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SENATE BILL 198

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO  
INSURANCE CODE; PROVIDING FOR CERTAIN FEES; MAKING AN  
APPROPRIATION.

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

**SECTION 1.** Section 59A-4-5 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 49, as amended) is amended to read:

"59A-4-5. EXAMINATION OF INSURERS.--

A. For the purpose of determining financial  
condition, fulfillment of contractual obligations, methods of  
doing business, treatment accorded policyholders and compliance  
with law, the superintendent shall, as often as ~~he~~ the  
superintendent deems advisable, examine or investigate the  
affairs, transactions, accounts, records and assets of each  
authorized insurer and of any other person as to any matter

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1 ~~[which]~~ that the superintendent in ~~[his]~~ the superintendent's  
2 sole discretion has determined to be relevant to the financial  
3 affairs of the insurer or to the examination. Except as  
4 expressly otherwise provided, the superintendent shall so  
5 examine each domestic insurer not less frequently than every  
6 five years. In scheduling and determining the nature, scope  
7 and frequency of the examinations, the superintendent may  
8 consider such matters as the results of financial statement  
9 analyses and ratios, changes in management or ownership,  
10 actuarial opinions, reports of independent certified public  
11 accountants, evidence of market practices, policyholder  
12 complaints and other criteria as set forth in the handbooks for  
13 financial or market conduct examiners adopted by the national  
14 association of insurance commissioners in effect when the  
15 superintendent exercises discretion under this section.

16 B. For like purposes, the superintendent shall  
17 examine each insurer, or proposed insurer, applying for an  
18 initial certificate of authority to transact insurance in this  
19 state. The initial examination shall be completed prior to  
20 issuance of a certificate of authority.

21 C. Whenever the superintendent examines the affairs  
22 of ~~[any]~~ a domestic insurer, ~~[he]~~ the superintendent may invite  
23 the representative of the insurance supervisory agency of at  
24 least one other state, if any, in which the insurer is an  
25 authorized insurer, to participate in the examination.

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1           D. Until January 1, 1994, in lieu of making [~~his~~]  
2 the superintendent's own examination of a foreign or alien  
3 insurer, the superintendent may accept a full report of an  
4 examination of the insurer made by competent examiners as of a  
5 date not more than one year prior and participated in by at  
6 least two states in which the insurer was authorized to  
7 transact insurance. The report shall be certified by the  
8 insurance supervisory official of the state under whose  
9 jurisdiction the examination was conducted. The superintendent  
10 may, at the superintendent's discretion, so accept [~~such~~] the  
11 report of examination [~~so made~~] as of a date more than one year  
12 but not more than three years prior; and with respect to an  
13 alien insurer, the superintendent may at the superintendent's  
14 discretion so accept [~~such~~] a report of recent examination made  
15 by the insurance supervisory official of the port of entry  
16 state of the insurer into the United States without  
17 participation therein of another state.

18           E. After January 1, 1994, examination reports  
19 prepared by examiners employed by other state insurance  
20 departments may be accepted only if:

21           (1) made as of a date not more than five years  
22 prior to acceptance and the examiner in charge was employed by  
23 and under the direction of the insurance commissioners of the  
24 insurer's state of domicile or port of entry, which insurance  
25 department was at the time of the examination accredited under

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1 the financial regulation standards and accreditation program of  
2 the national association of insurance commissioners; or

3 (2) made as of a date not more than three  
4 years prior to acceptance and the examination was performed  
5 under the supervision of an accredited insurance department or  
6 with the participation of one or more examiners who were  
7 employed by an accredited state insurance department and who,  
8 after a review of the examination work papers and report, state  
9 under oath that the examination was performed in a manner  
10 consistent with the standards and procedures required by their  
11 insurance department.

12 F. As far as practical the superintendent shall  
13 conduct examination of a foreign or alien insurer in  
14 cooperation with the insurance supervisory officials of other  
15 states in which the insurer is authorized to transact  
16 business."

17 SECTION 2. Section 59A-4-6 NMSA 1978 (being Laws 1984,  
18 Chapter 127, Section 50, as amended) is amended to read:

19 "59A-4-6. EXAMINERS AND SPECIALISTS.--

20 A. The superintendent may appoint one or more  
21 competent individuals, sufficiently knowledgeable in applicable  
22 accounting and operations, as examiners to represent the  
23 superintendent in an examination and shall fix the reasonable  
24 compensation of the examiners.

