



# DEPARTMENT OF INSURANCE STATE OF NORTH DAKOTA

Jim Poolman  
Commissioner of Insurance

## **BULLETIN 2005-1**

**TO:** All Property and Casualty Insurers Writing Contractual Liability Insurance for Automobile Warranty Programs

**FROM:** Jim Poolman, Commissioner

**DATE:** May 26, 2005

**SUBJECT:** Automobile Warranty Programs – Senate Bill No. 2096

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The 2005 North Dakota Legislative Assembly passed Senate Bill No. 2096 which will become law August 1, 2005. A copy of the bill is attached to this bulletin.

### **1. Surplus and Paid-In Capital Requirements**

The law imposes certain surplus and paid-in capital requirements on an entity that writes contractual liability insurance for an automobile dealer or a third-party administrator that issues an automobile warranty contract, automobile mechanical breakdown contract or automobile service contract.

The requirements are:

- A contractual liability company must have surplus and paid-in capital of at least \$10 million before it may write contractual liability insurance for automobile warranty and similar programs in North Dakota.
- If a company's surplus and paid-in capital is more than \$10 million but less than \$15 million, the entity must demonstrate to the Commissioner by letter and supporting financial documents that the company maintains a ratio of net written premiums, wherever written, to surplus and paid-in capital of not greater than three to one.

### **2. Certification Requirement**

By this bulletin, the Commissioner notifies entities that write contractual liability policies as a back up for automobile warranty and similar programs that the entity must certify to the Commissioner, either:

- That its combined surplus and paid-in capital equals or exceeds \$15 million; or
- That if its surplus and paid-in capital is less than \$15 million but more than \$10 million, that its ratio of written premiums, wherever written, to surplus and paid-in capital is no greater than three to one.

The certification continues indefinitely, provided, however, that if a company's financial status changes, the company must notify the Commissioner of the following:

- That the combined surplus and paid-in capital that was certified as equaling or exceeding \$15 million has decreased to less than \$15 million;
- That the combined surplus and paid-in capital that was certified as less than \$15 million but more than \$10 million has decreased to \$10 million or less; or
- That the ratio of written premiums to surplus and paid-in capital has increased to greater than three to one.

Certification can either be on the form attached to this bulletin or by letter.

Send certification to:

Company Licensing Division  
North Dakota Insurance Department  
600 East Boulevard Avenue, Dept. 401  
Bismarck, ND 58505  
Telephone: (701) 328-2440  
Email: [insurance@nd.gov](mailto:insurance@nd.gov)

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### **3. Filing of Financial Information**

The new law also requires that a company annually file a copy of its annual report and audited financial statements with the Commissioner.

The Commissioner has designated the NAIC as its repository so that if the documents are filed with the NAIC, the documents need not be filed directly with the Commissioner.

JP/njb  
Attachments

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2096  
(Transportation Committee)  
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact section 26.1-40-18 of the North Dakota Century Code, relating to automobile warranty contracts and requirements relating to contractual liability insurance for warranty providers.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 26.1-40-18 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-40-18. Automobile warranties construed.**

1. An automobile dealer or a third-party administrator who issues an automobile warranty contract, automobile mechanical breakdown contract, or automobile service contract shall maintain a policy of insurance which provides coverage for the dealer's or administrator's contractual obligation.
2. The policy must be issued by an insurer licensed, registered, or otherwise authorized to do business in this state. From the time the policy is filed with the commissioner:
  - a. The insurer shall maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file copies of the insurer's audited financial statements, the national association of insurance commissioners annual statement, and the actuarial certification required by and filed in the insurer's state of domicile; or
  - b. The insurer shall maintain surplus as to policyholders and paid-in capital of between fifteen million dollars and ten million dollars, demonstrate to the satisfaction of the commissioner that the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one, and annually file copies of the insurer's audited financial statements, the national association of insurance commissioners annual statement, and the actuarial certification required by and filed in the insurer's state of domicile.



# CERTIFICATION AS AN INSURER OF AUTOMOBILE WARRANTY CONTRACTS

NORTH DAKOTA INSURANCE DEPARTMENT

SFN 54357 (5/05)

Name of Entity		Cocode	State of Domicile
Mailing Address	City	State	Zip Code

The undersigned, on behalf of the above-named entity, is authorized to complete this certification as an insurer writing contractual liability policies as a back up for automobile warranty and similar programs and hereby affirms that:

1. The above-named entity is licensed or registered to do business in the State of North Dakota.
2. A contractual liability policy has been filed with the North Dakota Insurance Commissioner that provides coverage for an automobile dealer or a third-party administrator that issues an automobile warranty contract, automobile mechanical breakdown contract, or automobile service contract.
3. The above-named entity meets one of the following financial criteria, as set out in N.D. Cent. Code § 26.1-40-18 (check one box):
  - The combined amount of surplus as to policyholders and paid-in capital equals or exceeds \$15 million.
  - The combined amount or surplus as to policyholders and paid-in capital is between \$10 million and \$15 million and the ratio of net written premiums (wherever written) to policyholder surplus and paid-in capital is not greater than three to one.
4. The above-named entity will annually file the audited financial statement, NAIC annual statement, and actuarial certification with the National Association of Insurance Commissioners and with the entity's state of domicile.

This certification continues indefinitely; provided, however, that if a company's status changes, the company must notify the Commissioner of the following:

- That the combined surplus and paid-in capital that was certified as equaling or exceeding \$15 million has decreased to less than \$15 million;
- That the combined surplus and paid-in capital that was certified as less than \$15 million but more than \$10 million has decreased to \$10 million or less; or
- That the ratio of written premiums to surplus and paid-in capital has increased to greater than three to one.

I do hereby swear and affirm that the aforementioned statements and information are true and correct.

Officer's Signature	
Title	Date