of attorney, examination reports and other documents included with and part of the application . . . . . \$1,000.00
  - (2) annual continuation of certificate of authority, per kind of insurance, each year continued 200.00
  - (3) reinstatement of certificate of authority (Section 59A-5-23 NMSA 1978) . . . . . 150.00
  - (4) amendment to certificate of authority . . . . . 200.00
- B. charter documents - filing amendment to any charter document (as defined in Section 59A-5-3 NMSA 1978) . . . . . 10.00
- C. annual statement of insurer, filing . 200.00
- D. service of process, acceptance by superintendent and issuance of certificate of service, where

issued . . . . . 10.00

E. agents' licenses and appointments -

(1) filing application for original agent  
license and issuance of license, if  
issued . . . . . 30.00

(2) appointment of agent -

(a) filing appointment, per kind of  
insurance, each insurer . . . . . 20.00

(b) continuation of appointment, each  
insurer, each year continued . . . . . 20.00

(3) variable annuity agent's license -

(a) filing application for license and  
issuance of license, if issued . . . . . 30.00

(b) continuation of appointment  
each year . . . . . 20.00

(4) temporary license as to life and health  
insurance or both . . . . . 30.00

(a) as to property insurance . . . . . 30.00

(b) as to casualty/surety insurance  
. . . . . 30.00

(c) as to vehicle insurance . . . . . 30.00

F. solicitor license -

(1) filing application for original license  
and issuance of license, if issued . . . . . 30.00

(2) continuation of appointment, per kind of

insurance, each year . . . . . 20.00

G. broker license -

(1) filing application for license and  
issuance of original license, if issued . . . . . 30.00

(2) annual continuation of license 30.00

H. insurance vending machine license -

(1) filing application for original license  
and issuance of license, if issued, each machine . . . 25.00

(2) annual continuation of license, each  
machine . . . . . 25.00

I. examination for license, application for  
examination conducted directly by superintendent, each  
grouping of kinds of insurance to be covered by the  
examination as provided by the superintendent's rules and  
regulations, and payable as to each instance of  
examination . . . . . 50.00

J. surplus line broker license -

(1) filing application for original license  
and issuance of license, if issued . . . . . 100.00

(2) annual continuation of license . . 100.00

K. adjuster license -

(1) filing application for original license  
and issuance of license, if issued . . . . . 30.00

(2) annual continuation of license . 30.00

L. rating organization or rating advisory

organization license -

- (1) filing application for license and issuance of license, if issued . . . . . 100.00
- (2) annual continuation of license 100.00

M. nonprofit health care plans -

- (1) filing application for preliminary permit and issuance of permit, if issued . . . . . 100.00

(2) certificate of authority, application, issuance, continuation, reinstatement, charter documents - same as for insurers

- (3) annual statement, filing . . . . . 200.00

(4) agents and solicitors -

- (a) filing application for original license and issuance of license, if issued . . . . . 30.00

(b) examination for license conducted directly by superintendent, each instance of examination . . . . . 50.00

- (c) annual continuation of appointment . . . . . 20.00

N. prepaid dental plans -

(1) certificate of authority, application, issuance, continuation, reinstatement, charter documents - same as for insurers

- (2) annual report, filing . . . . . 200.00

(3) agents and solicitors -

(a) filing application for original license and issuance of license, if issued . . . . . 30.00

(b) examination for license conducted directly by superintendent, each instance of examination . . . . . 50.00

(c) continuation of license, each year . . . . . 20.00

O. prearranged funeral insurance - application for certificate of authority, issuance, continuation, reinstatement, charter documents, filing annual statement, licensing of sales representatives - same as for insurers

P. premium finance companies -

(1) filing application for original license and issuance of license, if issued . . . . . 100.00

(2) annual renewal of license . . . . . 100.00

Q. motor clubs -

(1) certificate of authority -

(a) filing application for original certificate of authority and issuance of certificate of authority, if issued . . . . . 200.00

(b) annual continuation of certificate of authority . . . . . 100.00

(2) sales representatives -

(a) filing application for

registration or license and issuance of registration or  
license, if issued, each representative . . . . . 20.00

(b) annual continuation of  
registration or license, each representative . . . . . 20.00

R. bail bondsmen -

(1) filing application for original license  
as bail bondsman or solicitor, and issuance of license, if  
issued . . . . . 30.00

(2) examination for license conducted  
directly by superintendent, each instance of examination 50.00

(3) continuation of appointment, each year  
. . . . . 20.00

S. securities salesperson license -

(1) filing application for license and  
issuance of license, if issued . . . . . 25.00

(2) renewal of license, each year . . 25.00

T. for each signature and seal of the  
superintendent affixed to any instrument . . . . . 10.00

U. required filing of forms or rates -

(1) rates . . . . . 50.00

(2) major form - each new policy and each  
package submission which can include multiple policy forms,  
application forms, rider forms, endorsement forms or  
amendment forms . . . . . 30.00

(3) incidental forms and rates - forms filed HB 807  
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for informational purposes; riders, applications,  
endorsements and amendments filed individually; rate service  
organization reference filings; rates filed for informational  
purposes . . . . . 15.00

V. health maintenance organizations -

(1) filing an application for a certificate  
of authority . . . . . 1,000.00

(2) annual continuation of certificate of  
authority, each year continued . . . . . 200.00

(3) filing each annual report . . . . . 200.00

(4) filing an amendment to organizational  
documents requiring approval . . . . . 200.00

(5) filing informational amendments . . . . . 50.00

(6) agents and solicitors -

(a) filing application for original  
license and issuance of license, if issued . . . . . 30.00

(b) examination for license, each  
instance of examination . . . . . 50.00

(c) annual continuation of appointment  
. . . . . 20.00

W. purchasing groups and foreign risk retention

groups -

(1) original registration . . . . . 500.00

(2) annual continuation of registration  
. . . . . 200.00



(3) agent or broker fees same as for authorized insurers.

Notwithstanding the fees required in this subsection, an insurer shall be subject to additional fees or charges, termed retaliatory or reciprocal requirements, or both, whenever any form or rate-filing fees in excess of those imposed by the laws of this state are charged to insurers in New Mexico doing business in another state or whenever any condition precedent to the right to issue policies in another state is imposed by the laws of that state over and above the conditions imposed upon insurers by the laws of New Mexico; in those cases, the same form or rate-filing fees shall be imposed upon every insurer from every other state transacting or applying to transact business in New Mexico so long as the higher fees remain in force in the other state. If an insurer fails to comply with the additional retaliatory or reciprocal requirement charges imposed under this subsection, the superintendent shall refuse to grant or shall withdraw approval of the tendered form or rate filing.

Except as to certain appointment fees as specified in Section 59A-11-8 NMSA 1978, all fees are deemed earned when paid and are not refundable."

Section 3. Section 59A-11-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 181) is amended to read:

"59A-11-2. APPLICATION FOR LICENSE--INDIVIDUAL.--

A. Where a license is required under the Insurance Code for categories referred to in Section 59A-11-1 NMSA 1978, application by an individual shall be filed with, and on a form prescribed and furnished by, the superintendent. The application shall be signed by the applicant, under oath if required by the form, and by or on behalf of the proposed principal where expressly required in the form.

B. The application form may require information about applicant as to:

- (1) name, date of birth, social security number, residence and business address if applicable;
- (2) personal history, business experience in general;
- (3) experience or special training or education in the kind of business to be transacted under the license applied for;
- (4) previous licensing;
- (5) type of license applied for and kinds of insurance or transactions to be covered thereby;
- (6) proof of applicant's identity; and
- (7) such other pertinent information and matters as the superintendent may reasonably require.

C. Application for license as insurance agent shall be accompanied by appointment of the applicant as agent

by at least one insurer, conditioned upon issuance of the license. Application for license as insurance solicitor or as agent or solicitor as to dental and health care plan, motor club, bail bondsman, and other principals shall be accompanied by appointment of the applicant by the proposed principal as solicitor or agent, as the case may be, subject to issuance of the license applied for.

