

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 206

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO INSURANCE; CLARIFYING CERTAIN TERMS OF TRAVEL
INSURANCE; ENACTING THE PORTABLE ELECTRONICS INSURANCE ACT
WITHIN THE NEW MEXICO INSURANCE CODE TO REGULATE PORTABLE
ELECTRONICS INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO
INSURANCE CODE TO CREATE AN ADJUSTER LICENSURE EXEMPTION FOR
PORTABLE ELECTRONICS INSURANCE.

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

SECTION 1. Section 59A-12-17 NMSA 1978 (being Laws 1984,
Chapter 127, Section 218, as amended by Laws 1999, Chapter 272,
Section 11 and also by Laws 1999, Chapter 289, Section 12) is
amended to read:

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

A. Except as to limited licenses identified in
Section 59A-12-18 NMSA 1978 and Section 3 of this 2013 act, an

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underscored material = new
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1 agent's or broker's license shall cover the kind of insurance,
2 or major subdivisions of life or health insurance, for which
3 the applicant has applied and qualified, including ~~of~~ the
4 following:

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

7 (a) industrial life insurance;

8 (b) debit insurance;

9 (c) credit life insurance; or

10 (d) variable annuity contracts;

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

13 (3) property insurance;

14 (4) casualty insurance;

15 (5) surety insurance;

16 (6) marine and transportation insurance;

17 (7) vehicle insurance; or

18 (8) title insurance.

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

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

24 D. A licensee as to variable annuities or similar
25 contracts deemed to constitute also securities, shall also

1 possess license as a security salesman under other applicable
2 state laws."

3 SECTION 2. Section 59A-12-18 NMSA 1978 (being Laws 1984,
4 Chapter 127, Section 219, as amended) is amended to read:

5 "59A-12-18. LIMITED LICENSE.--

6 A. The superintendent may issue a limited agent's
7 license to

8 [~~(1)~~ individual applicants qualified pursuant
9 to Chapter 59A, Article 12 NMSA 1978 and employed as
10 transportation ticket sellers by public carriers, who in the
11 course of such employment solicit or sell insurance incidental
12 to transportation of persons or storage or transportation of
13 baggage, provided that the license is limited to that
14 insurance; or

15 ~~(2)]~~ individual applicants employed full time
16 by a vendor of merchandise or other property, or by a
17 financial institution making consumer loans on terms with
18 respect to which credit life insurance, [~~or~~] credit health
19 insurance, credit property insurance or credit involuntary
20 unemployment insurance under individual policies is
21 customarily required of or offered to the purchaser or
22 borrower, covering only that credit life, [~~and~~] credit health,
23 credit property or credit involuntary unemployment insurance.

24 [~~B. The superintendent may issue a limited agent's~~
25 license to applicants who are retail vendors or lessors of

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1 ~~portable electronics or services. The license shall authorize~~
2 ~~any employee or authorized representative of the vendor, in~~
3 ~~connection with the lease, retail sale or provision of~~
4 ~~portable electronics or services for portable electronics, to~~
5 ~~sell insurance covering the loss, theft, mechanical failure or~~
6 ~~malfunction of or damage to the portable electronics. A~~
7 ~~license issued pursuant to this section shall authorize the~~
8 ~~licensee and its employees or authorized representatives to~~
9 ~~engage only in those activities that are expressly permitted~~
10 ~~in this section. The licensee shall be required to keep a~~
11 ~~record of the name, address, contact information and any other~~
12 ~~information of the locations operating pursuant to this~~
13 ~~section as required by the superintendent. These records~~
14 ~~shall be made available by the vendor upon the request of the~~
15 ~~superintendent. The licensee shall provide training to all~~
16 ~~employees and authorized representatives of the vendors who~~
17 ~~sell that insurance. The conduct of the licensee's business~~
18 ~~under the limited license by its employees or authorized~~
19 ~~representatives shall be attributed to the licensee. As used~~
20 ~~in this subsection, "portable electronics" means electronic~~
21 ~~devices that are portable in nature and their accessories and~~
22 ~~services related to the use of the device.]~~

23 B. The superintendent may issue a limited agent's
24 license to vendors in accordance with the provisions of the
25 Portable Electronics Insurance Act. The application shall

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1 provide:

2 (1) the name, residence address and other
3 information required by the superintendent for an employee or
4 officer of the vendor that is designated by the applicant as
5 the person responsible for the vendor's compliance with the
6 requirements of the Portable Electronics Insurance Act.