25 B. The superintendent may also employ and fix

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1 reasonable compensation of independently contracting  
2 accountants knowledgeable of insurance accounting principles  
3 and practices, actuaries, attorneys, appraisers and other  
4 specialists not otherwise part of the insurance department  
5 staff, as the superintendent deems necessary for the  
6 examination, the cost of which shall be borne by the company  
7 which is the subject of the examination. All specialists shall  
8 be under the direction and control of the superintendent.

9 ~~[G. All examiners and specialists shall be subject~~  
10 ~~to Sections 59A-2-5 and 59A-2-6 NMSA 1978.]"~~

11 SECTION 3. Section 59A-4-15 NMSA 1978 (being Laws 1984,  
12 Chapter 127, Section 59, as amended) is amended to read:

13 "59A-4-15. HEARINGS--IN GENERAL.--

14 A. The superintendent may hold a hearing, without  
15 request by others, for any purpose within the scope of the  
16 Insurance Code.

17 B. The superintendent shall hold a hearing:

18 (1) if required by any other provision of the  
19 Insurance Code; or

20 (2) upon written request for a hearing by a  
21 person aggrieved by any act, threatened act or failure of the  
22 superintendent to act or by any report, rule [~~regulation~~] or  
23 order of the superintendent, other than an order for the  
24 holding of a hearing or order on hearing or pursuant to such an  
25 order on a hearing of which [~~such~~] the person had notice.

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1 C. The request for a hearing shall briefly state  
2 the respects in which the applicant is so aggrieved, the relief  
3 to be sought and the grounds to be relied upon as basis for  
4 relief. The request shall be received by the superintendent no  
5 later than thirty days from the date of the act, threatened act  
6 or failure of the superintendent to act or the date of the  
7 superintendent's report, rule or order.

8 D. If the superintendent finds that the request is  
9 made in good faith, that the applicant would be so aggrieved if  
10 the stated grounds are established and that such grounds  
11 otherwise justify the hearing, the superintendent shall  
12 commence the hearing within ninety days after filing of the  
13 request, unless postponed by mutual consent.

14 E. Pending the hearing and decision thereon, the  
15 superintendent may suspend or postpone the effective date of  
16 the action as to which the hearing is requested. If upon  
17 request the superintendent refuses to grant such suspension or  
18 postponement, the person requesting the hearing may apply to  
19 the district court of Santa Fe county for a stay of the  
20 superintendent's action or proposed action pending the hearing  
21 and the superintendent's order thereon.

22 F. Except as otherwise expressly provided, this  
23 section does not apply to hearings relative to matters arising  
24 under Chapter 59A, Article 17 NMSA 1978."

25 SECTION 4. Section 59A-6-1 NMSA 1978 (being Laws 1984,  
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1 Chapter 127, Section 101, as amended) is amended to read:  
2 "59A-6-1. FEE SCHEDULE.--The superintendent shall collect  
3 the following fees:  
4 A. insurer's certificate of authority -  
5 (1) filing application for certificate of  
6 authority, and issuance of certificate of authority, if issued,  
7 including filing of all charter documents, financial  
8 statements, service of process, power of attorney, examination  
9 reports and other documents included with and part of the  
10 application . . . . . \$1,000.00  
11 (2) annual continuation of certificate of  
12 authority, per kind of insurance [~~each year~~  
13 ~~continued~~] . . . . . 200.00  
14 (3) reinstatement of certificate of authority  
15 (Section 59A-5-23 NMSA 1978) . . . . . 150.00  
16 (4) amendment to certificate of  
17 authority . . . . . 200.00  
18 B. charter documents - filing amendment to any  
19 charter document (as defined in Section 59A-5-3  
20 NMSA 1978) . . . . . 10.00  
21 C. annual statement of insurer, filing . . 200.00  
22 D. service of process, acceptance by superintendent  
23 and issuance of certificate of service, where issued . . 10.00  
24 E. agents' licenses and appointments -  
25 (1) filing application for original agent

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1	license and issuance of license, if issued . . . . .	30.00
2	(2) appointment of agent -	
3	(a) filing appointment, per kind of	
4	insurance, each insurer . . . . .	20.00
5	(b) <u>annual</u> continuation of appointment,	
6	each insurer [ <del>each year continued</del> ] . . . . .	20.00
7	(3) variable annuity agent's license -	
8	(a) filing application for license and	
9	issuance of license, if issued . . . . .	30.00
10	(b) <u>annual</u> continuation of appointment	
11	[ <del>each year</del> ] . . . . .	20.00
12	(4) temporary license -	
13	<u>(a)</u> as to life and health insurance or	
14	both . . . . .	30.00
15	[ <del>(a)</del> ] <u>(b)</u> as to property insurance	30.00
16	[ <del>(b)</del> ] <u>(c)</u> as to casualty/surety	
17	insurance . . . . .	30.00
18	[ <del>(c)</del> ] <u>(d)</u> as to vehicle insurance	30.00
19	<u>F. agency license and affiliations -</u>	
20	<u>(1) filing application for original agency</u>	
21	<u>business entity license and issuance of license, if</u>	
22	<u>issued . . . . .</u>	<u>30.00</u>
23	<u>(2) filing of individual affiliation, per kind</u>	
24	<u>of insurance . . . . .</u>	<u>20.00</u>
25	<u>(3) annual continuation of individual</u>	