D. In all such appointments the principal or principal's representative if so required by the superintendent shall certify in writing as to his knowledge of the applicant, as to applicant's residence, experience had or special training received or to be given as to business to be transacted under the license, applicant's business and personal reputation, whether applicant is trustworthy and worthy of licensing, and whether satisfied that applicant intends in good faith to engage in the business to be covered by the license, and appointment of applicant is not to enable applicant to evade the intent or spirit of any controlled business, anti-rebate or anti-discrimination law or other law.

E. The application form shall also require information as to additional matters expressly required to be included therein in articles of the Insurance Code relating to particular licenses.

F. The application shall be accompanied by the

applicable license application filing fee specified in Section 59A-6-1 NMSA 1978, by bond where expressly required under other provisions of the Insurance Code, and by the fee specified in such fee schedule for any examination required under the Insurance Code to be taken and passed by the applicant prior to licensing."

Section 4. Section 59A-11-10 NMSA 1978 (being Laws 1984, Chapter 127, Section 189) is amended to read:

"59A-11-10. CONTINUATION, EXPIRATION OF LICENSE.--

A. Each license, other than insurance agent, issued under this article shall continue in force until it is suspended, revoked or otherwise terminated, but except as may be provided pursuant to Section 59A-11-11 NMSA 1978, subject to payment to the superintendent annually on or before April 1, or December 31 as to motor club representatives, of the applicable continuation fee specified in Section 59A-6-1 NMSA 1978 accompanied by request for such continuation:

(1) for broker, surplus line broker, independent adjuster, bail bondsman license and similar other independent licensees, request shall be made and signed by the licensee;

(2) for agent (other than insurance agent) or staff adjuster, or solicitor license, request shall be made and signed by the employer or other principal, as applicable; or

(3) for vending machine, request shall be made and signed by the supervisory agent thereof.

B. Subject to Section 59A-11-11 NMSA 1978, any license referred to in Subsection A of this section, not so continued shall be deemed to have terminated as of midnight on April 30, or December 31 as to motor club representatives, then current; except that the superintendent may effectuate a request for continuation received within thirty days thereafter if accompanied by annual continuation fee equal to one hundred fifty percent of the continuation fee otherwise required.

C. An insurance agent's license shall continue in force while there is in effect as to the licensee as shown by the superintendent's records an appointment or appointments as agent of authorized insurers covering collectively all of the kinds of insurance included in the agent's license. Upon termination of all the licensee's agent appointments as to a particular kind of insurance and failure to replace such appointment within sixty days thereafter, the license shall expire and terminate as to such kind of insurance; and the licensee shall promptly deliver the license to the superintendent for reissuance, without fee or charge, as to the kinds of insurance covered by the licensee's remaining agent appointments. Upon termination of all of the licensee's agent appointments under the license, the license

shall forthwith terminate.

D. If the superintendent has reason to believe that the competence of any licensee, or individual designated to exercise license powers, is questionable, the superintendent may require as condition to continuation of the license or license powers that the licensee or individual take and pass to the superintendent's satisfaction a written examination as required under the Insurance Code of new individual applicants for similar license.

E. This section shall not apply as to temporary licenses, which shall be for such duration and subject to extension as provided in the respective sections of the Insurance Code by which such licenses are authorized.

F. All licenses and appointments as to an insurer or other principal which ceases to be authorized to transact business in this state shall automatically terminate without notice as of date of such cessation.

G. A license shall also terminate upon death of the licensee, if an individual, or dissolution if a corporation, or change in partnership members if a firm; subject, in case of a firm, to continuation of the license for a reasonable period while application for new license is being made or pending, under reasonable conditions provided in regulations of the superintendent."

1984, Chapter 127, Section 205) is amended to read:

"59A-12-4. "SOLICITOR" DEFINED.--For the purposes of Chapter 59A, Article 12 NMSA 1978 a "solicitor" is an individual employed by a licensed agent to solicit insurance and perform such other duties in handling the agent's business as the agent may authorize."

Section 6. Section 59A-12-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 209) is amended to read:

"59A-12-8. CONTROLLED BUSINESS.--

A. The superintendent shall not issue or permit to remain in force a license as agent, solicitor, or broker or if the superintendent finds or has cause to believe that the license has been or probably will be used chiefly for the purpose of writing insurance on the lives, property or risks of the licensee or proposed licensee, or of his family members, employees, employer, business associates, or directors, officers, employees or principal stockholders of a corporation by which he is employed or retained, or of which he is an officer, director or principal stockholder, or members or employees of any firm or other business entity with which he is associated or by which he is employed or retained.

B. A license shall be deemed used or to be used for writing of such controlled business if the superintendent finds that in any calendar year commissions or other

compensation earned with respect to such business exceeded, or probably would exceed, fifty percent of all commissions and compensation earned, or probably to be earned, in such calendar year as to all business written or likely to be written under the license during the same such year."

Section 7. Section 59A-12-10 NMSA 1978 (being Laws 1997, Chapter 48, Section 1) is amended to read:

"59A-12-10. LICENSING OF LENDING INSTITUTION--  
DEFINITIONS AND EXCEPTIONS.--

A. As used in this section:

(1) "lending institution" means an institution, including its holding company, subsidiary or insurance agent, solicitor or broker affiliate, whose business includes accepting deposits or lending money in New Mexico, including banks, savings and loan associations and credit unions; "lending institution" does not include insurance companies;

(2) "holding company", "subsidiary" and "affiliate" mean those terms as defined in regulations adopted by the superintendent, except "bank holding company" means that term as defined in Section 2 of the federal Bank Holding Company Act of 1956;

(3) "public utility" means a private employer subject to the jurisdiction of the commission that is engaged in the business of providing telecommunications,



electric, gas, water or stream heat services to the public;

(4) "sell" means to engage in the solicitation, sale and placement of insurance and such other related activities conducted by an agent, solicitor or broker pursuant to the Insurance Code;

(5) "service contract" means a contract issued on consumer products pursuant to which the vendor or manufacturer bears the cost of the repair or replacement of the consumer product;

(6) "insurance premium finance agreement" means an agreement by which an insured or a prospective insured promises to pay to any person engaged in the business of premium financing, the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract; and

(7) "loan transaction" and any other reference to lending or extension of credit does not include loans made by broker-dealers registered in accordance with applicable state and federal securities laws that are wholly collateralized by securities.

B. A lending institution may be licensed to sell:

(1) any insurance except title insurance in accordance with the Insurance Code and to the extent authorized by federal and state lending institution regulators; and

(2) annuities to the extent authorized by law and federal and state lending institution regulators, but nothing in this paragraph shall affect the rights and obligations of nationally chartered lending institutions.

C. A public utility or its holding company, subsidiary or affiliate shall not be licensed to sell insurance or act as a broker for insurance in New Mexico.

D. As used in Subsections E through Y of this section, "insurance" means all products defined or regulated as insurance under the Insurance Code except:

(1) credit life, credit accident and health, credit involuntary unemployment, credit casualty and credit property insurance, and when providing insurance coverage to a borrower or co-borrower or both, the following insurance products: accidental death and dismemberment, accidental disability and any other accidental casualty insurance product;

(2) insurance placed by a lending institution on the collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance;

(3) private mortgage insurance and financial guarantee insurance;

(4) annuities;

(5) service contracts;

(6) insurance premium finance agreements;  
and

(7) travel accident or baggage insurance.

E. A lending institution shall not require as a condition precedent to the extension of credit, or any subsequent renewal thereof, or the procurement of other bank services that the customer purchase insurance through a particular insurer, agent, solicitor or broker.

F. A lending institution shall not extend credit, lease or sell property or furnish any other service or fix or vary the consideration for any of the foregoing on the condition or requirement that the customer obtain insurance from that lending institution or from a particular insurer, agent, solicitor or broker.

G. A lending institution shall not impose a requirement on an insurance agent, solicitor or broker who is not associated with the lending institution that is not imposed on an insurance agent, solicitor or broker who is associated with that institution or, unless otherwise authorized by applicable federal or state law, require a debtor, insurer, agent, solicitor or broker to pay a separate charge in connection with the handling of insurance that is required under a contract.

