



North Dakota
Insurance Department
Adam Hamm, Commissioner

**SUMMARY OF INSURANCE LEGISLATION
(WITH NORTH DAKOTA CENTURY CODE REFERENCES)**

**64th LEGISLATIVE ASSEMBLY
EFFECTIVE AUGUST 1, 2015¹**

SB 2010 – Insurance Department appropriation (26.1-01-09). The Insurance Department's appropriation bill for the 2015-2017 biennium kept the existing number of full-time equivalent (FTE) positions at 49.5 and set the overall appropriation for salaries, benefits, operating expenses and capital assets at \$11,545,139. Additionally, the appropriation includes \$16,701,207 for grants to fire districts and the North Dakota Firefighter's Association. The overall appropriation for the 2013-2015 biennium was \$11,040,704 with an additional \$15,336,386 being appropriated through 2013 session House Bill No. 1145 for the fire district and association grants. The bill also makes amendments to the bail bond chapter (see Agent Licensing update below) and to the surplus lines chapter (see Surplus Lines update below).

This legislation became law on July 1, 2015.

AGENT LICENSING

HB 1384 – Portable electronics insurance (new chapter 26.1-26.7). This legislation allows a vendor to hold a limited lines business entity license to offer or sell portable electronics insurance to the vendor's customers. If the vendor is licensed, the vendor's employees may then offer or sell portable electronics insurance at each location where the vendor engages in portable electronics sales under the supervision of the licensee's designated responsible licensed producer (or "DRLP"). The vendor and the DRLP are ultimately responsible for the actions of all personnel selling portable electronics insurance under the license and must provide training and keep records for inspection by the Commissioner. This legislation became law on July 1, 2015.

SB 2010 – Insurance Department appropriation (26.1-26.6-05). This legislation requires a bail bond agent to monitor the status of bonds to ensure timely return of the collateral security. This legislation became law on July 1, 2015.

SB 2270 – Fees charged by bail bond agents (26.1-26.6-08). This legislation increases the fees a bail bond agent may charge as a premium, commission, or fee for

¹ Some bills are effective earlier than August 1, 2015. Those effective dates are noted where applicable.

a bond and provides that in addition to these fees, the bail bond agent may charge for mileage reimbursement at rates within limitations.

SB 2283 – Travel insurance (new section 26.1-26-54). This legislation creates a limited lines travel insurance producer license and regulates the sale of travel insurance. This legislation became law on July 1, 2015.

COMPANY LICENSING AND EXAMINATIONS

HB 1132 – Insurance holding company systems (26.1-10). This legislation modifies existing law relating to insurers that are part of a holding company system to include the following:

- It expands the Insurance Commissioner’s ability to evaluate any entity within an insurance holding company system.
- It enhances the Department’s rights to access books and records of an insurance holding company or other companies in the holding company system.
- It establishes an expectation of funding with regard to regulator participation in supervisory colleges. (These represent meetings of regulators from multiple countries that are designed to discuss the financial condition of particular insurance groups. State insurance regulators have held supervisory colleges for all U.S. firms that meet the current definition of an internationally active insurance group.)
- It establishes authority for the Department to act as the groupwide supervisor for internationally active insurance holding company groups.
- It enhances corporate governance requirements including Board of Directors and Senior Management responsibilities.
- It expands the Insurance Holding Company System Annual Registration Statement (Form B) to broaden requirements to include financial statements of all affiliates.

This legislation also adds a new Form F (Enterprise Risk Report) that has also been introduced for firms to identify and report their enterprise risk. The Enterprise Risk Report (Form F) is to be submitted by all groups, regardless of size. The Form F requires disclosure of items relevant in understanding the risk of the group including the extent to which there is any potential for contagion risk within the group.

HB 1310 – Territorial limits of a county mutual company’s operations (26.1-13-15). This legislation changes the limit of the amount of written premiums a county mutual can write in an incorporated city with a population greater than 10,000 from 35 percent of gross premiums to net premiums of the previous year’s gross written premiums. This

allows the county mutual to reinsure specific risks in those cities and not have the reinsured portion count towards the 35 percent limit.

