

TITLE 13 INSURANCE
CHAPTER 4 LICENSING OF INSURANCE PROFESSIONALS
PART 3 NONRESIDENT PRODUCERS

13.4.3.1 ISSUING AGENCY: Office of Superintendent of Insurance (OSI).
[13.4.3.1 NMAC – Rp, 13.4.3.1 NMAC, 04/01/2025]

13.4.3.2 SCOPE: This rule applies to all persons seeking licensure as a nonresident insurance producer.
[13.4.3.2 NMAC – Rp, 13.4.3.2 NMAC, 04/01/2025]

13.4.3.3 STATUTORY AUTHORITY: Section 59A-2-9 NMSA 1978.
[13.4.3.3 NMAC – Rp, 13.4.3.3 NMAC, 04/01/2025]

13.4.3.4 DURATION: Permanent.
[13.4.3.4 NMAC – Rp, 13.4.3.4 NMAC, 04/01/2025]

13.4.3.5 EFFECTIVE DATE: April 1, 2025, unless a later date is cited at the end of a section.
[13.4.3.5 NMAC – Rp, 13.4.3.5 NMAC, 04/01/2025]

13.4.3.6 OBJECTIVE: The purpose of this rule is to implement Chapter 59A Articles 11, 12, 12A, 12B and 13 NMSA 1978, by establishing requirements for obtaining a license as a nonresident agent or nonresident broker.
[13.4.3.6 NMAC – Rp, 13.4.3.6 NMAC, 04/01/2025]

13.4.3.7 DEFINITIONS: For the purpose of this rule the following definitions apply:
A. “nonresident producer” is a person that resides in another state.
[13.4.3.7 NMAC – Rp, 13.4.3.7 NMAC, 04/01/2025]

13.4.3.8 LICENSING REQUIREMENTS: The superintendent may issue a license as a nonresident broker, or as a nonresident agent for life and health insurance only, to a person who maintains a bona fide continuous residence and a chief place of business within the continental limits of the United States, but not within the state of New Mexico, and who is licensed to engage in the business of insurance outside of New Mexico, under the following conditions:

A. Applicants shall pay in advance to the superintendent the fees prescribed in Section 59A-6-1 NMSA 1978.

B. Notwithstanding the conditions required under this rule, a nonresident broker shall be subject to retaliatory or reciprocal requirements, or both, with respect to any taxes, fines, penalties, licenses or fees in addition to or in excess of that imposed by the laws of this state upon nonresident brokers in New Mexico doing business in another state, or whenever any conditions precedent to the right to do business in another state are imposed by its laws beyond those imposed upon nonresident brokers by the laws of New Mexico, the same taxes, fines, penalties, licenses or fees and conditions precedent shall be imposed upon every similar nonresident broker in another state doing or applying to do business in New Mexico so long as the governing laws remain in force; and upon the failure of a nonresident broker to comply, the superintendent shall revoke the license in New Mexico, or shall refuse to grant a license or certificate in the first instance.

C. Pursuant to 18 U.S.C. Section 1033, no person who has been convicted of a felony involving dishonesty or a breach of trust may be licensed as a nonresident agent or a nonresident broker, unless the person has the written consent of the superintendent.

[13.4.3.8 NMAC – Rp, 13.4.3.8 NMAC, 04/01/2025]

13.4.3.9 TYPES OF INSURANCE LICENSES:

A. License required.

(1) No individual or business entity shall sell, solicit or negotiate insurance in this state unless licensed by the superintendent as an insurance producer for that line of insurance. Any person who is

compensated for soliciting or accepting applications for health maintenance organization membership from the public shall be licensed as a health insurance producer in accordance with the provisions of Section 59A-46-17 NMSA 1978.

(2) A business entity that is licensed as an insurance producer shall employ licensed individual insurance producers to transact the types of insurance for which the business entity is licensed. Such an individual insurance producer shall hold a license of the same type as that of the business entity employer.

(3) Persons who engage in other transactions that are subject to the Insurance Code shall be licensed according to requirements set forth under relevant sections.

