STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of the Promulgation of Proposed Rules Regarding: Defense Expenses Within The Limit of Liability Provisions	))))	**TAKINGS ASSESSMENT CONCERNING PROPOSED RULE** **FILE NO. RU-14-486**

This document constitutes the written assessment of the constitutional takings implications of this proposed rulemaking as required by N.D.C.C. § 28-32-09.

1. This proposed rulemaking does not appear to cause a taking of private real property by government action which requires compensation to the owner of that property by the Fifth or Fourteenth Amendment to the Constitution of the United States or N.D. Const. art. I, § 16. This proposed rulemaking does not appear to reduce the value of any real property by more than 50 percent and is thus not a "regulatory taking" as that term is used in N.D.C.C. § 28-32-09. The likelihood that the proposed rule may result in a taking or regulatory taking is nil.

2. The purpose of the proposed rule is clearly and specifically identified in the public notice of proposed rulemaking which is incorporated by reference into this assessment.

3. The reasons the proposed rule is necessary to substantially advance that purpose is described in the regulatory analysis which is incorporated by reference into this assessment.

4. The potential cost to the government if a court determines that any portion of this proposed rulemaking constitutes a taking or regulatory taking cannot be reliably estimated to be greater than $0. The agency is unable to identify any application of any portion of the proposed rulemaking that could conceivably constitute a taking or a regulatory taking. Until an adversely impacted landowner identifies the land allegedly impacted, no basis exists for an estimate of potential compensation costs greater than $0.

5. There is no fund identified in the agency's current appropriation as a source of payment for any compensation that may be ordered.

6. I certify that the benefits of the proposed rulemaking exceed the estimated compensation costs.

DATED this 8 day of October, 2014.

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