7 However, if the vendor derives more than fifty percent of its
8 revenue from the sale of portable electronics insurance, the
9 information noted above shall be provided for all officers,
10 directors and shareholders of record having beneficial
11 ownership of ten percent or more of any class of securities
12 registered under the federal securities law; and

13 (2) the location of the applicant's home
14 office.

15 C. No holder of a limited license issued pursuant
16 to Subsection A of this section shall concurrently be
17 otherwise licensed under the Insurance Code."

18 SECTION 3. A new section of Chapter 59A, Article 12 NMSA
19 1978 is enacted to read:

20 "NEW MATERIAL] LIMITED LICENSE--TRAVEL INSURANCE.--

21 A. The superintendent may issue a limited agent's
22 license to applicants who are qualified to solicit or sell
23 travel insurance.

24 B. A travel retailer may offer and disseminate
25 travel insurance under the license of a limited lines travel

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1 insurance agent only if:

2 (1) the limited lines travel insurance agent
3 or travel retailer provides to purchasers of travel insurance:

4 (a) a description of the material terms
5 of the insurance coverage;

6 (b) a description of the process for
7 filing a claim;

8 (c) a description of the travel
9 insurance policy's cancellation process; and

10 (d) the identity and contact
11 information of the insurer and limited lines travel insurance
12 agent;

13 (2) the limited lines travel insurance agent:

14 (a) establishes at the time of
15 licensure on a form prescribed by the superintendent a
16 register of each travel retailer that offers travel insurance
17 on behalf of the limited lines travel insurance agent;

18 (b) includes in the register each
19 travel retailer's federal tax identification number and the
20 name, address and contact information of each travel retailer
21 and an officer or person who directs or controls the travel
22 retailer's operations;

23 (c) maintains the register and updates
24 it at least once a year;

25 (d) submits the register to the

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1 superintendent upon reasonable request; and

2 (e) certifies that each travel retailer
3 on the register complies with federal laws;

4 (3) the limited lines travel insurance agent
5 has selected a designated responsible agent who is one of its
6 licensed individual agent employees and who is responsible for
7 the limited lines travel insurance agent's compliance with the
8 travel insurance laws and rules of this state;

9 (4) the designated responsible agent,
10 president, secretary, treasurer and all other officers or
11 persons who direct or control the limited lines travel
12 insurance agent's insurance operations comply with the
13 fingerprinting requirements for insurance agents of the
14 resident state of the limited lines travel insurance agent;

15 (5) the limited lines travel insurance agent
16 has paid all applicable insurance agent licensing fees
17 pursuant to state law; and

18 (6) the limited lines travel insurance agent
19 requires each employee and authorized representative of the
20 travel retailer whose duties include offering and
21 disseminating travel insurance to receive a program of
22 instruction or training that the superintendent may review and
23 that, at a minimum, contains instructions on the types of
24 insurance offered, ethical sales practices and required
25 disclosures to prospective customers.

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1 C. A travel retailer that offers and disseminates
2 travel insurance shall make available to prospective
3 purchasers brochures or other written materials that:

4 (1) identify and provide the contact
5 information of the insurer and the limited lines travel
6 insurance agent;

7 (2) explain that the purchase of travel
8 insurance is not a prerequisite to the purchase of any other
9 product or service of the travel retailer; and

10 (3) explain that an unlicensed travel
11 retailer may provide general information about the insurance
12 offered by the travel retailer, including a description of the
13 coverage and price, but is not qualified or authorized to
14 answer technical questions about the terms and conditions of
15 the insurance offered by the travel retailer or to evaluate
16 the adequacy of the customer's existing insurance coverage.