B. Producer license types based on lines of authority. An insurance producer may be qualified for one or more of the following lines of authority:

(1) casualty insurance, including coverage against legal liability, including for death, injury, disability or damage to real or personal property;

(2) property insurance, including coverage for direct or consequential loss or damage to property of every kind;

(3) accident and health or sickness insurance, including coverage for sickness, bodily injury or accidental death and may include benefits for disability income;

(4) life insurance, including coverage on human lives, benefits of endowment and annuities, and other benefits in the event of death or dismemberment by accident and may include benefits for disability income;

(5) variable life and variable annuity insurance, including contracts deemed to constitute securities that require that the producer also possess a license as a security salesman under other applicable state laws; and

(6) personal lines, including property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

C. Producer licenses for limited lines. An insurance producer may also be licensed for any of the following limited lines:

(1) credit insurance, as sold by individual producers who are employed full time by a vendor of merchandise or other property or by a financial institution that executes consumer loans which require credit life insurance, credit disability insurance, credit property insurance or credit involuntary unemployment insurance as set forth in Section 59A-25-1 et seq. NMSA 1978;

(2) travel insurance, as sold by producers who are qualified to solicit or sell travel insurance as set forth in Section 59A-12-18.1 et seq. NMSA 1978 and 13.4.2.14 NMAC;

(3) portable electronics insurance, as sold by vendors and their employees and representatives in accordance with the provisions of the Portable Electronics Insurance Act found at Section 59A-60-1 et seq. NMSA 1978 and as set forth in 13.4.2.21 NMAC;

(4) rental car insurance, as sold in connection with and incidental to the rental of vehicles by a rental car company and in accordance with the provisions of the Rental Car Insurance Limited Producer License Act found in Section 59A-32A-1 et seq. NMSA 1978 and as set forth in 13.4.2.15 NMAC;

(5) title insurance, as sold by title insurance business entities and the title insurance producers employed by them in accordance with the provisions of the New Mexico Title Insurance Law found in Section 59A-30-1 et seq. NMSA 1978 and as set forth in 13.4.2.13 NMAC; or

(6) motor club services, as sold by a registered representative and provided by a motor club holding a certificate of authority in this state in accordance with the provisions of the Motor Club Law found in Section 59A-50-1 et seq. NMSA 1978 and as set forth in 13.4.2.16 NMAC.

D. Other licenses required. Persons engaging in any of the following types of transaction under the insurance code shall also be licensed:

(1) persons acting as pharmacy benefits managers in accordance with provisions of the Pharmacy Benefits Manager Regulation Act found at Section 59A-61-1 et seq. NMSA 1978 and as set forth in 13.4.2.17 NMAC;

(2) persons offering membership in a prepaid dental plan in accordance with the provisions of the Prepaid Dental Plan Law found in Section 59A-48-1 et seq. NMSA 1978 and as set forth in 13.4.2.18 NMAC;

(3) persons engaged in the sale of prearranged funeral plans in accordance with the provisions of the Prearranged Funeral Plan Regulatory Law found in Section 59A-49-1 et seq. NMSA 1978 and as set forth in 13.4.2.19 NMAC;

(4) persons offering benefits to members through a fraternal benefit society as set forth in Section 59A-44-1 et seq. NMSA 1978 and 13.4.2.20 NMAC;

(5) persons acting as reinsurance intermediaries in accordance with the provisions of the Reinsurance Intermediary Law found at Section 59A-12D-1 et seq. NMSA 1978 and as set forth in 13.4.2.22 NMAC;

(6) persons selling services as insurance consultants in accordance with the provisions of Section 59A-11A-1 et seq. NMSA 1978 and as set forth in 13.4.2.23 NMAC;

(7) third-party administrators performing or providing any service, function, duty or activity in respect to any insurance plan, self-insurance or alternative to insurance in an administrative or management capacity in this state with respect to risks located or partially located in this state or on behalf of persons in this state in accordance with the provisions of Section 59A-12A-1 et seq. NMSA 1978 and as set forth in 13.4.5 NMAC;

(8) persons acting as independent, public and staff adjusters in accordance with the provisions of Section 59A-13-1 et seq. NMSA 1978 and as set forth in 13.4.8 NMAC; and

(9) persons acting as surplus lines brokers in accordance with the provisions of Section 59A-14-1 et seq. NMSA 1978 and as set forth in 13.4.4 NMAC.
[13.4.3.9 NMAC – Rp, 13.4.3.9 NMAC, 04/01/2025]

13.4.3.10 LICENSING REQUIREMENTS FOR INDIVIDUALS: The superintendent will issue, renew and continue nonresident licenses for individual insurance producers to transact the kinds of insurance as set forth in 13.4.2.8 NMAC.