H. A lending institution, except an institution that does not accept deposits that are federally insured,

that sells insurance on its premises shall:

(1) conspicuously post a notice that is clearly visible to anyone who may purchase insurance that insurance is not a deposit account insured by a federal deposit insuring agency;

(2) orally inform a prospective purchaser of insurance that insurance is not a deposit account insured by a federal deposit insuring agency; and

(3) provide a written disclosure to the customer containing the following statements before the sale of insurance is complete:

(a) insurance is not a lending institution deposit account and is not insured by its federal deposit insuring agency;

(b) insurance is not an obligation of or guaranteed by the lending institution;

(c) the customer is not required to obtain insurance from a particular lending institution, agent, solicitor or broker; and

(d) where applicable, insurance involves investment risk, including potential loss of principal.

I. The sale of insurance by a lending institution, except an institution that does not accept deposits that are federally insured, shall be effectuated in

such a manner so as to avoid confusion between federally insured deposit products offered by a lending institution and the nonfederally insured insurance sold. Insurance advertisements and other sales material shall be accurate and not misleading or deceptive. Insurance advertising and other sales materials regarding insurance shall include disclosures that contain language that is the same or substantially similar to the following:

(1) insurance is not a lending institution deposit and is not insured by its federal deposit insuring agency;

(2) insurance is not an obligation of or guaranteed by the lending institution; and

(3) where applicable, insurance involves investment risk, including potential loss of principal.

J. Insurance operations may be conducted by the lending institution, its holding company, an affiliate or subsidiary of either or through a separate corporate entity or partnership.

K. A lending institution shall not provide nonpublic customer information to a third party for the purpose of another's sale of insurance without written authorization from the customer. As used in this subsection, "nonpublic customer information" means information regarding a person that has been derived from a record of a financial

institution. "Nonpublic customer information" does not include customer names and addresses and telephone numbers or information about an individual that could be obtained from an unaffiliated credit bureau that is subject to the federal Fair Credit Reporting Act by a third party that is not entering into a credit relationship with the individual but has a legitimate need for the information in connection with a business transaction with the individual, except that "nonpublic customer information" includes information concerning insurance premiums, the terms and conditions of insurance coverage, insurance expirations, insurance claims and insurance history of an individual. Notwithstanding any provision in this section to the contrary, compliance with Section 603 of the federal Fair Credit Reporting Act by a lending institution shall be deemed to be full compliance with this subsection. "Nonpublic customer information" does not include material excluded from the definition of "consumer report" by Section 603(d)(2)(A) of the federal Fair Credit Reporting Act.

L. Records relating to the insurance sales of a lending institution, including files relating to and reflecting customer complaints, shall be kept separate and apart from all records relating to the banking transactions of the lending institution. Records pertaining to insurance activities of the lending institution or copies of those

records shall be subject to the inspection and audit by the insurance division. If the division determines to inspect and audit the records relating to the insurance activities of a lending institution, that institution shall make available to the division, at a location in New Mexico the lending institution's records and knowledgeable personnel to assist in the interpretation of the lending institution's records.

M. A lending institution, or officer, director or employee acting on behalf of the institution, who qualifies for issuance of an agent's, solicitor's or broker's license pursuant to the Insurance Code may be issued an agent or broker license authorizing the sale of insurance.

N. A lending institution shall not pay a commission or other valuable consideration to a person for services of an insurance agent, solicitor or broker unless the person performing the service holds a valid insurance license for the class of insurance for which the service is rendered or performed at the time the service is performed. No person, other than a person properly licensed in accordance with the Insurance Code, shall accept any commission or valuable consideration for those services.

O. A lending institution shall not offer an inducement to a customer to purchase insurance from the institution other than as plainly expressed in the insurance policy. Investment programs, memberships or other programs

designed or represented to waive, reduce, pay, produce or provide funds to pay all or part of the cost on insurance are an illegal inducement.

P. A lending institution may not in the same transaction solicit the purchase of insurance from a customer who has applied for a loan from the institution before the time the customer has received a written commitment from the lending institution with respect to that loan, or, in the event that no written commitment has been or will be issued in connection with the loan, a lending institution shall not solicit the purchase of insurance before the time the customer receives notification of approval of the loan by the lending institution and the institution creates a written record of the loan approval. This subsection shall not apply when a lending institution contacts a customer in the course of direct or mass marketing to a group of persons in a manner that bears no relation to the customer's loan application or credit decision.

Q. The sale of insurance by a lending institution, credit union, sales finance company, insurance company, insurance agent, an institution that grants or arranges consumer credit or an institution that solicits or makes loans in New Mexico may be conducted by a person whose responsibilities include loan transactions or other transactions involving the extension of credit so long as the



person who is primarily responsible for making the specific loan or extension of credit is not the same person engaged in the sale of insurance for that same transaction; provided, however, that the provisions of this subsection shall not apply to:

(1) a broker or dealer registered under the federal Securities Exchange Act of 1934; or

(2) a lending institution location that has three or fewer persons with lending authority.

R. If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents.

S. A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer, which may be evidenced by compliance with the federal Truth in Lending Act.

T. A person who engages in loan transactions at any office of, or on behalf of, a lending institution or any other agent, employee, director or officer of the lending institution may refer a customer who seeks to purchase, or seeks an opinion or advice on any insurance product, to a person, or may give the phone number of a person, who sells or provides opinions or advice on such products only if the customer expressly requests the referral; the person who engages in loan transactions does not solicit the customer

request; and the person who engages in the loan transaction does not receive any compensation for the referral.

U. The location for the sale of insurance on the premises of a lending institution, except an institution that does not accept deposits that are federally insured, to the extent practicable shall be:

(1) physically located to be distinct from the lending activities of the institution; and

(2) clearly and conspicuously signed to be easily distinguishable by the public as separate and distinct from the lending activities of the institution.

V. Signs and other informational material concerning the availability of insurance products from the lending institution or third party soliciting the purchase of or selling insurance on the premises of the lending institution shall not be displayed to the extent practicable in an area where application for loans or other extensions of credit are being taken or closed.

W. Nothing in this section grants a lending institution, including its holding company, subsidiary or affiliate, except those enumerated in this section, the power to sell insurance that was not allowed prior to July 1, 1997.

X. Nothing in this section precludes the superintendent from adopting reasonable rules and regulations for the purposes of the administration of the provisions of

this section, including rules and regulations for written disclosures.

Y. If any of the provisions of this section are preempted by federal law, then those preempted provisions shall not apply to any person or lending institution subject to the provisions of this section."

Section 8. Section 59A-12-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 213) is amended to read:

"59A-12-12. GENERAL QUALIFICATIONS FOR INDIVIDUAL AGENT, BROKER OR SOLICITOR LICENSE.--For the protection of the public in New Mexico, the superintendent shall not issue, continue or permit to exist a license to an individual as agent, broker or solicitor except as to an individual qualified as follows:

- A. must be eighteen years of age or older;
- B. must have passed any examination required for licensing;
- C. must be competent, trustworthy and financially responsible;
- D. if for license as an agent, must be appointed as an agent by an authorized insurer, subject to issuance of a license;
- E. if for license as a solicitor, must be employed as a solicitor by a licensed agent, subject to issuance of the license; and

F. must be in compliance with other applicable qualifications and requirements of the Insurance Code."

Section 9. Section 59A-12-15 NMSA 1978 (being Laws 1984, Chapter 127, Section 216) is amended to read:

"59A-12-15. LICENSING FIRMS, CORPORATIONS.--

A. The superintendent shall license a firm or corporation only as an agent or broker.

B. For license as agent each general partner and each individual to act for the firm, or each individual to act for the corporation, shall be named in the license or registered with the superintendent, and shall qualify as though for license as an individual."