17 D. A travel retailer's employee or authorized
18 representative who is not licensed as an insurance agent shall
19 not:

20 (1) evaluate or interpret the technical
21 terms, benefits or conditions of the travel insurance coverage
22 offered;

23 (2) evaluate or provide advice concerning a
24 prospective purchaser's existing insurance coverage; or

25 (3) make representation as being a licensed

1 insurer, licensed agent or insurance expert.

2 E. A travel retailer and its employees and
3 authorized representatives whose insurance-related activities
4 are limited to the offering and disseminating of travel
5 insurance on behalf of and under the direction of a limited
6 lines travel insurance agent that complies with this section
7 may conduct and receive compensation for those activities.

8 F. A travel retailer may place insurance under an
9 individual policy or under a group or master policy.

10 G. As the insurer designee, a limited lines travel
11 insurance agent shall be responsible for the acts of the
12 travel retailer and shall use reasonable means to ensure that
13 the travel retailer complies with the provisions of this
14 section.

15 H. As used in this section:

16 (1) "limited lines travel insurance agent"
17 means a licensed managing general agent or third-party
18 administrator or a licensed insurance agent;

19 (2) "offer and disseminate" means providing
20 general information, including a description of coverage and
21 price, processing applications, collecting premiums and
22 performing other nonlicensable activities permitted by this
23 state;

24 (3) "travel insurance" means insurance
25 coverage for personal risks incident to planned travel,

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1 including the interruption or cancellation of a trip or event;
2 the loss of baggage or personal effects; damage to
3 accommodations or rental vehicles; or sickness, accident,
4 disability or death during travel. "Travel insurance"
5 excludes major medical plans that provide comprehensive
6 medical protection for travelers on trips of six months or
7 longer, such as for those working overseas as expatriates or
8 deployed military personnel; and

9 (4) "travel retailer" means a business entity
10 that makes, arranges or offers travel services."

11 SECTION 4. A new section of the New Mexico Insurance
12 Code is enacted to read:

13 "[NEW MATERIAL] SHORT TITLE.--Sections 4 through 10 of
14 this act may be cited as the "Portable Electronics Insurance
15 Act"."

16 SECTION 5. A new section of the New Mexico Insurance
17 Code is enacted to read:

18 "[NEW MATERIAL] DEFINITIONS.--As used in the Portable
19 Electronics Insurance Act:

20 A. "customer" means a person who purchases
21 portable electronics or services;

22 B. "enrolled customer" means a customer who elects
23 coverage under a portable electronics insurance policy issued
24 to a vendor of portable electronics;

25 C. "location" means any physical location in the

1 state of New Mexico or any web site, call center site or
2 similar location directed to residents of the state of New
3 Mexico;

4 D. "portable electronics" means electronic devices
5 that are portable in nature and their accessories;

6 E. "portable electronics insurance" means
7 insurance providing coverage for the repair or replacement of
8 portable electronics that may provide coverage for portable
9 electronics against any one or more of the following causes of
10 loss: loss, theft, inoperability due to mechanical failure,
11 malfunction, damage or other similar causes of loss.

12 "Portable electronics insurance" also includes any agreement
13 whereby a person or any legal entity, in exchange for
14 consideration paid, agrees to provide for the future repair,
15 replacement or provision of portable electronics. "Portable
16 electronics insurance" does not include:

17 (1) a service contract governed by the
18 Service Contract Regulation Act;

19 (2) a policy of insurance covering a seller's
20 or a manufacturer's obligations under a warranty; or

21 (3) a homeowner's, renter's, private
22 passenger automobile, commercial multiperil or similar policy;

23 F. "portable electronics transaction" means:

24 (1) the sale or lease of portable electronics
25 by a vendor to a customer; or

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1 (2) the sale of a service related to the use
2 of portable electronics by a vendor to a customer;

3 G. "superintendent" means the superintendent of
4 insurance;

5 H. "supervising entity" means a business entity
6 that is a licensed insurer or insurance producer that is
7 appointed by an insurer to supervise the administration of a
8 portable electronics insurance program; and

9 I. "vendor" means a person in the business of
10 engaging in portable electronics transactions directly or
11 indirectly."