HB 1312 – Limitation on title insurance risks (26.1-20-04). This legislation allows a title insurance company to issue a title policy on property located in North Dakota involving a potential policy liability up to 90 percent of the sum of the company's surplus and its statutory premium reserves. The previous limit was 50 percent of its paid up capital and surplus if a stock company or 50 percent of its surplus if a mutual company.

HB 1313 – Demutualization of domestic mutual insurance companies (amends 26.1-12.1-10 and creates new chapter 26.1-12.2). This legislation supersedes current N.D. Admin. Code ch. 45-03-21, governing demutualization, and defines the demutualization process based on the federal thrift conversion template. The bill requires the demutualization plan be approved by two-thirds of the Company's board and its members and that the Commissioner hold a hearing on any proposed demutualization. It also requires the plan be fair and equitable to the converting company and its policyholders and members. It allows the issuance of subscription rights to purchase common stock of the demutualizing company and provides that subscription rights may be offered to members and other parties including officers and directors, but that the members have the right to purchase 100 percent of the company stock. Members not electing to purchase stock will be paid in either cash or premium credit for the fair value of their subscription rights as determined using the Black Scholes option pricing model. This legislation became law on July 1, 2015.

SB 2129 – Risk-based capital reports (26.1-03.1). This legislation amends existing risk-based capital (RBC) law to increase the ratio when a company action level event occurs for a life, health or fraternal benefit society from two and a half times its authorized control level risk-based capital to three times if the company also has a negative trend in its RBC.

SB 2130 – Reinsurance of credit insurers (26.1-31.2). This legislation amends existing credit for reinsurance laws to allow for the reduction of collateral requirements for assuming reinsurers that are neither authorized, accredited nor trustees in North Dakota if the assuming reinsurer becomes certified. The collateral reduction ranges from 0 to 100 percent depending on the certified reinsurer's credit rating as determined by the Commissioner. This bill becomes law January 1, 2016.

SB 2131 – Own risk and solvency assessments of insurers (ORSA) (26.1-10.2). This legislation requires any individual insurer that writes more than \$500 million of annual direct written and assumed premium, and/or insurance groups that collectively write more than \$1 billion of annual direct written and assumed premium, to provide regulators with an annual report on the risk management and capital requirements of the qualifying entities.

LIFE AND HEALTH

HB 1035 – Legislative management study of the state’s health care delivery system. This legislation states that Legislative Management shall consider continuing its ongoing study of the needs and challenges of the North Dakota health care delivery system and requires the University of North Dakota School of Medicine and Health Sciences Advisory Council to make periodic reports to Legislative Management. This legislation was chosen by Legislative Management as a legislative study for the 2015-16 interim.

HB 1038 – Coverage of telehealth (new section 54-52.1-04.13). This legislation requires the Public Employees Retirement System Board to provide health benefits coverage for health services delivered by means of telehealth the same as coverage for health services delivered by in-person means. This requirement is limited to the Public Employees Retirement System and expires on July 31, 2017.

HB 1072 – Insurance coverage of cancer treatment medications (new section to ch. 26.1-36). This legislation states that if a health insurance policy provides coverage for cancer treatment medications injected or intravenously administered by a health care provider and also provides coverage for patient-administered cancer treatment medications, the copayment, deductible, and coinsurance amounts for the patient-administered treatment may not exceed the amounts for health care provider-administered treatment.

HB 1142 – Standard valuation law (26.1-35) and HB 1143 – Standard nonforfeiture law (26.1-33) – collectively known as “principle-based reserving.” This legislation collectively implements a new method for calculating life insurance policy reserves and nonforfeiture benefits to more easily adapt reserving requirements for changes in life insurance products. The bills also include a new Valuation Manual. This bill will not become law until at least 42 states representing 75 percent of total U.S. written premium adopt the revisions to the standard valuation law. The provisions of these bills will then be phased in over the three years following adoption.

HB 1255 – Air ambulance services (new chapter 23-27, new section to chapter 26.1-36). This legislation establishes a primary and secondary call list of air ambulance service providers operating in the state and says an air ambulance provider must be a participating provider of the health insurance carriers in the state which collectively hold at least 75 percent of the health insurance coverage in the state in order to be listed on the primary call list. The legislation also establishes air ambulance service response zones based on response times and patient health and safety. This legislation became law on April 20, 2015.