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1 affiliation . . . . . 20.00

2 [~~F.~~] G. solicitor license -

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

5 (2) annual continuation of appointment, per  
6 kind of insurance [~~each year~~] . . . . . 20.00

7 [~~G.~~] H. broker license -

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

10 (2) annual continuation of  
11 license . . . . . 30.00

12 [~~H.~~] I. insurance vending machine license -

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

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

17 [~~I.~~] J. examination for license, application for  
18 examination conducted directly by superintendent, each grouping  
19 of kinds of insurance to be covered by the examination as  
20 provided by the superintendent's rules, and payable as to each  
21 instance of examination . . . . . 50.00

22 [~~J.~~] K. surplus [~~line~~] lines insurer - filing  
23 application for qualification as eligible surplus lines  
24 insurer . . . . . 1,000.00

25 [~~K.~~] L. surplus [~~line~~] lines broker license -

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1                   (1) filing application for original license  
2 and issuance of license, if issued . . . . . 100.00  
3                   (2) annual continuation of  
4 license . . . . . 100.00  
5                   M. surplus lines broker license and affiliations -  
6                   (1) filing application for original surplus  
7 [~~line~~] lines brokerage business entity license and issuance of  
8 license, if issued . . . . . 100.00  
9                   (2) filing of individual affiliation per kind  
10 of insurance . . . . . 20.00  
11                   (3) annual continuation of individual  
12 affiliation . . . . . 20.00  
13                   ~~[H.]~~ N. adjuster license -  
14                   (1) filing application for original license  
15 and issuance of license, if issued . . . . . 30.00  
16                   (2) annual continuation of  
17 license . . . . . 30.00  
18                   O. insurance consultant license -  
19                   (1) filing application for original license  
20 and issuance of license, if issued . . . . . 50.00  
21                   (2) application examination . . . . . 10.00  
22                   (3) biennial continuation of license . .100.00  
23                   P. viatical settlements license -  
24                   (1) providers -  
25                   (a) filing application for original

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1	<u>license and issuance of license, if issued . . . . .</u>	<u>1,000.00</u>
2	<u>(b) annual continuation of</u>	
3	<u>license . . . . .</u>	<u>200.00</u>
4	<u>(2) brokers -</u>	
5	<u>(a) filing application for original</u>	
6	<u>license and issuance of license, if issued . . . . .</u>	<u>100.00</u>
7	<u>(b) annual continuation of</u>	
8	<u>license . . . . .</u>	<u>100.00</u>
9	<u>(3) brokerages -</u>	
10	<u>(a) filing application for original</u>	
11	<u>license and issuance of license, if issued . . . . .</u>	<u>100.00</u>
12	<u>(b) annual continuation of license</u>	<u>20.00</u>
13	<u>(c) filing of individual affiliation,</u>	
14	<u>per kind of insurance . . . . .</u>	<u>20.00</u>
15	<u>(d) annual continuation of individual</u>	
16	<u>affiliation . . . . .</u>	<u>20.00</u>
17	<del>[M-]</del> <u>Q. rating organization or rating advisory</u>	
18	<u>organization license -</u>	
19	<u>(1) filing application for license and</u>	
20	<u>issuance of license, if issued . . . . .</u>	<u>100.00</u>
21	<u>(2) annual continuation of</u>	
22	<u>license . . . . .</u>	<u>100.00</u>
23	<del>[N-]</del> <u>R. nonprofit health care plans -</u>	
24	<u>(1) filing application for preliminary permit</u>	
25	<u>and issuance of permit, if issued . . . . .</u>	<u>100.00</u>

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

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

5 (4) agents and solicitors -

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

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

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

13 [~~0-~~] S. prepaid dental plans -

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

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

18 (3) agents and solicitors -

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

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

24 (c) annual continuation of license [~~each~~  
25 ~~year~~] . . . . . 20.00

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1           [~~P-~~] T. prearranged funeral insurance - application  
2 for certificate of authority, issuance, continuation,  
3 reinstatement, charter documents, filing annual statement,  
4 licensing of sales representatives - same as for insurers