Section 10. Section 59A-12-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 217) is amended to read:

"59A-12-16. EXAMINATION FOR LICENSE.--

A. Each applicant for license as agent, solicitor or broker shall, prior to issuance of license, personally take and pass an examination authorized by the superintendent to establish the applicant's competence, knowledge and understanding of attendant responsibility and duties as to the insurance business to be transacted under the license applied for; except, that no such examination shall be required:

(1) for renewal or continuance of an existing license, except as provided in Subsection D of

Section 59A-11-10 NMSA 1978;

(2) of an applicant for limited license as provided in Section 59A-12-18 NMSA 1978;

(3) of applicants with respect to life and health, or life or health, insurances who hold the chartered life underwriter (C.L.U.) designation by the American college of life underwriters;

(4) of applicants with respect to property, casualty, surety, marine and transportation, and vehicle insurances, or any of them, who hold the designation of chartered property and casualty underwriter (C.P.C.U.) designation by the American institute of property and casualty underwriters;

(5) of applicants for temporary license as provided for in Section 59A-12-19 NMSA 1978;

(6) of an applicant for a license covering the same kind or kinds of insurance as to which licensed in this state under a similar license within five years preceding date of application for the new license, unless the previous license was suspended, revoked or continuation thereof refused by the superintendent;

(7) of an applicant for solicitor license who held license as agent in this state as to the same kind or kinds of insurance within five years preceding date of application for the new license, unless the previous license

was suspended, revoked or continuation thereof refused by the superintendent;

(8) of an applicant for broker or agent license, if the superintendent is satisfied that the applicant took and passed a similar examination in a state in which already licensed, subject to Section 59A-5-33 NMSA 1978; or

(9) of applicant for license only as title insurance agent.

B. The superintendent shall conduct examinations as provided for in Chapter 59A, Article 11 NMSA 1978."

Section 11. Section 59A-12-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 218) is amended to read:

"59A-12-17. SCOPE OF LICENSE.--

A. Except as to limited licenses identified in Section 59A-12-18 NMSA 1978, an agent's or broker's license shall cover the kind of insurance, or major subdivisions of life or health insurance, for which the applicant has applied and qualified, including the following:

(1) life insurance, or any or all of the following subdivisions thereof:

- (a) industrial life insurance;
- (b) debit insurance;
- (c) credit life insurance; or
- (d) variable annuity contracts;

(2) health insurance, credit health insurance, or industrial health insurance, or other subdivisions thereof;

(3) property insurance;

(4) casualty insurance;

(5) surety insurance;

(6) marine and transportation insurance;

(7) vehicle insurance; or

(8) title insurance.

B. The scope of a solicitor's license is subject to Section 59A-12-14 NMSA 1978.

C. License of a broker shall cover the kind or kinds of insurance applied and qualified for, within the classifications stated in Subsection A of this section.

D. A licensee as to variable annuities or similar contracts deemed to constitute also securities, shall also possess license as a security salesman under other applicable state laws."

Section 12. Section 59A-12-20 NMSA 1978 (being Laws 1984, Chapter 127, Section 221) is amended to read:

"59A-12-20. PLACE OF BUSINESS--DISPLAY OF LICENSE.--

A. Every general lines agent shall have and maintain a place of business accessible to the public, wherein the licensee conducts transactions under the license. The address of the place of business shall appear upon the

application for license when issued, and the licensee shall promptly notify the superintendent in writing of any change of address. Nothing in this section shall prohibit maintenance of the place of business in the licensee's residence.

B. The licenses of the licensee and those of solicitors employed by him shall be conspicuously displayed in the place of business in a part customarily open to the public.

C. This section does not apply to life insurance, annuity contracts or health insurance."

Section 13. Section 59A-12-23 NMSA 1978 (being Laws 1984, Chapter 127, Section 224) is amended to read:

"59A-12-23. INSURANCE VENDING MACHINES.--

A. A licensed agent may solicit for and issue personal travel accident insurance policies of an authorized insurer by means of mechanical vending machines supervised by the agent and placed at airports and other places of convenience to the traveling public, if the superintendent finds that:

(1) the policy provides reasonable coverage and benefits, is suitable for sale and issuance by vending machine and use of such a machine in a proposed location would be of material convenience to the public;

(2) the type of machine proposed to be used



is reasonably suitable for the purpose;

(3) reasonable means are provided for informing prospective purchasers of policy coverages and restrictions;

(4) reasonable means are provided for refund of money inserted in defective machines and for which insurance so paid for is not received; and

(5) the cost of maintaining such a machine at a particular location is reasonable.

B. For each machine to be used the superintendent shall issue to the applicant a special vending machine license. The license shall state the name and address of the insurer and agent, name of the policy to be sold and serial number and operating location of the machine. The license shall be subject to annual continuation, to expiration, suspension or revocation coincidentally with that of the agent. The superintendent shall also revoke the license as to any machine as to which he finds that license qualifications no longer exist. Proof of existence of a subsisting license shall be displayed on or about each machine in use in such manner as the superintendent reasonably requires."

Section 14. Section 59A-12-24 NMSA 1978 (being Laws 1984, Chapter 127, Section 225) is amended to read:

"59A-12-24. SHARING OF COMMISSIONS.--

A. An agent or broker shall share a commission or compensation for or on account of the solicitation or negotiation in this state of insurance on individuals or property or risks in this state only with the agent's duly licensed solicitor, or duly licensed agent of the insurer with which the insurance was placed, or duly licensed broker.

B. No such licensee shall share in commission or compensation as to a kind of insurance for which not licensed.

C. Such sharing in commissions and compensation between the same such licensees shall be infrequently only, and shall not unduly obviate the general necessity of appointment of the agent by the insurer with which the insurance is placed.

D. Nothing in the Insurance Code shall be deemed to prohibit payment, to or for the account of a former owner of an insurance agency or brokerage, of commissions or part thereof currently accruing on business of the agency or brokerage, as part of the purchase price of the agency or brokerage, whether or not such former owner is currently licensed as agent, solicitor or broker."

Section 15. Section 59A-12-25 NMSA 1978 (being Laws 1984, Chapter 127, Section 226) is amended to read:

"59A-12-25. NONRESIDENT BROKERS, NONRESIDENT AGENTS AND NONRESIDENT SOLICITORS--RETALIATION.--

A. The superintendent may refuse to issue a license as a broker, agent or solicitor to a resident of another state or country, who is otherwise qualified under this article for license as a broker, agent or solicitor in New Mexico, if under the laws of the other state or country licensed residents of this state are prohibited or prevented from acting as broker, agent or solicitor because of their residence.

B. As part of an application for a license, the nonresident applicant shall appoint the superintendent, on a form prescribed and furnished by the superintendent, as agent on whom may be served all legal process issued by a court in this state in any action against or involving the licensee as to transactions under the license. The appointment shall be irrevocable and continue for so long as an action could arise or exist. Duplicate copies of process shall be served upon the superintendent or other individual in apparent charge of the insurance division during the superintendent's absence, accompanied by payment of the process service fee specified in Section 59A-6-1 NMSA 1978. Upon service the superintendent shall promptly forward a copy by certified mail, return receipt requested, to the licensee at his last address of record with the superintendent. Process served and copy forwarded as so provided shall for all purposes constitute personal service upon the licensee.

C. The licensee shall likewise file with the superintendent written agreement to appear before the superintendent pursuant to notice of hearing, show cause order or subpoena issued by the superintendent and deposited, postage paid, by certified mail in a letter depository of the United States post office, addressed to the licensee at his last address of record with the superintendent, and that upon failure of the licensee to appear the licensee thereby consents to any subsequent suspension, revocation or refusal of the superintendent to continue the license."

Section 16. Section 59A-12-26 NMSA 1978 (being Laws 1984, Chapter 127, Section 227, as amended) is amended to read:

"59A-12-26. CONTINUED EDUCATION.--

A. For protection of the public and to preserve and improve competence of licensees, the superintendent may in his sole discretion require as a condition to continuation of license as agent, solicitor or broker under this article that during the twelve months next preceding expiration of the current license period the licensee has attended the minimum number of hours of formal class instruction, lectures or seminars required and approved by the superintendent covering the kinds of insurance for which licensed.

B. Such instruction shall be designed to refresh the licensee's understanding of basic principles and

coverages involved, recent and prospective changes therein, applicable laws and rules and regulations of the superintendent, proper conduct of the licensee's business and duties and responsibilities of the licensee.