12 SECTION 6. A new section of the New Mexico Insurance
13 Code is enacted to read:

14 "[NEW MATERIAL] LICENSURE OF VENDORS.--

15 A. A vendor is required to hold a limited agent's
16 license pursuant to Section 59A-12-18 NMSA 1978 to sell or
17 offer coverage under a policy of portable electronics
18 insurance.

19 B. A limited agent's license issued to a vendor
20 shall authorize any employee or authorized representative of
21 the vendor to sell or offer coverage under a policy of
22 portable electronics insurance to a customer at each location
23 at which the vendor engages in portable electronics
24 transactions.

25 C. The supervising entity shall maintain a

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1 registry of vendor locations that are authorized to sell or
2 solicit portable electronics insurance coverage in this state.
3 Upon request by the superintendent and with reasonable notice
4 to the supervising entity, the registry shall be open to
5 inspection and examination by the superintendent during
6 regular business hours of the supervising entity.

7 D. Notwithstanding any other provision of law, a
8 limited agent's license issued to a vendor shall authorize the
9 licensee and its employees or authorized representatives to
10 engage in those activities that are permitted by the Portable
11 Electronics Insurance Act."

12 SECTION 7. A new section of the New Mexico Insurance
13 Code is enacted to read:

14 "[NEW MATERIAL] REQUIREMENTS FOR SALE OF PORTABLE
15 ELECTRONICS INSURANCE.--

16 A. At every location where portable electronics
17 insurance is offered to customers, brochures or other written
18 materials shall be made available to a prospective customer
19 that:

20 (1) disclose that portable electronics
21 insurance may provide a duplication of coverage already
22 provided by a customer's homeowner's insurance policy,
23 renter's insurance policy or other source of coverage;

24 (2) state that the enrollment by the customer
25 in a portable electronics insurance program is not required in

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1 order to purchase or lease portable electronics or services;

2 (3) summarize the material terms of the
3 insurance coverage, including:

4 (a) the identity of the insurer;

5 (b) the identity of the supervising
6 entity;

7 (c) the amount of any applicable
8 deductible and how it is to be paid;

9 (d) benefits of the coverage; and

10 (e) key terms and conditions of
11 coverage, including whether portable electronics may be
12 repaired or replaced with similar make and model reconditioned
13 or nonoriginal manufacturer parts or equipment;

14 (4) summarize the process for filing a claim,
15 including a description of how to return portable electronics,
16 and the maximum fee applicable in the event the customer fails
17 to comply with any equipment return requirements; and

18 (5) state that an enrolled customer may
19 cancel enrollment for coverage under a portable electronics
20 insurance policy at any time and the person paying the premium
21 shall receive a refund of any applicable unearned premium.

22 B. The written materials required by this section
23 shall not be subject to filing or approval requirements with
24 the superintendent.

25 C. Portable electronics insurance may be offered

1 on a month-to-month or other periodic basis as a group or
2 master commercial inland marine policy issued to a vendor for
3 its enrolled customers.

4 D. Eligibility and underwriting standards for
5 customers electing to enroll in coverage shall be established
6 for each portable electronics insurance program."

7 SECTION 8. A new section of the New Mexico Insurance
8 Code is enacted to read:

9 "[NEW MATERIAL] AUTHORITY OF VENDORS OF PORTABLE
10 ELECTRONICS.--

11 A. The employees and authorized representatives of
12 vendors may sell or offer portable electronics insurance to
13 customers and shall not be subject to licensure as insurance
14 agents under any other provision of the Insurance Code,
15 provided that:

16 (1) the vendor obtains a limited agent's
17 license to authorize its employees or authorized
18 representatives to sell or offer portable electronics
19 insurance and complies with the provisions of the Portable
20 Electronics Insurance Act;

21 (2) the insurer issuing the portable
22 electronics insurance either directly supervises or appoints a
23 supervising entity to supervise the administration of the
24 program, including development of a training program for
25 employees and authorized representatives of the vendors. The

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1 training:

2 (a) shall be delivered to employees and
3 authorized representatives of vendors who are directly engaged
4 in the activity of selling or offering portable electronics
5 insurance;

6 (b) may be provided in electronic form,
7 provided that the supervising entity implements a supplemental
8 education program regarding the portable electronics insurance
9 product that is conducted and overseen by licensed employees
10 of the supervising entity; and

11 (c) shall provide to each employee and
12 authorized representative of a vendor basic instruction about
13 the portable electronics insurance offered to customers and
14 the disclosures required by the Portable Electronics Insurance
15 Act; and

16 (3) employees or authorized representatives
17 of a vendor of portable electronics shall not advertise,
18 represent or otherwise hold themselves out as nonlimited lines
19 licensed insurance producers.