5           [~~Q-~~] U. premium finance companies -

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

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

9           [~~R-~~] V. motor clubs -

10                   (1) certificate of authority -

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

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

16                   (2) sales representatives -

17                           (a) filing application for registration  
18 or license and issuance of registration or license, if issued,  
19 each representative . . . . . 20.00

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

22           [~~S-~~] W. bail bondsmen -

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

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

4 (3) annual continuation of appointment [~~each~~  
5 ~~year~~] . . . . . 20.00

6 [~~F.~~] X. securities salesperson license -  
7 (1) filing application for license and  
8 issuance of license, if issued . . . . . 25.00

9 (2) annual renewal of license  
10 [~~each year~~] . . . . . 25.00

11 [~~U. for each signature and seal of the~~  
12 ~~superintendent affixed to any instrument . . . . . 10.00~~

13 ~~V.~~ Y. required filing of forms or rates - by all  
14 lines of business other than property or casualty -

15 (1) rates . . . . . 50.00

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

20 (3) incidental forms and rates - forms filed  
21 for informational purposes; riders, applications, endorsements  
22 and amendments filed individually; rate service organization  
23 reference filings; rates filed for informational purposes 15.00

24 [~~W.~~] Z. health maintenance organizations -  
25 (1) filing an application for a certificate of

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1	authority . . . . .	1,000.00
2	(2) annual continuation of certificate of	
3	authority [ <del>each year continued</del> ] . . . . .	200.00
4	(3) filing each annual report . . . . .	200.00
5	(4) filing an amendment to organizational	
6	documents requiring approval . . . . .	200.00
7	(5) filing informational	
8	amendments . . . . .	50.00
9	(6) agents and solicitors -	
10	(a) filing application for original	
11	license and issuance of license, if issued . . . . .	30.00
12	(b) examination for license, each	
13	instance of examination . . . . .	50.00
14	(c) annual continuation of	
15	appointment . . . . .	20.00
16	<del>[X-]</del> <u>AA.</u> purchasing groups and foreign risk	
17	retention groups -	
18	(1) original registration . . . . .	500.00
19	(2) annual continuation of	
20	registration . . . . .	200.00
21	(3) agent or broker fees - same as for	
22	authorized insurers	
23	<del>[Y-]</del> <u>BB.</u> third party administrators -	
24	(1) filing application for original individual	
25	insurance administrator license . . . . .	30.00

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- 1 (2) filing application for original officer,
- 2 manager or partner insurance administrator
- 3 license . . . . . 30.00
- 4 (3) annual continuation or renewal of ~~[annual]~~
- 5 license . . . . . 30.00
- 6 (4) examination for license conducted directly
- 7 by the superintendent, each examination . . . . . 75.00
- 8 (5) ~~[each request for a duplicate license or~~
- 9 ~~for each name change . . . . . 30.00~~
- 10 ~~(6)]~~ filing of annual report . . . . . 50.00
- 11 CC. miscellaneous fees -
- 12 (1) duplicate license . . . . . 30.00
- 13 (2) name change . . . . . 30.00
- 14 (3) for each signature and seal of
- 15 superintendent affixed to any instrument . . . . . 10.00.

16 An insurer shall be subject to additional fees or charges,  
 17 termed retaliatory or reciprocal requirements, whenever form or  
 18 rate-filing fees in excess of those imposed by state law are  
 19 charged to insurers in New Mexico doing business in another  
 20 state or whenever a condition precedent to the right to issue  
 21 policies in another state is imposed by the laws of that state  
 22 over and above the conditions imposed upon insurers by the laws  
 23 of New Mexico; in those cases, the same form or rate-filing  
 24 fees may be imposed upon an insurer from another state  
 25 transacting or applying to transact business in New Mexico so



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1 long as the higher fees remain in force in the other state. If  
2 an insurer does not comply with the additional retaliatory or  
3 reciprocal requirement charges imposed under this subsection,  
4 the superintendent may refuse to grant or may withdraw approval  
5 of the tendered form or rate filing.

6 All fees are earned when paid and are not refundable."

7 SECTION 5. Section 59A-10-5 NMSA 1978 (being Laws 1984,  
8 Chapter 127, Section 165) is amended to read:

9 "59A-10-5. DEPOSITORIES DESIGNATED BY TREASURER.--The  
10 state treasurer may designate any solvent trust company or  
11 other solvent financial institution having trust powers  
12 [~~domiciled~~] and with offices located in this state, as the  
13 state treasurer's depository to receive and hold any general,  
14 special or excess deposit of an insurer under [~~this article~~]  
15 Chapter 59A, Article 10 NMSA 1978. The deposit shall be so  
16 handled at the expense, if any, of the insurer, and the state  
17 of New Mexico shall not be responsible for safekeeping  
18 thereof."

