STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of the Promulgation of Proposed Rules Regarding: Licensing of Insurance Producers, Insurance Continuing Education, Regulation of and Standards for Companies Deemed to be in Hazardous Financial Condition, Accounting Practices and Procedures, Property and Casualty Actuarial Opinion, Annual Audited Financial Reports, Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies, Variable Life Insurance, Viatical Settlement Advertising, Risk Retention and Purchasing Groups, Group Health Insurance Purchasing Cooperatives, Boilers, and Life Settlements	)	**NOTICE OF PROPOSED RULEMAKING** **FILE NO. RU-09-251**

NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES AND NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the North Dakota Insurance Department will hold a public hearing to address the proposed creation of and amendments to the following chapters of the North Dakota Administrative Code:

45-02-02	Licensing of Insurance Producers, Surplus Lines Insurance Producers and Consultants
45-02-04	Insurance Continuing Education
45-03-13	Regulation of and Standards for Companies Deemed to be in Hazardous Financial Condition
45-03-15	Accounting Practices and Procedures
45-03-19.1	Property and Casualty Actuarial Opinion
45-03-20	Model Rule Requiring Annual Audited Financial Reports
45-03-23	Regulation on the Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies
45-04-04	Variable Life Insurance

45-04-13	Viatical Settlement Advertising [repealed]
45-05-05	Risk Retention and Purchasing Groups
45-06-09	Group Health Insurance Purchasing Cooperatives
45-12-01	North Dakota Boiler Rules - Definitions
45-12-02	North Dakota Boiler Rules - Administration
45-12-03	North Dakota Boiler Rules - General Requirements
45-12-10	North Dakota Boiler Rules - Unfired Pressure Vessels
45-16-01	Life Settlement Licenses
45-16-02	Life Settlement Advertising

The hearing will be held at 10:00 a.m., central time, December 10, 2009, in the Lewis and Clark Room, State Capitol, Bismarck, North Dakota.

The proposed revisions to the North Dakota Administrative Code are as follows:

1. N.D. Admin. Code ch. 45-02-02 – Licensing of Insurance Producers, Surplus Lines Insurance Producers, and Consultants. The rule establishes a cycle for license continuation based on individual producer birth month, adds a definition of surety, and improves organization of the examination requirements. The rule implements the new statutory scheme under which all producers file a biennial continuation and all pay the biennial continuation fee.

2. N.D. Admin. Code ch. 45-02-04 – Insurance Continuing Education. The rule establishes a cycle for reporting compliance with continuing education requirements based on birth month, repeals obsolete provisions, clarifies that producers are responsible for the accuracy of their continuing education records, and applies continuing education requirements so as to prevent avoidance of the requirements by manipulation of the licensing process.

3. N.D. Admin. Code ch. 45-03-13 - Regulation of and Standards for Companies Deemed to be in Hazardous Financial Condition. The rules provide additional standards to determine whether the continued operation of any insurer might be deemed to be hazardous to its policyholders, creditors or the general public. In addition, the revisions give the commissioner additional authority to issue an order requiring companies deemed to be in hazardous financial condition to take corrective action.

4. N.D. Admin. Code ch. 45-03-15 - Accounting Practices and Procedures. The rule requires every insurance company doing business in this state to file an annual statement that is prepared in accordance with the National Association of Insurance Commissioners (NAIC) Instructions Handbook and the NAIC Accounting Practices and Procedures Manual. The rule change would specify the most recent (2009) version of the Accounting Practices and Procedures Manual to be used.

5. N.D. Admin. Code ch. 45-03-19.1 - Property and Casualty Actuarial Opinion. The rule addresses three types of documents that deal with the adequacy of reserves reported in the financial statements of a property and casualty insurer doing business in North Dakota. The rule requires property and casualty insurance companies to submit an annual statement of actuarial opinion (unless exempt) and an actuarial opinion summary (required for domestic companies; upon request for nondomiciliary companies). The rule requires an insurer to prepare an actuarial report and underlying workpapers to support each actuarial opinion and to furnish these to the commissioner upon request.

6. N.D. Admin. Code ch. 45-03-20 - Model Rule Requiring Annual Audited Financial Reports. The purpose of these rules is to improve the state's surveillance of the financial condition of insurers by requiring an annual audit by independent certified public accountants (CPA) of the financial statements reporting the financial position and the results of operations. The proposed amendments strengthen requirements related to CPA independence. In addition, the proposed amendments include new corporate governance standards, primarily requiring that an insurer have an audit committee that is responsible for the appointment, oversight and compensation of the CPA. The proposed amendments also indicate that management of insurers that meet a minimum premium threshold shall provide the state with an assessment of its internal control over financial reporting. The name of the chapter was changed to accurately reflect its current purpose.