20 B. Notwithstanding any other provision of law,
21 employees or authorized representatives of a vendor shall not
22 be compensated based primarily on the number of customers
23 enrolled for portable electronics insurance coverage but may
24 receive compensation for activities under the limited agent's
25 license that is incidental to their overall compensation.

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1 C. The charges for portable electronics insurance
2 coverage may be billed and collected by the vendor. Any
3 charge to an enrolled customer for coverage that is not
4 included in the cost associated with the purchase or lease of
5 portable electronics or related services shall be separately
6 itemized on the enrolled customer's bill. If the portable
7 electronics insurance coverage is included with the purchase
8 or lease of portable electronics or related services, the
9 vendor shall clearly and conspicuously disclose to the
10 enrolled customer that the portable electronics insurance
11 coverage is included with the portable electronics or related
12 services. Vendors billing and collecting such charges shall
13 not be required to maintain such funds in a segregated
14 account; provided that the vendor is authorized by the insurer
15 to hold such funds in an alternative manner and remits such
16 amounts to the supervising entity within sixty days of
17 receipt. All funds received by a vendor from an enrolled
18 customer for the sale of portable electronics insurance shall
19 be considered funds held in trust by the vendor in a fiduciary
20 capacity for the benefit of the insurer. Vendors may receive
21 compensation for billing and collection services."

22 **SECTION 9.** A new section of the New Mexico Insurance
23 Code is enacted to read:

24 "[NEW MATERIAL] PENALTIES--SUSPENSION OR REVOCATION OF
25 LICENSE.--A person who violates any provision of the Portable

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1 Electronics Insurance Act may, after notice and hearing, be
2 subject to:

3 A. fines not to exceed one thousand dollars
4 (\$1,000) per violation and not to exceed a total of ten
5 thousand dollars (\$10,000); or

6 B. as the superintendent deems necessary:

7 (1) suspension of the privilege of
8 transacting portable electronics insurance at specific
9 locations where violations have occurred; or

10 (2) suspension or revocation of the ability
11 of individual employees or authorized representatives of a
12 vendor to act under the license."

13 SECTION 10. A new section of the New Mexico Insurance
14 Code is enacted to read:

15 "[NEW MATERIAL] TERMINATION OF PORTABLE ELECTRONICS
16 INSURANCE.--Notwithstanding any other provision of law:

17 A. an insurer may terminate or otherwise change
18 the terms and conditions of a policy of portable electronics
19 insurance only upon providing the policyholder and enrolled
20 customers with at least thirty days' notice;

21 B. if the insurer changes the terms and conditions
22 of a policy, the insurer shall provide the vendor with a
23 revised policy or endorsement and each enrolled customer with
24 a revised certificate, endorsement, updated brochure or other
25 evidence indicating that a change in the terms and conditions

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1 has occurred and shall provide a summary of material changes;

2 C. notwithstanding the provisions of Subsection A
3 of this section, an insurer may terminate an enrolled
4 customer's enrollment under a portable electronics insurance
5 policy upon fifteen days' notice for discovery of fraud or
6 material misrepresentation in obtaining coverage or in the
7 presentation of a claim thereunder;

8 D. notwithstanding the provisions of Subsection A
9 of this section, an insurer may immediately terminate an
10 enrolled customer's enrollment under a portable electronics
11 insurance policy without prior notice:

12 (1) for nonpayment of premium;

13 (2) if the enrolled customer ceases to have
14 an active service with the vendor; or