19 SECTION 6. Section 59A-11-8 NMSA 1978 (being Laws 1984,  
20 Chapter 127, Section 187, as amended) is amended to read:

21 "59A-11-8. ISSUANCE, REFUSAL OF LICENSE.--If the  
22 superintendent finds that the application is complete, that the  
23 applicant has passed all required examinations and is otherwise  
24 qualified for the license applied for, the superintendent shall  
25 promptly issue, or permit the issuance of, the license.

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1 Otherwise, the superintendent shall refuse to issue, or to  
2 permit the issuance of, the license and shall promptly notify  
3 the applicant and the appointing insurer, employer or  
4 principal, where applicable, of the refusal and state the  
5 grounds for refusal."

6 SECTION 7. Section 59A-11A-3 NMSA 1978 (being Laws 1989,  
7 Chapter 97, Section 3) is amended to read:

8 "59A-11A-3. INSURANCE CONSULTANT LICENSE--APPLICATION--  
9 REQUIREMENTS FOR ISSUANCE--FEE--RENEWAL.--

10 A. The superintendent shall issue a license as an  
11 insurance consultant to [~~any~~] a person who:

12 (1) has reached the age of majority;

13 (2) files a written application in the manner  
14 and form prescribed by the superintendent, stating the lines of  
15 insurance for which the applicant desires [~~such~~] a license;

16 (3) passes an examination as provided in  
17 Subsection B of this section;

18 (4) pays an application fee [~~of fifty dollars~~  
19 ~~(\$50.00)~~] and an examination fee [~~of ten dollars (\$10.00)~~] as  
20 specified in Section 59A-6-1 NMSA 1978; and

21 (5) satisfies the superintendent that [~~he~~] the  
22 person is competent, financially responsible and of good moral  
23 character.

24 B. The superintendent shall examine all initial  
25 applicants for a license as an insurance consultant in [~~such~~]

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1 the manner and form [~~as~~] that the superintendent prescribes.  
2 The examination shall be of sufficient scope to demonstrate a  
3 broad knowledge of insurance contracts and the practices of the  
4 insurance industry in the lines of insurance for which the  
5 applicant desires [~~such~~] a license. However, the  
6 superintendent may waive the requirement for the examination  
7 for:

8 (1) property and casualty insurance in the  
9 case of an applicant who has been awarded the professional  
10 designation of chartered property and casualty underwriter or  
11 certified insurance counselor in the property and casualty  
12 line;

13 (2) life and accident insurance in the case of  
14 an applicant who has been awarded the professional designation  
15 of chartered life underwriter; and

16 (3) all lines of insurance in the case of an  
17 applicant who has been awarded the professional designations of  
18 chartered property and casualty underwriter and chartered life  
19 underwriter.

20 C. If an applicant fails [~~any~~] an examination, [~~he~~]  
21 the applicant may be reexamined upon payment of a ten-dollar  
22 (\$10.00) examination fee for each [~~such~~] reexamination.

23 D. The license as an insurance consultant shall be  
24 issued for two years. The license may, [~~it~~] at the discretion  
25 of the superintendent, be renewed biennially upon application

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1 and payment of a fee [~~of one hundred dollars (\$100)~~] as  
2 specified in Section 59A-6-1 NMSA 1978."

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

5 "59A-13-2. DEFINITIONS.--

6 A. For the purposes of the Insurance Code:

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

8 (a) investigates, negotiates, settles or  
9 adjusts a loss or claim arising under an insurance contract on  
10 behalf of an insurer, insured or self-insurer, for a fee,  
11 commission or other compensation; however, an adjuster acting  
12 on behalf of an insured shall not investigate, negotiate,  
13 settle or adjust a claim involving personal injury to the  
14 insured; and

15 (b) advises the insured of the insured's  
16 rights to settlement and the insured's rights to settle,  
17 arbitrate and litigate the dispute;

18 (2) "staff adjuster" is an adjuster individual  
19 who is a salaried employee of an insurer or affiliates of the  
20 employer insurer, representing and adjusting claims solely  
21 under policies of the employer insurer; [~~and~~]

22 (3) "independent adjuster" is an adjuster who  
23 is not a staff adjuster and includes a representative and an  
24 employee of an independent adjuster; and

25 (4) "resident adjuster" is an adjuster who

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1 resides principally in New Mexico and who conducts business  
2 primarily in New Mexico.