A. General requirements.

- (1) An applicant shall be at least 18 years of age;
- (2) an applicant shall file an application electronically or as otherwise specified by the superintendent;
- (3) an applicant shall pay the fees required by Section 59A-6-1 NMSA 1978 as well as providing any additional bond, liability coverage or letter of credit that may be required by the license applied for;
- (4) an applicant shall not have committed an act that is a ground for license denial, suspension or revocation under the Insurance Code; and

B. Application form.

- (1) The application form may require the following information about the applicant:
 - (a) proof of the applicant's identity;
 - (b) name, date of birth, social security number and residence and business address;
 - (c) personal history;
 - (d) business experience, including experience, special training or education in the kind of business to be transacted under the license applied for;
 - (e) previous licensing information, including:
 - (i) whether the applicant was ever previously licensed to transact insurance in this state or elsewhere;
 - (ii) whether any license was ever refused, suspended or revoked;
 - (iii) whether any insurer claims that the applicant is indebted to it, and if so, the details of the claim; and
 - (iv) whether the applicant has ever had an insurance agency contract or appointment canceled and, if so, the facts of the cancellation;
 - (f) type of license applied for and kinds of insurance or transactions to be covered thereby;
 - (g) if the applicant will be adjusting workers' compensation claims, then an in-state physical address for the business entity;
 - (h) the NAIC number and name of the company holding a New Mexico certificate of authority that is sponsoring the applicant, if applicable;
 - (i) additional information relating to a particular type of license; and
 - (j) such other pertinent information and matters as the superintendent may reasonably require.

(2) The superintendent may require any application to be in the applicant's handwriting and under the applicant's oath.

C. Approval. Before approving a license application and issuing a license the superintendent shall confirm that:

- (1) all of the applicant's answers to the questions on the application are complete, truthful and satisfactory, including acknowledgment and explanation of any prior criminal charges;

- (2) the applicant has provided at least five years of employment history without gaps in the employment record;
- (3) the applicant has provided a physical address where the home state license is maintained, and this address must match the most current information reported by NAIC; a post office box does not satisfy this requirement;
- (4) pursuant to 18 U.S.C. Section 1033, no individual who has been convicted of a felony involving dishonesty or a breach of trust may be licensed as a nonresident producer, unless the person has the written consent of the home state and has provided acceptable verification to the superintendent by a method prescribed by OSI;
- (5) the applicant has satisfied both the general and specific requirements and has provided any additional information necessary for the type of license requested or as required by the superintendent based the initial application answers;
- (6) the applicant shall not use or intend to use the license solely to write insurance on the applicant's own life for the purpose of evading in spirit or intent the anti-rebate or anti-discrimination laws relating to insurance;

D. Prohibitions. Pursuant to Section 59A-12-11 NMSA 1978, the superintendent shall not license as an insurance producer or permit any such license to continue if the superintendent finds that an applicant for license intends to offer, give or sell stock or other ownership or participating interest in the agency or brokerage as inducement to or in connection with purchase of insurance or that the licensee has previously done so.

E. Contents of license. The contents of the license shall be consistent with the requirements set forth in Section 59A-11-9 NMSA 1978.

F. Special licensing requirements.

- (1) Variable life and variable annuity or fraternal variable life and variable annuity license applications shall be deferred and reviewed manually by the superintendent. The applicant's FINRA and CRD numbers shall be supplied, and continued FINRA registration is required throughout the life of the license.
- (2) Applicants shall apply for or actively hold a producer license for the life line of authority within the requested license class as follows:
 - (a) A variable life or a variable annuity producer license requires a life producer license.
 - (b) A variable life or a variable annuity consultant license requires a life insurance consultant license.
 - (c) A fraternal variable life or a variable annuity producer licenses requires a fraternal life producer license.
 - (d) A temporary variable life or a variable annuity producer license requires a temporary producer license.
 - (e) A viatical variable life or a variable annuity broker license requires a viatical life broker license.
- (3) Surplus lines broker applicants shall actively hold both current property and casualty producer licenses or home state license equivalent prior to applying for a surplus lines broker license. [13.4.3.10 NMAC – Rp, 13.4.3.10 NMAC, 04/01/2025]

13.4.3.11 LICENSING REQUIREMENTS FOR BUSINESS ENTITIES:

A. General requirements. A business entity acting as an insurance producer is required to obtain an insurance producer license pursuant to Sections 59A-11-3 NMSA 1978 and 59A-12-15 NMSA 1978.

