

PRODUCER LICENSING BUREAU
OFFICE OF SUPERINTENDENT OF INSURANCE
June 14, 2017

Summary of Upcoming Changes to the New Mexico Insurance Code

The following summarizes the major statutory changes resulting from legislation passed during the 2016 and 2017 legislative sessions that may affect the Producer Licensing Bureau of the New Mexico Office of Superintendent of Insurance and its licensees. All laws shown are effective July 1, 2017.

This summary is for informational purposes only and is not intended to be an exhaustive analysis of the statutory changes to the insurance code. Other statutory changes may indirectly impact insurance producers and their work. Please review New Mexico's insurance laws carefully to assure your compliance when transacting insurance business in New Mexico. Statutory references have been provided where available. Where compilation is pending, the reference is to the session bill.

Article 6 - Fees and Taxes

Many, but not all, license types that were previously renewed annually during a specified renewal period will now be renewed biennially during the licensee's birth month, with the associated license fees changing accordingly. Many types of agents, brokers, and solicitors (now collectively called insurance producers) that were listed separately in the schedule are now included in subsection E. See §59A-6-1 NMSA 1978.

Article 7 - Kinds of Insurance

To bring New Mexico into conformity with national uniform standards and to streamline processes, New Mexico will now have six major lines of authority and four limited lines. The major lines of authority are Life and Annuity, Accident and Health or Sickness, Property, Casualty, Variable Life and Variable Annuity, and Personal Lines. The limited lines of authority are: Credit, Crop, Travel and Title. Descriptions of the lines have been replaced in the statute by a list of those types of insurance that fall under each of the six lines of authority. See §59A-7-1 through 7-9 NMSA 1978.

Stop loss insurance has been removed from the list of insurance classified as Accident and Health insurance, but can be written by insurers authorized to transact either Accident and Health insurance or Casualty insurance. Insurers authorized to transact Casualty insurance may also transact Accident and Health insurance in general. See §59A-7-3 and §59A-7-6 NMSA 1978; S.B. 367, Sections 5 and 6 (2017).

Article 11 - Licensing of Insurance Producers, Adjusters and Others

- Agents, brokers and solicitors are now called **insurance producers**. See §59A-11-1 NMSA 1978.
- A temporary insurance producer license may be issued for a period not to exceed one hundred eighty days without requiring an examination if the superintendent deems that the temporary license is necessary for the servicing of an insurance business in accordance with the Insurance Code. See §59A-11-4 NMSA 1978.
- An individual who has failed to pass an examination may take another examination at any subsequent scheduled examination date, except that an individual who has taken and failed to pass four of the same examinations may not take another examination until six months after the date of the last examination failed. Although licensing examinations are approved by the superintendent, registration for and administration of the exams is conducted by an exam vendor approved by the superintendent. The exam vendor will accept the exam fees, which are nonrefundable in the event that the applicant fails to appear for or fails to pass the exam. Exam waivers and exemptions will be

described by regulation. Contact information for the exam vendor is available on the OSI website. See §59A-11-6 (E) NMSA 1978.

- For individual licensees issued a one-year agent, broker, or solicitor license prior to July 1, 2017, the licensee must renew for a biennial insurance producer license by April 30, 2018. For all licenses issued after July 1, 2017, the insurance producer license shall renew on the last day of the second occurrence of the birth month following issue of the license. Thereafter, insurance producer licenses will follow a biennial renewal schedule and must be renewed by the last day of the individual's birth month. See §59A-11-10 NMSA 1978.
- Business entity license shall renew on a biennial basis on March 1st of the second year. For types of business entity licenses that, pursuant to §59A-6-1 NMSA 1978, renew and continue on an annual basis the licenses shall renew and continue on March 1st of every year. See §59A-11-10 and §59A-6-1 NMSA 1978.
- A producer may not act as an agent for an insurer until appointed by the insurer. Such appointments shall be filed with the superintendent by the insurer and are continuous pursuant to payment of applicable fees. Termination of appointments must comply with statutory provisions. See §59A-11-12 and §59A-11-13 NMSA 1978.
- Information about suspension, revocation and refusal to continue a license has been updated. See §59A-11-14 and §59A-11-15 NMSA 1978.
- The licensee has a duty to report administrative actions and pending criminal charges to the superintendent. See §59A-11-22 NMSA 1978.
- Requirements for a nonresident license applicant are waived for applicants who are licensed in a reciprocal state. Continuing education requirements for nonresident applicants are satisfied by satisfaction of the continuing education requirements in a reciprocal home state. See §59A-11-23 NMSA 1978.
- Requirements for obtaining and maintaining a nonresident license have been updated. See §59A-11-24 NMSA 1978.