15 (3) if an enrolled customer exhausts the
16 aggregate limit of liability, if any, under the terms of the
17 portable electronics insurance policy and the insurer sends
18 notice of termination to the enrolled customer within thirty
19 calendar days after exhaustion of the limit. However, if
20 notice is not timely sent, enrollment shall continue
21 notwithstanding the aggregate limit of liability until the
22 insurer sends notice of termination to the enrolled customer;

23 E. if a portable electronics insurance policy is
24 terminated by a policyholder, the policyholder shall mail or
25 deliver written notice to each enrolled customer advising the

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1 enrolled customer of the termination of the policy and the
2 effective date of termination. The written notice shall be
3 mailed or delivered to the enrolled customer at least thirty
4 days prior to the termination;

5 F. if notice or correspondence with respect to a
6 policy of portable electronics insurance is required pursuant
7 to this section or is otherwise required by law, it shall be
8 in writing and sent within the notice period, if any,
9 specified within the statute or regulation requiring the
10 notice or correspondence. Notwithstanding any other provision
11 of law, notices and correspondence may be sent either by mail
12 or by electronic means as set forth in this subsection. If
13 the notice or correspondence is mailed, it shall be sent to
14 the vendor at the vendor's mailing address specified for such
15 purpose and to its affected enrolled customers' last known
16 mailing addresses on file with the insurer. The insurer or
17 vendor shall maintain proof of mailing in a form authorized or
18 accepted by the United States postal service or other
19 commercial mail delivery service. If the notice or
20 correspondence is sent by electronic means, it shall be sent
21 to the vendor at the vendor's electronic mail address
22 specified for such purpose and to its affected enrolled
23 customers' last known electronic mail addresses as provided by
24 each enrolled customer to the insurer or vendor. For purposes
25 of this subsection, an enrolled customer's provision of an

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1 electronic mail address to the insurer or vendor shall be
2 deemed consent to receive notices and correspondence by
3 electronic means. The insurer or vendor shall maintain proof
4 that the notice or correspondence was sent; and

5 G. notice or correspondence required by this
6 section or otherwise required by law may be sent on behalf of
7 an insurer or vendor by the supervising entity."

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

10 "59A-13-2. DEFINITIONS.--

11 A. For the purposes of the Insurance Code:

12 (1) "adjuster" [~~is~~] means a person that:

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

20 (b) advises the insured of the
21 insured's rights to settlement and the insured's rights to
22 settle, arbitrate and litigate the dispute;

23 (2) "automated claims adjudication system"
24 means a preprogrammed computer system designed for the
25 collection, data entry, calculation and final resolution of

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1 portable electronics insurance claims that shall:

2 (a) only be used by a licensed
3 independent adjuster, licensed agent or supervised individuals
4 operating pursuant to Subsection C of Section 59A-13-3 NMSA
5 1978;

6 (b) comply with all claims payment
7 requirements of the Insurance Code; and

8 (c) be certified as compliant with the
9 Portable Electronics Insurance Act by a licensed independent
10 adjuster who is an officer of a licensed business entity
11 pursuant to the Insurance Code;

12 [~~2~~] (3) "staff adjuster" [~~is~~] means an
13 adjuster individual who is a salaried employee of an insurer
14 or affiliates of the employer insurer, representing and
15 adjusting claims solely under policies of the employer
16 insurer;

17 [~~3~~] (4) "independent adjuster" [~~is~~] means
18 an adjuster who is not a staff adjuster and includes a
19 representative and an employee of an independent adjuster; and

20 [~~4~~] (5) "resident adjuster" [~~is~~] means an
21 adjuster who resides principally in New Mexico and who
22 conducts business primarily in New Mexico.

23 B. Except as otherwise provided, "adjuster" does
24 not include:

25 (1) an attorney-at-law who adjusts insurance

1 losses or claims from time to time incidental to practice of
2 law and who does not advertise or represent as an adjuster;

3 (2) a licensed agent or general agent of an
4 authorized insurer or an employee of an agent or general agent
5 who adjusts claims or losses under specific authority from the
6 insurer and solely under policies issued by the insurer;

7 (3) an agent or employee of a life or health
8 insurer who adjusts claims or losses under the insurer's
9 policies or contracts to administer policies or benefits of
10 that type; [~~or~~]

11 (4) a salaried or part-time claims agent or
12 investigator employed by a self-insured person; or

13 (5) an individual who, for purposes of
14 portable electronics insurance claims, collects claim
15 information from, or furnishes claim information to, insureds
16 or claimants, and who conducts data entry, including entering
17 data into an automated claims adjudication system, provided
18 that the individual is an employee of a licensed independent
19 adjuster or its affiliate where no more than twenty-five such
20 persons are under the supervision of one licensed independent
21 adjuster or licensed agent who is exempt from licensure
22 pursuant to Paragraph (2) of this subsection."

