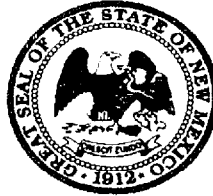


NEW MEXICO PUBLIC REGULATION COMMISSION

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Insurance Division

Morris J. Chavez
Superintendent of Insurance
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CHIEF OF STAFF

Daniel "Danny" Mayfield

INSURANCE DIVISION BULLETIN NO. 2009-008

July 9, 2009

TO: ALL INSURERS

RE: RETALIATORY FEES AND RECIPROCAL REQUIREMENTS

THE FOLLOWING BULLETIN is issued pursuant to 13.1.2.1 to 13.1.2.13 NMAC.

The purpose of this Bulletin is to provide notification and clarification to insurers regarding the imposition of retaliatory fees and reciprocal requirements by the Insurance Division of the New Mexico Public Regulation Commission. Retaliatory fees and reciprocal requirements are provided for under Article 6 of the Insurance Code, and the relevant section of the Article 6 provides that:

An insurer shall be subject to additional fees or charges, termed retaliatory or reciprocal requirements, whenever form or rate-filing fees in excess of those imposed by state law are charged to insurers in New Mexico doing business in another state or whenever a 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 may be imposed upon an insurer from another state transacting or applying to transact business in New Mexico so long as the higher fees remain in force in another state. If an insurer does not comply with the additional retaliatory or reciprocal requirement charges imposed under this subsection, the superintendent may refuse to grant or may withdraw approval of the tendered form or rate filing.

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NMSA 1978, § 59A-6-1 (2003) (emphasis added).

While NMSA 1978, § 59A-6-1, subjects insurers to retaliatory or reciprocal requirements, the statute does not require the imposition retaliatory fees or reciprocal requirements on insurers. Instead, the statute grants the discretion to the Superintendent impose retaliatory fees or reciprocal requirements. Because the statute grants discretion to impose retaliatory fees or reciprocal requirements and because of the heavy administrative burden placed on the Insurance Division in administering retaliatory fees or reciprocal requirements, the Superintendent will not impose these fees or requirements.

Any questions regarding this bulletin should be directed to Brent Moore, General Counsel, at (505) 827-4645 or brent.moore@state.nm.us.

DONE AND ORDERED this 9th day of July, 2009.



MORRIS J. CHAVEZ
Superintendent of Insurance

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