- (1) When licensing of a business entity is required, the application shall be filed by the business entity.
- (2) The application shall be submitted electronically using the uniform business entity application or as otherwise specified by the superintendent.
- (3) The business entity shall specify the business type as one of the following legal business types:
 - (a) partnership;
 - (b) limited liability company (LLC);
 - (c) limited liability partnership (LLP); or
 - (d) corporation.

A sole proprietorship may not apply for a business insurance producer license.

- (4) The application shall be accompanied by payment of fees, as follows:

- (a) all fees required pursuant to Section 59A-6-1 NMSA 1978;
- (b) any bond or letter of credit required for the license applied for; and
- (c) an additional license application filing fee for each individual in excess of one

who is to exercise the license powers of the business entity, if not a general partner therein.

(5) The application shall be signed on behalf of the applicant by an authorized partner or corporate officer, under oath if required by the superintendent.

(6) If the business is a firm, then each individual who is not a bona fide general partner and who is to exercise license powers shall file an application for a producer license for the same kind or kinds of business as that applied for by the business entity.

(7) If the business is a corporation, then each individual, whether or not an officer, director, stockholder or in other relationship to the corporation, who is to exercise license powers shall file an application for a producer license for the same kind or kinds of business as that applied for by the business entity.

(8) If the business is a partnership, then each individual who is not a general partner and who is to exercise license powers shall file an application for a producer license for the same kind or kinds of business as that applied for by the business entity.

B. Application form. The application form may require information about the business entity as follows:

(1) the name, state of residence, proof of identity, business record, reputation and experience of each partner, officer, member of the board of directors and controlling stockholder of the business entity, and any additional information required of an individual applicant for a producer license as the superintendent deems necessary;

(2) evidence satisfactory to the superintendent that transaction of the business proposed to be transacted under the requested license is within the powers of the business entity as set forth in the entity's articles of incorporation, charter, bylaws, partnership, operating agreement or other governing documents;

(3) at least one individual is specified as the designated responsible licensed producer (DRLP) who is actively licensed in this state as either a resident or nonresident producer for each of the lines of authority applied for by the business entity;

(a) The DRLP(s) designated by the business entity shall cumulatively be licensed for all lines of authority of the business entity; except that

(b) business entities of the following types seeking a producer license are not required to designate a DRLP: portable electronics, rental car insurance producers and third party administrators; and

(4) such further information concerning the applicant, appointment of partners, corporate officers, directors and stockholders as may be requested by the superintendent.

C. Approval. The superintendent shall review the application and confirm that:

(1) all answers to the questions on the application are complete, truthful and satisfactory;

(2) the applicant holds active resident license in another state with the same or similar license for which the application is being submitted;

(3) the business entity has paid the fees set forth in Section 59A-6-1 NMSA 1978, as well as providing any additional bond, liability coverage or letter of credit that may be required by the type or types of license applied for;

(4) the business entity application lists at least one individual as an owner, officer, partner or director;

(5) the business entity has designated a licensed insurance producer responsible for the business entity's compliance with the insurance laws of this state for every line of authority listed in the application;

(6) the application sets forth the names of all the members, officers and directors of the business entity and the names of each individual who is to exercise the powers conferred by the license upon the business entity;

(7) the business entity license application uses the entity's legal name, unless an assumed name has been previously approved in writing by the superintendent; and

(8) at least one licensed insurance producer who is to exercise license powers is affiliated by submission of an application, and the application for affiliation was submitted with payment as required in Section 59A-6-1 NMSA 1978.

D. Prohibitions, Contents of license, Special licensing requirements. The provisions of Subsections D, E and F of 13.4.2.9 NMAC apply also to business entities seeking a producer license.

[13.4.3.11 NMAC – Rp, 13.4.3.11 NMAC, 04/01/2025]

HISTORY OF 13.4.3 NMAC:

Pre-NMAC History: The material in this rule was originally filed with the State Records Center as: ID 67-1, Sections 5-3-1 through 5-3-13 and 5-4-1 through 5-4-16, New Mexico Official Administrative Rules and Regulations Code, filed 12/1/67.

History of Repealed Material: [RESERVED]

Other history of 13.4.3 NMAC:

13.4.3 NMAC - Nonresident Agents and Brokers, filed 11/30/2001 was repealed and replaced by 13.4.3 NMAC – Nonresident Producers, effective 04/01/2025.