3 B. Except as otherwise provided, "adjuster" does  
4 not include:

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

8 (2) a licensed agent or general agent of an  
9 authorized insurer or an employee of an agent or general agent  
10 who adjusts claims or losses under specific authority from the  
11 insurer and solely under policies issued by the insurer;

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

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

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

20 "59A-13-9. PLACE OF BUSINESS.--~~[A licensed]~~

21 A. A resident adjuster shall have and maintain a  
22 principal place of business in ~~[the]~~ this state that is easily  
23 accessible to the public and is the place where the adjuster  
24 principally conducts transactions under the license. The  
25 address of the principal place of business shall appear on the

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1 application for license and on the license. [~~The licensee~~]

2 B. An adjuster shall promptly notify the  
3 superintendent of a change of address [~~of the principal place~~  
4 ~~of business~~]. Failure to notify the superintendent of a change  
5 of address within twenty days shall subject the licensee to a  
6 penalty in the amount of fifty dollars (\$50.00)."

7 **SECTION 10.** Section 59A-14-1 NMSA 1978 (being Laws 1984,  
8 Chapter 127, Section 239, as amended) is amended to read:

9 "59A-14-1. SCOPE OF ARTICLE--PURPOSE--NECESSITY FOR  
10 REGULATION.--

11 A. Chapter 59A, Article 14 NMSA 1978 governs the  
12 placing of insurance of New Mexico risks, through licensed  
13 surplus [~~line~~] lines brokers, in insurers not otherwise  
14 authorized to transact insurance in this state and subject to  
15 the conditions for such placing as stated in that article;  
16 qualifications, licensing and duties and responsibilities of  
17 surplus [~~line~~] lines brokers; and other provisions as to such  
18 surplus [~~line~~] lines business and brokers. As to unauthorized  
19 insurers in general, and in respects other than as to surplus  
20 [~~line~~] lines, refer to Chapter 59A, Article 15 NMSA 1978.

21 B. Chapter 59A, Article 14 NMSA 1978 shall not  
22 apply as to reinsurance or to the following insurances [~~when~~  
23 ~~placed by general lines agents or surplus line brokers licensed~~  
24 ~~as such by this state~~]:

25 (1) wet marine and transportation insurance,

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- 1 as defined in Section 59A-7-5 NMSA 1978;
- 2 (2) insurance of subjects located, resident or
- 3 to be performed wholly outside this state or on vehicles or
- 4 aircraft owned and principally garaged outside this state;
- 5 (3) insurance of property and operations of
- 6 railroads engaged in interstate commerce;
- 7 (4) insurance of aircraft of common carriers,
- 8 or cargo of such aircraft, or against liability, other than
- 9 employer's liability, arising out of ownership, maintenance or
- 10 use of such aircraft;
- 11 (5) insurance of automobile bodily injury and
- 12 property damage liability risks when written in Mexican
- 13 insurers and covering in Mexico and not in the United States;
- 14 or
- 15 (6) insurance independently procured.

16 C. Chapter 59A, Article 14 NMSA 1978 shall be  
17 liberally construed and applied to promote its underlying  
18 purposes, which include:

- 19 (1) protecting insureds and persons seeking
- 20 insurance in this state;
- 21 (2) permitting surplus lines insurance to be
- 22 placed with reputable and financially sound unauthorized
- 23 insurers, but only pursuant to Chapter 59A, Article 14 NMSA
- 24 1978;
- 25 (3) establishing a system of regulation that

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1 will permit controlled access to surplus lines insurance in  
2 this state; and

3 (4) assuring collection of revenues and other  
4 amounts due to this state."

5 SECTION 11. Section 59A-14-7 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 245, as amended by Laws 1999, Chapter 272,  
7 Section 19 and also by Laws 1999, Chapter 289, Section 21) is  
8 amended to read:

9 "59A-14-7. SURPLUS [~~LINE~~] LINES BROKER LICENSE REQUIRED--  
10 QUALIFICATIONS FOR LICENSE.--

11 A. No person shall in New Mexico be, act as or hold  
12 out to be, a surplus [~~line~~] lines broker, or place insurance of  
13 risks resident, located or to be performed in New Mexico in any  
14 unauthorized insurer on behalf of others and for compensation  
15 as an independent contractor in any form, unless licensed as a  
16 surplus [~~line~~] lines broker under Chapter 59A, Article 14 NMSA  
17 1978.