23 SECTION 12. Section 59A-13-3 NMSA 1978 (being Laws 1984,
24 Chapter 127, Section 231, as amended) is amended to read:

25 "59A-13-3. LICENSE REQUIRED.--

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1 A. No person shall, in this state, act as, or
2 ~~[hold himself out to be]~~ make any representation as being, an
3 adjuster unless licensed as such by the superintendent under
4 the Insurance Code.

5 B. No person, regardless of location, shall act
6 as, or ~~[hold himself out to be]~~ make any representation as
7 being, an adjuster with respect to workers' compensation
8 claims of claimants resident or located in New Mexico unless
9 licensed as such by the superintendent under the Insurance
10 Code.

11 C. Notwithstanding any other provision of law, a
12 nonresident may be licensed as a nonresident independent
13 adjuster for the purposes of portable electronics insurance if
14 that applicant has designated another state as the applicant's
15 home state."

16 SECTION 13. Section 59A-13-4 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 232) is amended to read:

18 "59A-13-4. QUALIFICATIONS FOR LICENSE AS ADJUSTER.--

19 A. The superintendent shall license as an adjuster
20 only an individual who is otherwise in compliance with [~~this~~
21 ~~article and Article 11 (licensing procedures) of the Insurance~~
22 ~~Code]~~ Chapter 59A, Articles 11 and 13 NMSA 1978 and who has
23 furnished evidence satisfactory to the superintendent that the
24 applicant for license:

25 (1) is not less than eighteen [~~18~~] years of

1 age;

2 (2) is a bona fide resident of this state, or
3 of a state or country that permits residents of this state to
4 act as adjusters therein, except that under circumstances of
5 necessity the superintendent may waive the requirement of
6 reciprocity;

7 (3) can demonstrate a good business
8 reputation, and intends to engage in a bona fide manner in the
9 business of adjusting insurance claims;

10 (4) except as to temporary license provided
11 for under Section [~~234 of this article~~] 59A-13-6 NMSA 1978,
12 has had at least one year's experience or special education or
13 training in handling of losses or claims under insurance
14 contracts, such experience, education and training to be of
15 such nature and extent as to demonstrate the applicant's
16 competence to fulfill the responsibilities of an adjuster; and

17 (5) has filed the bond required under Section
18 [~~233 of this article~~] 59A-13-5 NMSA 1978.

19 B. Paragraphs (2) and (5) [~~above~~] of Subsection A
20 of this section shall not apply as to staff adjusters.

21 C. Individuals holding licenses as adjusters on
22 the effective date of the Insurance Code shall be deemed to
23 meet the qualifications for the license except as provided in
24 [~~Article 11 (licensing procedures) of the Insurance Code and~~
25 ~~in this article hereinafter provided~~] Chapter 59A, Articles 11

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1 and 13 NMSA 1978.

2 D. A business entity applying for an independent
3 adjuster license for the purposes of portable electronics
4 insurance in New Mexico shall submit the names, addresses,
5 social security numbers, criminal and administrative
6 histories, background checks, biographical statements and
7 fingerprints of all executive officers and directors of the
8 applicant and of all executive officers and directors of
9 entities owning and any individuals owning, directly or
10 indirectly, fifty-one percent or more of the outstanding
11 voting securities of the applicant. Any nonresident business
12 entity applicant whose resident state has enacted into law
13 provisions that are substantively duplicative of the
14 provisions of this subsection shall not be required to submit
15 criminal histories, background checks, biographical statements
16 and fingerprints for its executive officers, directors and
17 owners of outstanding voting securities."

18 SECTION 14. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2013.