C. The superintendent may permit licensees who because of remoteness of residence or business cannot with reasonable convenience attend such formal instruction sessions to take and successfully complete an equivalent course of study and instruction by mail.

D. The superintendent shall promulgate rules and regulations for effectuation of the purposes and requirements of this section and may impose a penalty not to exceed fifty dollars (\$50.00) for a licensee's failure to timely report continuing education credits.

E. For the purposes of this section, the superintendent shall charge, at the time of certifying each licensee's continuing education credits as a condition of continuation of license, a fee of five dollars (\$5.00).

F. This section shall not apply to holders of limited license issued under Section 59A-12-18 NMSA 1978."

Section 17. Section 59A-12B-3 NMSA 1978 (being Laws 1993, Chapter 320, Section 29) is amended to read:

"59A-12B-3. LICENSURE.--

A. No person, firm, association or corporation shall act in the capacity of a managing general agent with

respect to risks located in this state for an insurer authorized in this state unless such person is a licensed agent or broker in this state.

B. No person, firm, association or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless such person is licensed as an agent or broker in this state pursuant to the provisions of the Managing General Agents Law.

C. The superintendent may require a bond in an amount acceptable to him for the protection of the insurer.

D. The superintendent may require the managing general agent to maintain an errors and omissions policy."

Section 18. Section 59A-12D-3 NMSA 1978 (being Laws 1993, Chapter 320, Section 44) is amended to read:

"59A-12D-3. LICENSURE.--

A. No person, firm, association or corporation shall act as a reinsurance intermediary-broker in this state if it maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation:

(1) in this state, unless such reinsurance intermediary-broker is a licensed producer in this state; or

(2) in another state, unless such reinsurance intermediary-broker is a licensed producer in

this state or another state having a law substantially similar to this law or such reinsurance intermediary-broker is licensed in this state as a reinsurance intermediary.

B. No person, firm, association or corporation shall act as a reinsurance intermediary-manager:

(1) for a reinsurer domiciled in this state, unless such reinsurance intermediary-manager is a licensed producer in this state;

(2) in this state, if the reinsurance intermediary-manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such reinsurance intermediary-manager is a licensed producer in this state;

(3) in another state for a nondomestic insurer, unless such reinsurance intermediary-manager is a licensed producer in this state or another state having a law substantially similar to this law or such person is licensed in this state as a reinsurance intermediary.

C. The superintendent may require a reinsurance intermediary-manager subject to the provisions of Subsection B to:

(1) file a bond in an amount from an insurer acceptable to the superintendent for the protection of the reinsurer; and

(2) maintain an errors and omissions policy in an amount acceptable to the superintendent.

D.

(1) The superintendent may issue a reinsurance intermediary license to any person, firm, association or corporation who has complied with the requirements of the Reinsurance Intermediary Law. Any such license issued to a firm or association will authorize all the members of such firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto. Any such license issued to a corporation shall authorize all of the officers and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of such corporation, and all such persons shall be named in the application and any supplements thereto.

(2) If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the superintendent as agent for service of process in the manner, and with the same legal effect, provided for by the Reinsurance Intermediary Law for designation of service of process upon unauthorized insurers; and also shall furnish the superintendent with the name and address of a



resident of this state upon whom notices or orders of the superintendent or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the superintendent in writing of every change in its designated agent for service of process and such change shall not become effective until acknowledged by the superintendent.

E. The superintendent may refuse to issue a reinsurance intermediary license if, in his judgment, the applicant, anyone named on the application, or any member, principal, officer or director of the applicant, is not trustworthy, or that any controlling person of such applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of such license or has failed to comply with any prerequisite for the issuance of such license. Upon written request by the applicant, the superintendent will furnish a summary of the basis for refusal to issue a license, which document shall be subject to the provisions of Section 59A-11-20 NMSA 1978.

F. Licensed attorneys at law of this state when acting in their professional capacity as such shall be exempt from this section."

Section 19. Section 59A-14-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 245) is amended to read:

"59A-14-7. SURPLUS LINE BROKER LICENSE REQUIRED--  
QUALIFICATIONS FOR LICENSE.--

A. No person shall in New Mexico be, act as or hold out to be, a surplus line broker, or place insurance of risks resident, located or to be performed in New Mexico in any unauthorized insurer on behalf of others and for compensation as an independent contractor in any form, unless licensed as a surplus line broker under Chapter 59A, Article 14 NMSA 1978.

B. The superintendent shall, upon due application and payment of the license fee, issue a license as surplus line broker to a person qualified as follows:

(1) must be currently licensed as an insurance agent in this state as to the kinds of insurance to be exported under the surplus line broker license applied for, and have had experience or special training or education sufficient in duration and character as such an agent as to render the applicant, in the opinion of the superintendent, reasonably competent to engage in business as a surplus line broker;

(2) if applicant is a firm or corporation, all individuals to represent it in this state must be licensed agents. Each such individual shall be qualified as for an individual license as surplus line broker, and an additional license fee shall be paid as to each individual,

in excess of one, who is to exercise the surplus line broker license powers; and

(3) must file with the application the bond provided for in Section 59A-14-8 NMSA 1978.

C. Licensing procedure, duration and related matters are as provided in Chapter 59A, Article 11 NMSA 1978, and license fee is as specified in Section 59A-6-1 NMSA 1978."

Section 20. Section 59A-35-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 606, as amended) is amended to read:

"59A-35-17. QUALIFICATIONS, PROCEDURE FOR SECURITY SALESPERSON LICENSE.--

A. Applicants for license as securities salesperson shall be qualified as follows:

(1) be an individual not less than twenty-one years of age;

(2) be honest and trustworthy, of good personal and business reputation and financially responsible;

(3) take and pass an examination as given by the superintendent, reasonably testing the knowledge of the applicant of the securities to be sold, the responsibilities of a salesperson relative thereto and competence of the applicant to act as a securities salesperson; and

(4) file with the superintendent along with

application for license and thereafter maintain in force while so licensed, a surety bond issued by an authorized surety insurer or deposit of cash or cash-equivalent in lieu of the bond, in reasonable penal sum fixed by the superintendent but not less than ten thousand dollars (\$10,000), for protection of the registrant, persons purchasing securities through the salesperson and the state of New Mexico and to assure compliance with law and the applicable regulations of the superintendent.

B. Procedure for application for license, examination of applicant, issuance, terms, duration and suspension or revocation of license and related matters shall be as provided by applicable provisions of Chapter 59A, Article 11 NMSA 1978. Fee for license and examination shall be as fixed in Section 59A-6-1 NMSA 1978.

C. This section shall not apply as to securities broker-dealers registered as such under the Securities Exchange Act of 1934, as amended, or as to securities the sale of which is underwritten (other than on a best efforts basis) by such a broker-dealer."

Section 21. Section 59A-40-9 NMSA 1978 (being Laws 1984, Chapter 127, Section 692) is amended to read:

"59A-40-9. LICENSED AGENTS REQUIRED.--The insurer shall write business in New Mexico only through its resident United States agents duly appointed by it in writing and duly

licensed by the superintendent under provisions of the Insurance Code applicable to insurance agents of authorized insurers. The appointment of agents shall specifically authorize the licensee to write for the Mexican insurer the insurance coverages as specified in Chapter 59A, Article 40 NMSA 1978."

Section 22. Section 59A-44-33 NMSA 1978 (being Laws 1989, Chapter 388, Section 33, as amended) is amended to read:

"59A-44-33. LICENSING OF AGENTS.--

A. Agents of societies shall be licensed in accordance with the applicable provisions of Chapter 59A, Articles 11 and 12 NMSA 1978 regulating the licensing, revocation, suspension or termination of license of agents, but shall not be subject to the provisions of Section 59A-12-26 NMSA 1978.

B. No examination or license shall be required of any regular salaried officer, employee or member of a licensed society who devotes or intends to devote fifty percent or more of his services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained.

C. Any person who in the preceding calendar year

has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars (\$50,000) or, in the case of any other kind of insurance that the society might write, on the persons of more than twenty-five individuals and who has received or will receive a commission or other compensation therefor shall be presumed to be devoting or intending to devote fifty percent of his time to the solicitation or procurement of insurance contracts for such society."