7. N.D. Admin. Code ch. 45-03-23 - Regulation on the Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies. The rules provide guidelines for the custody of securities owned by an insurer and for the custodial agreement between the insurer and the custodian, to establish requirements for deposits with affiliated insurers and to provide forms for a custodian affidavit in three scenarios.

8. N.D. Admin. Code ch. 45-04-04 - Variable Life Insurance. The rule would provide that every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in the state must contain certain provisions for policy loans after the policy has been in force for three full years. It would also provide any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to state law and that all persons with access to the cash, securities, or other assets of the separate account must be under bond in the amount of not less than a value indexed to the fidelity bonding recommendations of the NAIC in effect in 2009 regarding personnel handling general account assets.

9. N.D. Admin. Code ch. 45-04-13 - Viatical Settlement Advertising. The rule repeals this chapter, although the content of Section 45-04-13-03, relating to disclosure requirements, is substantially retained in new N.D. Admin. Code ch. 45-16-02, relating to life settlement advertising.

10. N.D. Admin. Code ch. 45-05-05 - Risk Retention and Purchasing Groups. The rule amends Section 45-05-05-06, relating to risk retention group representatives and purchasing group representatives, to align terminology referring to insurance producers with current statutes, remove an obsolete distinction between resident and nonresident insurance producers who act as representatives, and remove references to a bond that no longer exists.

11. N.D. Admin. Code ch. 45-06-09 - Group Health Insurance Purchasing Cooperatives. The rule would be repealed to reflect that group health insurance purchasing cooperatives may now self-insure.

12. N.D. Admin. Code ch. 45-12-01 - North Dakota Boiler Rules, Definitions. The rule updates the National Board of Boiler and Pressure Vessel Inspectors Inspection Code from the 2004 edition to the 2007 edition.

13. N.D. Admin. Code ch. 45-12-02 - North Dakota Boiler Rules, Administration. The rule provides that all boiler inspections must be reported to the Chief Boiler Inspector on Form SFN 10706.

14. N.D. Admin. Code ch. 45-12-03 - North Dakota Boiler Rules, General Requirements. The rule provides that steam traction engine inspections must alternate between internal inspections, external inspections, and hydrostatic tests. It also provides that noncertificate inspections must be made between certificate inspections.

15. N.D. Admin. Code ch. 45-12-10 - North Dakota Boiler Rules, Unfired Pressure Vessels. The rule updates the American Society of Mechanical Engineers Boiler and Pressure Vessel Code from the 2004 edition to the 2007 edition for Section VIII, Division 1 or 3 of the code and the 2004 edition for Section VIII, Division 2 of the code.

16. N.D. Admin. Code ch. 45-16-01 - Life Settlement Licensing. The rule implements licensing aspects of the new life settlement chapter at N.D.C.C. ch. 26.1-33.4. The rule incorporates definitions, establishes provider license fees and renewal schedule, establishes broker license fees and renewal schedule, sets the schedule for required training for brokers and penalty for failure to submit proof of training, and establishes a consumer guide. A life insurance producer deemed to meet the licensing requirements of N.D.C.C. § 26.1-33.4-02 must pay an initial broker license fee of $100. Required broker training related to life settlements and life

settlement transactions must be reported every two years on the anniversary date of the license. The penalty for failure to submit proof of training is that the license will not be renewed. The two-year reporting cycle and the penalty are comparable to what will exist for insurance producers generally.

17. N.D. Admin. Code ch. 45-16-02 - Life Settlement Advertising. The rule contains a definitions section that incorporates statutory definitions for consistency. The rule establishes the disclosure requirements as applicable to any advertisement for life settlement used in North Dakota, prompts provider and broker compliance by means of a statement of compliance regarding advertising, and clarifies that providers and brokers are not required to file their advertising materials with the Commissioner except upon the Commissioner's request or order. The specific requirements for advertisements currently set out in Section 45-04-13-03, relating to disclosure requirements, are substantially retained.

These rules are expected to have an impact in excess of $50,000 on the regulated community.

Any interested person may review the text of the proposed rules at, and written comments concerning the proposed rules may be sent to, the following address: North Dakota Insurance Department, 600 East Boulevard Avenue, 5th Floor, Bismarck, ND 58505. The deadline for submission of written comments is December 21, 2009. A copy of the rules and the regulatory analyses may be reviewed on the Department's website at www.nd.gov/ndins or may be requested by telephoning (701) 328-2440.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Insurance Department at the above telephone number or address at least seven days prior to the public hearing.

DATED this 5th day of October, 2009.

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