18 B. The superintendent shall, upon due application  
19 and payment of the license fee, issue a license as surplus  
20 [~~line~~] lines broker to a person qualified as follows:

21 (1) [~~must be currently licensed as an~~  
22 ~~insurance agent in this state as to the kinds of insurance to~~  
23 ~~be exported under the surplus line broker license applied for,~~  
24 ~~and~~] if the applicant is an individual, the individual must  
25 have had experience or special training or education sufficient

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1 in duration and character [~~as such an agent as~~] to render the  
2 applicant, in the opinion of the superintendent, reasonably  
3 competent to engage in business as a surplus [~~line~~] lines  
4 broker; and

5 (2) if the applicant is a firm or corporation,  
6 all individuals to represent it as a surplus lines broker in  
7 this state must be licensed [~~agents. Each such individual~~  
8 ~~shall be qualified as for an individual license as surplus line~~  
9 ~~broker, and an additional license fee shall be paid as to each~~  
10 ~~individual, in excess of one, who is to exercise the surplus~~  
11 ~~line broker license powers; and~~

12 (~~3~~) ~~must file with the application the bond~~  
13 ~~provided for in Section 59A-14-8 NMSA 1978]~~ surplus lines  
14 brokers.

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

18 SECTION 12. Section 59A-14-14 NMSA 1978 (being Laws 1991,  
19 Chapter 125, Section 18) is amended to read:

20 "59A-14-14. EVIDENCE OF INSURANCE--POLICY CHANGES--  
21 PENALTIES.--

22 A. Upon placing surplus lines insurance, the surplus  
23 lines broker shall promptly deliver to the insured evidence of  
24 the insurance consisting either of the policy or, if the policy  
25 is not then available, a certificate complying with Subsection

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1 D of this section, a cover note, a binder or other evidence of  
2 insurance. The certificate, cover note, binder or other  
3 evidence of insurance shall be completed and signed by the  
4 surplus lines broker and shall set forth the description and  
5 location of the subject of the insurance, ~~[the coverages,~~  
6 ~~including any material limitations other than those in standard~~  
7 ~~forms]~~ the coverage limits, ~~[the amount of any deductible, the~~  
8 ~~premium and rate charged, the taxes to be collected from the~~  
9 ~~insured]~~ the name and address of the insured, the name and  
10 address of the surplus lines insurer ~~[the proportion of the~~  
11 ~~entire risk assumed by each insurer]~~ and the name, address and  
12 telephone number of the surplus lines broker.

13 B. No surplus lines broker shall issue or deliver any  
14 evidence of insurance or purport to insure or represent that  
15 insurance will be or has been written by any eligible surplus  
16 lines insurer without the insurer's prior written  
17 authorization, via telefax or otherwise, to cause the risk to  
18 be insured or documentation from the insurer in the regular  
19 course of business that such insurance has been granted.

20 C. If, after delivery of any evidence of insurance,  
21 there is any change in the identity of the insurer, in the  
22 proportion of the risk assumed by any insurer or in the  
23 coverage, terms or conditions stated in the original evidence  
24 of insurance, the surplus lines broker shall promptly issue and  
25 deliver to the insured, either directly or through the

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1 producing broker, an appropriate substitute for or endorsement  
2 of the original document, accurately showing the current status  
3 of the coverage and responsible insurers.

4 D. As soon as reasonably possible after the placement  
5 of any surplus lines insurance, and in no event later than  
6 thirty days after coverage commences, the surplus lines broker  
7 shall deliver a complete copy of the policy or, if the policy  
8 is not then available, a certificate of insurance to the  
9 insured to replace any evidence of insurance [~~theretofore~~]  
10 previously issued. Each [~~certificate or~~] policy of insurance  
11 shall contain or have attached thereto a complete record of all  
12 policy declarations and limits, insuring agreements, deductible  
13 amounts, conditions, exclusions, clauses, endorsements and all  
14 other material terms and conditions.

15 E. Any surplus lines broker who fails to comply with  
16 the requirements of this section shall be subject to the  
17 penalties provided in Section 59A-1-18 NMSA 1978 or to any  
18 greater applicable penalty otherwise provided by law."

19 SECTION 13. Section 59A-17-34 NMSA 1978 (being Laws 1984,  
20 Chapter 127, Section 329, as amended) is amended to read:

21 "59A-17-34. HEARING AND REVIEW AS TO SUPERINTENDENT'S  
22 ACTIONS.--

23 A. Any person aggrieved by any action, threatened  
24 action, or failure to act of the superintendent or otherwise  
25 under Chapter 59A, Article 17 NMSA 1978 shall have the same

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1 right to a hearing before the superintendent with respect  
2 thereto as provided for in general under Section 59A-4-15 NMSA  
3 1978. Notice of hearing shall be given, the hearing conducted,  
4 rights and powers exercised and the superintendent's order on  
5 hearing made and given as provided as to hearings in general  
6 under the applicable provisions of Chapter 59A, Article 4 NMSA  
7 1978.