Section 23. Section 59A-47-30 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.29) is amended to read:

"59A-47-30. LICENSED AGENTS OR SOLICITORS REQUIRED--  
QUALIFICATIONS, LICENSING PROCEDURES AND CONDITIONS.--

A. Solicitation of subscriberships for a health care plan shall be made only by agents of such plan or solicitors of such agents, who are duly qualified, appointed and licensed as such under the Insurance Code. This provision shall not apply as to salaried officers or employees of health care plans who are visiting or instructing their licensed agents, and who do not receive any part of the commission for any business written by such agents with their assistance.

B. No person shall be appointed or licensed as a health care plan agent or solicitor unless qualified therefor as follows:

(1) is an individual at least eighteen years of age;

(2) has had, or will receive, reasonable experience or instruction in the health care plan for which license is applied;

(3) is be trustworthy and of good business reputation;

(4) intends to engage in a bona fide way in the business of the health care plan; and

(5) passes to the superintendent's satisfaction an examination for license as given by or under authorization of the superintendent.

C. A health care plan agent shall be appointed by and at any one time represent only one such plan.

D. Subject to the other provisions of this section, procedures for appointment and licensing such agents and solicitors, examination, issuance or denial of license, continuation or expiration, suspension, revocation or refusal to continue license and other applicable matters relating to such licensing and licenses shall be as provided as to licenses of agents and solicitors as to health insurance under Chapter 59A, Article 11 NMSA 1978. Fee for application for license and continuation of license shall be as specified in Section 59A-6-1 NMSA 1978, and neither fee shall be refundable."

Section 24. Section 59A-50-13 NMSA 1978 (being Laws 1984, Chapter 127, Section 919) is amended to read:

"59A-50-13. REGISTERED REPRESENTATIVES REQUIRED--  
QUALIFICATIONS FOR REGISTRATION.--

A. No person shall be, act as or purport to be a representative of a motor club in this state unless then registered as such with the superintendent by the motor club.

B. To qualify for registration the applicant shall:

(1) be an individual not less than eighteen years of age;

(2) be of good personal and business reputation;

(3) not previously have been refused registration or had registration revoked;

(4) be suitable and competent to act as such representative; and

(5) intend in good faith to act and hold himself out as such a representative.

C. As part of an application for registration, a nonresident applicant shall appoint the superintendent, on a form prescribed and furnished by the superintendent, as agent on whom may be served all legal process issued by a court in this state in any action involving the nonresident registrant. The appointment is irrevocable and continues for so long as an action involving the nonresident registrant



could arise. Duplicate copies of process shall be served upon the superintendent or other person in apparent charge of the insurance division during the superintendent's absence, accompanied by payment of the process service fee specified in Section 59A-6-1 NMSA 1978. Upon service the superintendent shall promptly forward a copy by certified mail, return receipt requested, to the nonresident registrant at his last address of record with the superintendent. Process served and copy forwarded as so provided constitutes personal service upon the nonresident registrant.

D. A nonresident registrant shall also file with the superintendent a written agreement to appear before the superintendent pursuant to a notice of hearing, show cause order or subpoena issued by the superintendent and deposited, postage paid, by certified mail in a letter depository of the United States post office, addressed to the nonresident registrant at his last address of record with the superintendent, and that upon failure of the nonresident registrant to appear, the nonresident registrant consents to subsequent suspension, revocation or refusal of the superintendent to continue the license."

Section 25. Section 59A-51-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 931) is amended to read:

"59A-51-4. QUALIFICATIONS FOR LICENSE.--Applicants for license as bail bondsman or solicitor pursuant to the

provisions of Chapter 59A, Article 51 NMSA 1978 must not be law enforcement, adjudication or prosecution officials or their employees, attorneys-at-law, officials authorized to admit to bail, or state or county officers, and must be qualified as follows:

A. is an individual not less than eighteen years of age;

B. is a citizen of the United States;

C. if for license as bondsman must take and pass to the superintendent's satisfaction a written examination testing his knowledge and competence to engage in the bail bondsman business;

D. is of good personal and business reputation;

E. if to act as a property bondsman, must be financially responsible and provide the surety bond or deposit in lieu thereof as required in accordance with Section 59A-51-8 NMSA 1978;

F. if to act as a limited surety agent, must be appointed by an authorized surety insurer, subject to issuance of a license, and meet all applicable qualifications as for licensing as an agent of an insurer as stated in Section 59A-12-12 NMSA 1978; and

G. if for license as a solicitor, must have been so appointed by a licensed bail bondsman subject to issuance of the solicitor license."

Section 26. Section 59A-51-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 932) is amended to read:

"59A-51-5. APPLICATION FOR LICENSE.--

A. An individual desiring to be licensed as bail bondsman or solicitor under Chapter 59A, Article 51 NMSA 1978 shall file with the superintendent written application on a form as prescribed and furnished by the superintendent, together with application for qualifying examination if for bail bondsman license.

B. With application for license to act as property bondsman the applicant shall file with the superintendent his detailed financial statement under oath and a schedule of charges and the rating plan proposed to be used in writing bail bonds. The schedule shall conform to rules and regulations promulgated by the superintendent.

C. Application for a solicitor's license must be endorsed by the appointing bail bondsman, who shall therein obligate himself to supervise the solicitor's activities in the bondsman's behalf.

D. The application shall be accompanied by a recent credential-sized full-face photograph of the applicant together with such additional proof of identity as the superintendent may reasonably require.

E. As part of an application for a license, a nonresident applicant shall appoint the superintendent, on a

form prescribed and furnished by the superintendent, as agent on whom may be served all legal process issued by a court in this state in any action involving the nonresident licensee. The appointment is irrevocable and continues for so long as an action involving the nonresident licensee could arise. Duplicate copies of process shall be served upon the superintendent or other person in apparent charge of the insurance division during the superintendent's absence, accompanied by payment of the process service fee specified in Section 59A-6-1 NMSA 1978. Upon service the superintendent shall promptly forward a copy by certified mail, return receipt requested, to the nonresident licensee at his last address of record with the superintendent. Process served and copy forward as so provided constitutes personal service upon the nonresident licensee.

F. A nonresident licensee shall also file with the superintendent a written agreement to appear before the superintendent pursuant to a notice of hearing, show cause order or subpoena issued by the superintendent and deposited, postage paid, by certified mail in a letter depository of the United States post office, addressed to the nonresident licensee at his last address of record with the superintendent, and that upon failure of the nonresident licensee to appear, the nonresident licensee consents to subsequent suspension, revocation or refusal of the

superintendent to continue the license."

Section 27. Section 59A-55-24 NMSA 1978 (being Laws 1988, Chapter 125, Section 24) is amended to read:

"59A-55-24. DUTY OF AGENTS OR BROKERS TO OBTAIN LICENSE.--

A. No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance in New Mexico from a risk retention group unless such person, firm, association or corporation is licensed as an insurance agent or broker pursuant to the provisions of the New Mexico Insurance Code.

B. No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance:

(1) in New Mexico for a purchasing group from an authorized insurer or a risk retention group chartered in a state, unless such person, firm, association or corporation is licensed as an insurance agent or broker pursuant to the provisions of the New Mexico Insurance Code;

(2) in New Mexico for any members of a purchasing group under a purchasing group's policy, unless such person, firm, association or corporation is licensed as an insurance agent or broker pursuant to the provisions of the New Mexico Insurance Code; or

(3) from an insurer not authorized to do

business in New Mexico on behalf of a purchasing group located in this state, unless such person, firm, association or corporation is licensed as a surplus lines agent or excess line broker pursuant to the provisions of the New Mexico Insurance Code.

C. Every person, firm, association or corporation licensed pursuant to the provisions of the New Mexico Insurance Code on business placed with risk retention groups or written through a purchasing group shall inform each prospective insured of the provisions of the notice required by Section 59A-55-10 NMSA 1978 in the case of a purchasing group."