Article 12 - Insurance Producers

Numerous changes and additions to Article 12 are effective as of July 1, 2017.

- The definitions section of the article has been expanded and updated for greater clarity and consistency. See §59A-12-2 NMSA 1978.
- "Brokers" and "service representatives" are defined. See §59A-12-3 NMSA 1978.
- A license is required for any transaction of insurance in this state. Certain persons are exempt from license requirements. See §59A-12-4 and See §59A-12-7 NMSA 1978
- Provisions pertaining to controlled businesses and lending institutions are repealed effective July 1, 2017.
- The application process for individual producer licensees has been updated to include processing through the National Insurance Producer Registry (NIPR). See §59A-12-12 NMSA 1978.
- Title insurance producers are licensed to issue policies only in the county or counties in which they have the necessary abstract plant. See §59A-12-13 NMSA 1978.
- Detailed requirements for licensing of business entities are provided. See §59A-12-15 NMSA 1978.
- Updated requirements and exemptions pertaining to examination for resident licensing are provided. See §59A-12-16 NMSA 1978.
- The lines of authority for which an insurance producer may be licensed have been updated to correspond to the lines defined in Article 7. Updated provisions for reinstatement of lapsed licenses and change of address are also included. See §59A-12-17 NMSA 1978.
- A person holding a limited lines license is no longer prohibited from being concurrently licensed as an insurance producer. See §59A-12-18 NMSA 1978.

- A temporary license may be issued by the superintendent for a period of up to 180 days without an examination requirement to service an insurance business entity in limited situations and with restrictions set by the superintendent. See §59A-12-19 NMSA 1978.
- Requirements regarding display of licenses in the place of business have been updated and some exemptions have been removed. See §59A-12-20 NMSA 1978.
- Requirements for recordkeeping by insurance producers have been updated and some exemptions have been removed. See §59A-12-21 NMSA 1978.
- Minor updates are included to clarify handling of fiduciary funds. See §59A-12-22 NMSA 1978.
- Continuing education requirements remain in effect and shall be updated by rule to correspond with the biennial licensing period. See §59A-12-23 NMSA 1978.
- Without prior permission of the superintendent, an insurance producer may only transact business under the producer's legal name. See §59A-12-27 NMSA 1978.
- Only persons who are licensed in this state may receive commissions, fees, or other valuable consideration for transacting insurance in this state. See §59A-12-28 NMSA 1978.
- Any insurance producer who receives compensation from an insured for placement of insurance must disclose to the insured any compensation also received from an insurer. See §59A-12-29 NMSA 1978.

Article 12A - Insurance Administrators

- The definitions section has been updated to correspond to the language used in associated statutes. See §59A-12A-2.
- Certain licensing requirements have been removed with respect to officers and managers of a corporation. See §59A-12A-3.

Article 13 - Adjusters

- Additional definitions were added, including the addition of "public adjusters" to support statutory changes. See §59A-13-2 NMSA 1978; S.B. 88, Section 1 (2017).
- Resident adjusters are required to pass an examination as part of the application process. See §59A-13-3.1 NMSA 1978; S.B. 88, Section 2 (2017).
- Qualifications for adjusters have been updated, including posting of a bond. See §59A-13-4 and §59A-13-5 NMSA 1978; S.B. 88, Sections 3 and 4 (2017).
- Provisions for using the temporary services of adjusters who are not licensed in this state during an emergency are streamlined to include submission of a list to the Superintendent. Adjusters must be properly licensed in the home state and may assist only with claims related to the emergency for a period of only 90 days. See §59A-13-6 NMSA 1978; S.B. 88, Section 5 (2017).
- Adjusters are required to complete continuing education during the 24 months preceding expiration of the license. Details of the continuing education requirement will be provided by rule. See §59A-13-12 NMSA 1978; S.B. 88, Section 6 (2017).
- Requirements for public adjusters regarding record keeping, handling of escrow accounts, standards of conduct, and contracting with insured parties are provided. See S.B. 88, Sections 7,8,9,10 and 11 (2017).