

# NEW MEXICO PUBLIC REGULATION COMMISSION

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*Superintendent of Insurance  
Morris J. Chavez*

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## INSURANCE DIVISION BULLETIN No. 2007-006

October 1, 2007

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**TO: PROPERTY/CASUALTY INSURERS**

**RE: RATE AND FORM FILING REQUIREMENTS**

**THE FOLLOWING BULLETIN** is issued pursuant to Insurance Division Rule, 13.1.2 NMAC.

The purpose of this Bulletin is to describe New Mexico's requirements for filing property/casualty rates and forms in light of the enactment of Senate Bill 483 (2007 New Mexico Laws, Chapter 367), which substantially changed property and casualty product filing statutes effective July 1, 2007.

### Form Filings

Prior approval is required for form filings (and form-related rule filings) for all personal lines as well as for medical malpractice, farmowners, credit, mortgage guaranty, residual markets, and reverse competitive products (as described below).<sup>1</sup> In workers compensation, prior approval is required for advisory organization filings and for company filings that deviate from approved advisory organization filings.<sup>2</sup> Prior approval form filings are subject to a 60-day deemer provision.<sup>3</sup> Filers may request an accelerated effective date or amend a pending filing.<sup>4</sup>

All other form filings must be filed before their use.<sup>5</sup> **Note that in "file and use" situations filers will be notified that their filing has been received but will not normally be notified as to whether their filing has been, or will be, reviewed.**

Companies that wish to automatically adopt the forms filed by their advisory organization may do so by notifying the Superintendent in writing.<sup>6</sup> Such automatic adoption shall remain in effect until the company rescinds this authorization in writing. Such automatic adoption does not preclude a company from filing additional forms that have not been filed by their advisory organization.

## Rate Filings

Prior approval is required for rates (and for loss costs and other rate-related rules) for medical malpractice, farmowners, credit, mortgage guaranty, residual markets, and reverse competitive products.<sup>7</sup>

In workers compensation, prior approval is required for advisory organization filings and for company filings that deviate from approved advisory organization filings.<sup>8</sup> Company deviations that require prior approval include the use of loss elimination ratios and other miscellaneous rating values that differ from those filed by the advisory organization for use in non-residual markets. Loss cost multipliers, as well as expense constants, minimum premiums and other miscellaneous rating values that differ from those filed by the advisory organization for specific use in the workers compensation residual market, do not require prior approval or actuarial supporting documentation but must be filed prior to their use.<sup>9</sup>

Prior approval rate filings are subject to a deemer provision, and the Superintendent is limited to one opportunity to request additional information on a filing.<sup>10</sup> Filers may request an accelerated effective date or amend a pending filing.<sup>11</sup>

Personal lines rate filings, as well as company filings to adopt approved advisory organization workers compensation loss cost filings without deviation other than effective date, must be filed before their use.<sup>12</sup> Such “file and use” filings do not require actuarial supporting documentation unless the filer is an advisory organization.<sup>13</sup> **Note that in “file and use” situations filers will be notified that their filing has been received but will not normally be notified as to whether their filing has been, or will be, reviewed.**

Insurers do not have to file rates for lines that are not subject to prior approval or to “file and use.”<sup>14</sup> These “no-file” commercial lines include: commercial property, crop-hail, commercial multiple peril, ocean marine, commercial inland marine, financial guaranty, other liability, product liability, commercial auto, aircraft, fidelity, surety, commercial burglary and theft, boiler and machinery, and other commercial lines not otherwise referenced in this Bulletin.

Advisory organizations must file their advisory loss costs and rate-related rules, including actuarial supporting documentation, regardless of product line.<sup>15</sup>

Companies that wish to automatically adopt, and have their loss cost multipliers and expense constants (if applicable) applied to, the loss costs and other rate-related rules filed by their advisory organization may do so by notifying the Superintendent in writing.<sup>16</sup> Such notification may be provided by letter or by checking the appropriate boxes (if available) on NAIC transmittal documents. Such authorization and automatic adoption shall remain in effect until the company rescinds this authorization in writing.