Section 28. Section 61-15-8 NMSA 1978 (being Laws 1931, Chapter 155, Section 7, as amended) is amended to read:

"61-15-8. EXEMPTIONS--FROM REGISTRATION.--

A. The following are exempt from the provisions of the Architectural Act:

(1) architects who have no established places of business in this state and who are not registered under the Architectural Act may act as consulting associates of an architect registered under the provisions of the Architectural Act, provided the architects are registered as architects in another jurisdiction; and

(2) architects acting solely as officers or employees of the United States or any interstate railroad

system.

B. Nothing in the Architectural Act shall prevent a registered architect from employing non-registrants to work under the architect's responsible charge."

Section 29. Section 61-15-9 NMSA 1978 (being Laws 1931, Chapter 155, Section 8, as amended) is amended to read:

"61-15-9. PROJECT EXEMPTIONS.--

A. The state and its political subdivisions are not exempt from the requirements of the Architectural Act.

B. A person who is not an architect may prepare building plans and specifications, unless the building plans and specifications involve public safety or health, but the work shall be done only on:

(1) single-family dwellings not more than two stories in height;

(2) multiple dwellings not more than two stories in height containing not more than four dwelling units of wood-frame construction; provided, this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four dwelling units on any lawfully divided lot;

(3) garages or other structures not more than two stories in height which are appurtenant to buildings

described in Paragraphs (1) and (2) of this subsection; or

(4) nonresidential buildings, as defined in the uniform building code, unless the building code official having jurisdiction has found that the submission of plans, drawings, specifications or calculations prepared and designed by an architect or engineer licensed by the state is necessary to obtain compliance with minimum standards governing the preparation of building plans and specifications adopted by the construction industries division of the regulation and licensing department. The construction industries division shall set, by regulation, minimum standards for preparation of building plans and specifications pursuant to this paragraph.

C. Nothing in the Architectural Act shall require the state or a political subdivision of the state to secure the services of an architect or engineer for a public work project that consists of repair, replacement or remodeling if the alteration does not affect structural or life safety features of a building and does not require the issuance of a building permit under any applicable code.

D. A New Mexico registered professional engineer who has complied with all the laws of New Mexico relating to the practice of engineering has a right to engage in the incidental practice, as defined by rule, of activities properly classified as architectural services; provided that



the engineer does not hold himself out to be an architect or as performing architectural services; and further provided that the engineer performs only that part of the work for which the engineer is professionally qualified and uses qualified professional engineers, architects or others for those portions of the work in which the contracting professional engineer is not qualified. The engineer shall assume all responsibility for compliance with all laws, codes, rules and ordinances of the state or its political subdivisions pertaining to documents bearing an engineer's professional seal."

Section 30. Section 61-18A-11 NMSA 1978 (being Laws 1987, Chapter 252, Section 11) is amended to read:

"61-18A-11. QUALIFICATION OF MANAGER APPLICANTS.--The licensed manager to be actively in charge of a collection agency shall:

- A. be a citizen of the United States;
- B. have reached the age of majority;
- C. not have been convicted of a felony or crime involving moral turpitude;
- D. be a graduate of a high school or provide proof to the director that he is possessed of the equivalent of a high school education;
- E. pass the examination required;
- F. pay the examination fee to the director;

G. have been actively and continuously engaged or employed in the collection of accounts receivable for at least two of the five years next preceding the filing of the application; and

H. have a good credit record."

Section 31. Section 61-24B-5 NMSA 1978 (being Laws 1985, Chapter 151, Section 5) is amended to read:

"61-24B-5. EXEMPTIONS.--The following shall be exempt from the provisions of the Landscape Architects Act:

A. landscape architects who are not legal residents of or who have no established place of business in this state who are acting as consulting associates of a landscape architect registered under the provisions of the Landscape Architects Act; provided that the nonresident landscape architect meets equivalent registration qualifications in his own state or country;

B. landscape architects acting solely as officers or employees of the United States or any interstate railroad system; and

C. landscape designers, land planners, agriculturalists, soil conservationists, agronomists, horticulturists, foresters, tree experts, arborists, gardeners, contract landscape caretakers, landscape nurserymen, graders or contractors, or cultivators of land and any person making plans for property owned by himself;

provided that none of these shall hold themselves out as landscape architects or use the term "landscape architect" without being registered pursuant to the provisions of the Landscape Architects Act.

Nothing in the Landscape Architects Act is intended to limit, interfere with or prevent a professional architect, engineer or land surveyor from engaging in landscape architecture within the limits of his licensure.

Nothing in the Landscape Architects Act is intended to limit, interfere with or prevent the draftsmen, students, clerks or superintendents and other employees of registered landscape architects from acting under the instructions, control or supervision of the registered landscape architect or to prevent the employment of superintendents on the construction, enlargement or alterations of landscape improvements or any appurtenances thereto or to prevent such superintendents from acting under the immediate personal supervision of registered landscape architects by whom the plans and specifications of any landscape architectural services were prepared."

Section 32. Section 61-27A-2 NMSA 1978 (being Laws 1993, Chapter 212, Section 2) is amended to read:

"61-27A-2. DEFINITIONS.--As used in the Private Investigators and Polygraphers Act:

A. "alarm company" means a company that installs

burglar or security alarms in a facility and responds with guards when the alarm is sounded;

B. "armored car company" means a company that knowingly and willingly transports money and other negotiables for a fee or other remuneration;

C. "bodyguard" means a person who physically performs the mission of personal security of another individual;

D. "branch office" means an office physically located in New Mexico and managed, controlled or directed by a manager;

E. "client" means an individual or legal entity having a contract that authorizes services to be provided in return for financial or other consideration;

F. "conviction" means any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise and whether or not the sentence is deferred or suspended;

G. "department" means the regulation and licensing department;

H. "licensee" means a person licensed as a:

- (1) private investigator;
- (2) private patrol operator; or
- (3) polygraph examiner;

I. "manager" means an individual who:

(1) has the qualifications required of a licensee; and

(2) directs, controls or manages a private investigator or private patrol operator business for the owner of the business when the owner does not qualify for a license under the Private Investigators and Polygraphers Act;

J. "person" means any individual, firm, company, association, organization, partnership or corporation;

K. "polygraphy" means the employment of an instrument designed to graphically record simultaneously the physiological changes in human respiration, cardiovascular activity, galvanic skin resistance or reflex for the purpose of lie detection and includes the reading and interpretation of polygraphic records and results;

L. "private investigator" means a person who for any consideration whatsoever engages in business or accepts employment to conduct an investigation for the purpose of obtaining information with reference to:

(1) crime or wrongs done or threatened against the United States or any state or territory of the United States;

(2) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliation, association, transactions, acts,

reputation or character of any person;

(3) the location, disposition or recovery of lost or stolen property;

(4) the cause or responsibility for fires, losses, accidents or damage or injury to persons or properties; or

(5) the securing of evidence to be used before any court, board, officer or investigating committee;

M. "private investigator employee" means an individual who is working under the license and bond of a private investigator;

N. "private patrol operator" or "operator of a private patrol service" means a person who for any consideration whatsoever agrees to:

(1) furnish or furnishes a uniformed or nonuniformed watchman, guard, patrolman or other person to protect property and any persons on or in the property;

(2) prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind; or

(3) perform the service of a security guard, armored car company or security dog company.

A private patrol operator may not make any investigation except those that are incidental to the theft, loss,

embezzlement, misappropriation or concealment of any property or any other item enumerated in the Private Investigators and Polygraphers Act that he has been hired or engaged to protect, guard or watch;

O. "security dog company" means a company that uses trained dogs with handlers to perform a security mission at a location; and

P. "security guard" means any individual who is an employee of a private patrol operator and employed to perform such security missions as watchman, fixed post guard, dog handler, patrolman or other person to protect property or prevent thefts."