8 B. Any person aggrieved by the superintendent's order  
9 ~~[on such hearing]~~ issued pursuant to this section or by the  
10 superintendent's refusal to hold the hearing may request a  
11 review by the public regulation commission in the manner set  
12 forth by rule of the commission. The request for review shall  
13 be filed no later than thirty days after the issuance of the  
14 order of the superintendent or the superintendent's refusal to  
15 hold a hearing."

16 SECTION 14. Section 59A-18-1 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 331, as amended) is amended to read:

18 "59A-18-1. SCOPE OF ARTICLE.--Chapter 59A, Article 18  
19 NMSA 1978 applies as to all insurance policies and annuity  
20 contracts of authorized insurers covering individuals resident,  
21 or risks located, or insurance protection to be rendered in  
22 this state, other than:

23 A. reinsurance;

24 B. policies or contracts not issued for delivery in  
25 this state nor delivered in this state, except for contracts

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1 for or endorsements of workers' compensation insurance when the  
2 workers' compensation risk insured arises from the employment  
3 of a worker performing work for an employer in New Mexico and  
4 that employer is not domiciled in New Mexico;

5 C. wet marine and transportation insurance, as  
6 defined in Section 59A-7-5 NMSA 1978; or

7 D. surplus [~~line~~] lines insurance contracts, unless  
8 such contracts are specifically included by rule."

9 SECTION 15. Section 59A-20A-3 NMSA 1978 (being Laws 1999,  
10 Chapter 246, Section 3, as amended) is amended to read:

11 "59A-20A-3. LICENSE REQUIREMENTS--FEES.--

12 A. A person shall not operate as a provider or broker  
13 without a license from the superintendent.

14 B. Application for a provider or broker license shall  
15 be made to the superintendent by the applicant on a form  
16 prescribed by the superintendent.

17 C. An application or renewal shall be accompanied by  
18 [~~the following fee:~~

19 ~~(1) for initial license as a provider, one~~  
20 ~~thousand dollars (\$1,000);~~

21 ~~(2) for initial license as a broker, one hundred~~  
22 ~~dollars (\$100);~~

23 ~~(3) for renewal of a provider's license, two~~  
24 ~~hundred dollars (\$200); and~~

25 ~~(4) for renewal of a broker's license, one~~

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1 ~~hundred dollars (\$100)]~~ the applicable fee as specified in  
2 Section 59A-6-1 NMSA 1978.

3 D. Licenses may be renewed from year to year on the  
4 anniversary date of licensure upon payment of the annual  
5 renewal fee. Failure to pay the fee by the renewal date shall  
6 result in revocation of the license.

7 E. The applicant shall provide information on forms  
8 required by the superintendent. The superintendent may require  
9 the applicant to fully disclose the identity of all  
10 stockholders, partners, officers, members and employees and  
11 representatives, and the superintendent may refuse to issue a  
12 license if not satisfied that a stockholder, partner, officer,  
13 member, employee or representative who may materially influence  
14 the applicant's conduct meets the standards of the Viatical  
15 Settlements Act.

16 F. A license issued to an applicant authorizes all  
17 members, officers, representatives and designated employees to  
18 act as providers or brokers, as applicable, under the license,  
19 and all those persons shall be named in the application and any  
20 supplements to the application.

21 G. Upon the filing of an application and the payment  
22 of the license fee, the superintendent may make an  
23 investigation of each applicant and issue a license if the  
24 superintendent finds that the applicant:

25 (1) has provided a detailed plan of operation;

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1                   (2) is competent and trustworthy and intends to  
2 act in good faith in the capacity provided by the license  
3 applied for;

4                   (3) has a good business reputation and has had  
5 experience, training or education so as to be qualified in the  
6 business for which licensure is sought; and

7                   (4) if not a natural person, provides a  
8 certificate of good standing from the state of its domicile.

9                   H. The superintendent shall not issue a license to an  
10 applicant unless a written designation of an agent for service  
11 of process is filed and maintained with the superintendent or  
12 the applicant has filed with the superintendent the applicant's  
13 written irrevocable consent that any action against the  
14 applicant may be commenced by service of process on the  
15 superintendent."

16                   **SECTION 16. EFFECTIVE DATE.**--The effective date of the  
17 provisions of this act is July 1, 2011.