### Confidential Materials

All confidential materials must be filed separately from materials open to public inspection and must include one of the following captions in bold uppercase type in the heading of the cover letter: CONFIDENTIAL INSURANCE SCORING FILING; CONFIDENTIAL UNDERWRITING GUIDELINES; or REQUESTED CONFIDENTIAL MATERIALS.<sup>17</sup>

The Superintendent is required to keep insurance scoring filings and underwriting guideline filings confidential.<sup>18</sup> The Superintendent is also required to make a determination within 30 days as to whether materials (other than insurance scoring models and underwriting guidelines) which the filer believes to be trade secrets, should be granted confidential status and to inform the filer accordingly.<sup>19</sup>

### Reverse Competitive Markets

Insurance products are reverse competitive whenever their placement with insurers is determined primarily or exclusively by parties other than the policyholders.<sup>20</sup> Please note that, at this time, the Superintendent believes that reverse competitive products include, but are not limited to, force-placed insurance, credit life, credit disability, credit involuntary unemployment, credit family leave, credit property, credit card credit, GAP, debt cancellation and debt suspension.

The burden is on the insurer to know the dynamics of how its various products are marketed, to determine which if any of its products (in addition to those listed above) are reverse competitive, and to file those products for prior approval.<sup>21</sup> If the Superintendent finds, after notice and hearing, that an insurer has issued a reverse competitive product whose rates or forms have not received his prior approval, the insurer shall be in violation of the applicable provisions of Article 17, Chapter 59A for the entire time period that the unapproved rates have been in effect.<sup>22</sup>

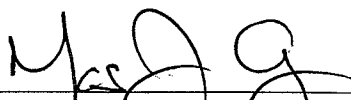
### Line Definitions

Product lines referenced in this Bulletin and in its underlying Rules are defined in accordance with the NAIC "Uniform Property & Casualty Product Coding Matrix" unless otherwise defined in Chapter 59A NMSA 1978 or its Rules, Title 13, NMAC.

### Transitional Requirements

All rates and rate-related rules for medical malpractice, farmowners, credit, mortgage guaranty, and reverse competitive products, that have not been previously filed with and obtained the prior approval of the Superintendent, cannot be used until they are filed and approved.<sup>23</sup>

**DONE AND ORDERED** this 1<sup>st</sup> day of October, 2007.

  
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**MORRIS J. CHAVEZ**  
*Superintendent of Insurance*

## Footnotes

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- <sup>1</sup> 59A-18-12 NMSA 1978 and Paragraph A of 13.8.3.9 NMAC
- <sup>2</sup> 59A-18-12 NMSA 1978 and Paragraph A of 13.8.3.9 NMAC
- <sup>3</sup> Paragraph A of 59A-18-12 NMSA 1978
- <sup>4</sup> Paragraph C of 13.8.3.8 NMAC
- <sup>5</sup> 59A-18-12 NMSA 1978
- <sup>6</sup> 13.8.3.15 NMAC
- <sup>7</sup> Paragraph B of 59A-17-9 NMSA 1978 and Paragraph A of 13.8.2.28 NMAC
- <sup>8</sup> Subparagraphs (2)(c) and (3)(b) of Paragraph A of 59A-17-9 NMSA 1978
- <sup>9</sup> Subparagraph (2)(a) of Paragraph A of 59A-17-9 NMSA 1978
- <sup>10</sup> Subparagraphs (2), (4) and (5) of Paragraph B of 59A-17-9 NMSA 1978
- <sup>11</sup> Subparagraph (3) of Paragraph B of 59A-17-9 NMSA 1978 and 13.8.2.9 NMAC
- <sup>12</sup> Subparagraph (2)(a) of Paragraph A of 59A-17-9 NMSA 1978
- <sup>13</sup> Subparagraphs (2)(a) and (3)(a) of Paragraph A of 59A-17-9 NMSA 1978
- <sup>14</sup> Subparagraph (2)(b) of Paragraph A of 59A-17-9 NMSA 1978
- <sup>15</sup> Subparagraph (3)(a) of Paragraph A of 59A-17-9 NMSA 1978
- <sup>16</sup> 13.8.2.26 NMAC
- <sup>17</sup> 13.8.6.9 NMAC and 13.8.2.10 NMAC
- <sup>18</sup> Paragraph F of 59A-17A-9 NMSA 1978 and Paragraph C of 59A-17-5.1 NMSA 1978 (Section 7 of Senate Bill 483)
- <sup>19</sup> 59A-17-11 NMSA 1978 and Paragraph B of 13.8.2.10 NMAC
- <sup>20</sup> 59A-17-6.2 NMSA 1978 (Section 5 of Senate Bill 483)
- <sup>21</sup> 59A-17-6.2 NMSA 1978 (Section 5 of Senate Bill 483) and Paragraph B of 59A-17-9 NMSA 1978
- <sup>22</sup> Paragraphs D and E of Section 59A-17-33 NMSA 1978
- <sup>23</sup> Paragraph B of 59A-17-9 NMSA 1978 and Paragraph A of 13.8.2.28 NMAC