Section 33. Section 61-27A-6 NMSA 1978 (being Laws 1993, Chapter 212, Section 6) is amended to read:

"61-27A-6. REQUIREMENTS FOR LICENSURE.--

A. The department shall issue a license for a private investigator to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is at least eighteen years of age;
- (2) is of good moral character;
- (3) has passed a written examination as

prescribed by the department;

(4) has at least three years' experience within the last five years in investigative work or a level

of experience determined to be sufficient by the department;  
and

(5) has not been convicted of a felony offense or a criminal offense involving moral turpitude or the illegal use or possession of a deadly weapon.

B. The department shall issue a license for a private investigator manager to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) has passed a written examination as prescribed by the department;

(3) has at least three years' experience within the last five years in investigative work or a level of experience determined to be sufficient by the department;

(4) is of good moral character; and

(5) has not been convicted of a felony offense or a criminal offense involving moral turpitude or the illegal use or possession of a deadly weapon.

C. The department shall issue a license for a private patrol operator to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) is of good moral character;



(3) has passed a written examination as prescribed by the department;

(4) has at least three years' experience within the last five years in security work or a level of experience determined to be sufficient by the department; and

(5) has not been convicted of a felony offense or a criminal offense involving moral turpitude or the illegal use or possession of a deadly weapon.

D. The department shall issue a license for a private patrol operator manager to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) has passed a written examination as prescribed by the department;

(3) has at least three years' experience within the last five years in security work or a level of experience determined to be sufficient by the department;

(4) is of good moral character; and

(5) has not been convicted of a felony offense or a criminal offense involving moral turpitude or the illegal use or possession of a deadly weapon.

E. A manager's license is required when the owner of a private investigator or private patrol operator business does not qualify for a license under the Private

Investigators and Polygraphers Act.

F. The department shall issue a security guard pocket card to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is at least eighteen years of age; and
- (2) is of good moral character.

G. The department shall issue a license for polygrapher to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is at least eighteen years of age;
- (2) possesses a high school diploma or its equivalent;
- (3) has not been convicted of a felony or misdemeanor involving moral turpitude; and
- (4) has graduated from a polygraph examiners course approved by the department and:

(a) has completed a probationary operational competency period and passed an examination of ability to practice polygraphy; or

(b) has submitted proof of holding, for a minimum of two years immediately prior to the date of application, a current license to practice polygraphy in another jurisdiction whose standards equal or surpass those

of New Mexico."

Section 34. Section 61-27A-10 NMSA 1978 (being Laws 1993, Chapter 212, Section 10) is amended to read:

"61-27A-10. OPERATION OF BUSINESS--MANAGER REQUIRED.--

A. Each business providing private investigator or private patrol operator services in New Mexico shall be operated under the direction, control, charge or management of a licensee; provided that the business shall be under the direction, control, charge or management of a manager if the owner of the business does not qualify for a license under the Private Investigators and Polygraphers Act.

B. A licensee shall not conduct a business under a fictitious name until he has obtained the written authorization of the department. The department shall not authorize the use of a fictitious name that is so similar to the name of a public officer or agency or to the name used by another licensee that the public may be confused or misled by it.

C. A licensee shall at all times be legally responsible for the good business conduct of each of his employees, including his manager.

D. Each licensee shall maintain a record containing information relative to his employees as may be prescribed by the department, and the records may be subject to inspection.

E. Except as otherwise provided by the Private

Investigators and Polygraphers Act, every employee of a licensee shall be registered by the licensee with the department within seven days of employment; provided, however, a licensee may hire temporary employees for periods of time not to exceed five days for special celebrations, parades or similar events without those employees being registered. The provisions of this subsection shall not be used to circumvent the registration of long-term employees.

F. A person registered under the Private Investigators and Polygraphers Act shall notify the department in writing within thirty days of each change in his employment. If a person ceases to be employed by a licensee, the person shall notify the department in writing within thirty days and shall surrender his registration card to the department.

G. A manager duly licensed under the Private Investigators and Polygraphers Act need not register as an employee.

H. Employees of a licensee who are engaged exclusively in stenographic, typing, filing, clerical or other activities that do not constitute the work of a private investigator or private patrol officer are not required to register.

I. A person shall not act as a manager until he is licensed under the Private Investigators and Polygraphers

Act. If a manager ceases to be connected with a licensee, the licensee shall notify the department in writing within thirty days from the cessation. If the licensee fails to notify the department within the thirty-day period, his license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement and payment of the reinstatement fee."

Section 35. Section 61-29-9 NMSA 1978 (being Laws 1959, Chapter 226, Section 8, as amended) is amended to read:

"61-29-9. QUALIFICATIONS FOR LICENSE.--

A. Licenses shall be granted only to persons who are deemed by the commission to be of good repute and competent to transact the business of a real estate broker or salesperson in a manner that safeguards the interests of the public.

B. Each applicant for a broker's license shall be a legal resident of the United States, have reached the age of majority and, except as provided in Section 61-29-14 NMSA 1978, be a resident of New Mexico. Each applicant for a real estate broker's license shall:

(1) have performed actively as a real estate salesperson for at least twenty-four months out of the preceding thirty-six months immediately prior to filing application and furnish the commission a certificate that he has completed successfully ninety classroom hours of

instruction in basic real estate courses approved by the commission;

(2) furnish the commission a certificate that he has completed successfully one hundred eighty classroom hours of instruction in basic real estate courses approved by the commission;

(3) furnish the commission a certificate that he is a duly licensed real estate broker in good standing in another state, providing he has completed successfully ninety classroom hours of instruction in basic real estate courses approved by the commission; or

(4) furnish the commission satisfactory proof of his equivalent experience in an activity closely related to or associated with real estate and furnish the commission a certificate that he has completed successfully ninety classroom hours of instruction in basic real estate courses approved by the commission.

C. Each applicant for a salesperson's license shall be a legal resident of the United States, have reached the age of majority and shall furnish the commission a certificate that he has completed successfully sixty classroom hours of instruction in basic real estate courses approved by the commission.

D. The commission shall require information as it may deem necessary from every applicant to determine his

honesty, trustworthiness and competency. Corporations, partnerships or associations shall be entitled to hold a broker's license issued in the name of the corporation, partnership or association, provided at least one member of the partnership or association or one officer or employee of a corporation who actively engages in the real estate business first secures a broker's license. The license shall be issued in the name of the corporation, partnership or association, naming the partner, associate, officer or employee as qualifying broker for the corporation, partnership or association."

Section 36. Section 61-29-14 NMSA 1978 (being Laws 1959, Chapter 226, Section 13, as amended) is amended to read:

"61-29-14. NONRESIDENT BROKERS.--No application for issuance of a license or renewal of an existing broker's license shall be accepted from a nonresident applicant who is a resident of another state which does not extend the privilege of licensure to real estate brokers licensed in New Mexico. A qualifying nonresident may become a real estate broker by conforming to all the conditions of Chapter 61, Article 29 NMSA 1978.

In its discretion, the commission may recognize, in lieu of the recommendations and certificates required to accompany an application for a broker's license, the broker's license

issued to a nonresident in another state, provided the other state extends the privilege of licensure to real estate brokers licensed in New Mexico. The license shall be issued upon payment of the license fee, verification that the applicant has complied with his resident state's current education requirements, of which ninety classroom hours for a nonresident broker must be approved by the New Mexico real estate commission, and the filing by the applicant with the commission of a certified copy of the applicant's license issued by the other state, provided that:

A. the applicant shall have maintained an active place of business in the state by which he is licensed and shall pass the written examination required by Section 61-29-10 NMSA 1978;

B. the applicant shall file an irrevocable consent that suits and actions may be commenced against him in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleadings authorized by the laws of this state on the commission, the consent stipulating and agreeing that such service of process or pleadings on the commission shall be taken and held in all courts to be as valid and binding as if personal service had been made upon the applicant in New Mexico. The instrument containing the consent shall be duly acknowledged and, if the applicant is a



corporation or association, shall be accompanied by the duly certified copy of the resolution of the proper officers or managing board authorizing the proper officer to execute the instrument. In case any process or pleading mentioned in the case is served upon the board, it shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered mail to the main office of the applicant against which the process or pleadings are directed; and

C. the applicant shall file a bond in form and content the same as is required of resident applicants under Chapter 61, Article 29 NMSA 1978." \_\_\_\_\_