HB 1378 – Legislative Management study of the federal Affordable Care Act and the state’s benchmark plan and state-based essential health benefits for the 2017 plan year and beyond. This legislation requires an interim study to review the federal rules relating to the state’s ability to select an essential health benefits package for plan

years 2017 and beyond, how the state may select a benchmark plan for plan years 2017 and beyond, and the deadlines related to these rules and related decisions.

SB 2231 – Comprehensive Health Association of North Dakota (CHAND) (26.1-08-06). This legislation states that if the federal government determines the state's high-risk pool for health insurance does not meet minimum essential coverage under the federal Affordable Care Act, the CHAND Board is authorized to modify the benefit plan coverage for the purpose of enabling the plan coverage, design and operation to qualify as minimum essential coverage under the Affordable Care Act. This legislation becomes effective if the United States Department of Health and Human Services does not provide a minimum essential coverage designation to state high-risk pools which qualifies the state high-risk pool as minimum essential coverage under the provisions and rules of the Affordable Care Act. The provisions of this legislation expire on July 31, 2017.

PROPERTY AND CASUALTY

HB 1073 – Legislative management study of required motor vehicle insurance. This legislation states that Legislative Management shall consider studying required motor vehicle insurance and that the study must include a review of the limits on no-fault benefits. This bill was chosen by Legislative Management as a study for the 2015-16 interim.

HB 1144 – Insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits (new chapter 26.1-40.1). This bill requires a transportation network company (“TNC”) or a participating TNC driver to provide primary insurance coverage from the moment a TNC driver accepts a ride request through the company’s online application until the ride is complete (until the passenger has exited the vehicle). This insurance policy must provide at least \$1 million of coverage for death, bodily injury, and property damage. The policy must also include uninsured, underinsured, and PIP coverage in amounts that meet the minimum requirements under state law (N.D.C.C. §§ 26.1-40-15.2, 26.1-40-15.3; ch. 26.1-41). During the time period when a driver has the TNC company’s application turned on and available for hire, but before the driver has accepted a ride (known as the “application on stage”), the TNC or the driver must provide primary insurance coverage which includes at least \$50,000 per person and \$100,000 per incident for death and bodily injury and at least \$25,000 for property damage. This policy must also include uninsured, underinsured, and PIP coverage in amounts that meet the minimum requirements under state law. This bill became law on April 22, 2015.

HB 1206 – Special mobile equipment (39-08-20.2). This bill says special mobile equipment is not subject to the requirements of a motor vehicle liability insurance policy under N.D.C.C. § 39-08-20 (financial responsibility required for auto coverage). However, special mobile equipment must be covered under a liability policy such as general liability, farm, etc. This bill became law on April 17, 2015.

HB 1311 – Electronic delivery of property and casualty insurance notices and documents (new section to chapter 26.1-39). This bill allows insurance companies to provide electronic delivery of some property and casualty insurance notices and documents after meeting several conditions. Electronic means may not be the sole method of providing a notice of cancellation or renewal.

SB 2312 – Insurance coverage and regulation of unconventional vehicles (new chapter 39-29.3). This bill revises the definition and regulation of unconventional vehicles and provides that for purposes of the law relating to automobile insurance, the term "policy" includes coverage of an unconventional vehicle and provides that for purposes of the law relating to automobile accident reparations, the term "motor vehicle" does not include an unconventional vehicle. This bill became law on April 20, 2015.

SPECIAL FUNDS

SB 2132 – Petroleum tank registration fees and Bonding Fund investment income (23-37-17(1) and 26.1-21-02). This bill changes existing law to clarify the financial management of these two funds and reflect the intention of the Legislature when they were created.

SURPLUS LINES

HB 1146 – SLIMPACT surplus lines repeal (26.1-44). This bill repeals sections of surplus lines laws passed in 2011, specifically 2011 House Bill No. 1123, otherwise known as the Surplus Lines Insurance Multistate Compliance Compact (SLIMPACT) legislation. The bill also requires North Dakota to collect and retain all premium tax at a rate of 1.75 percent where North Dakota is the home state. This bill became law on March 20, 2015.

SB 2010 – Insurance Department appropriation (26.1-44-03.1). This bill changes an outdated reference from "verified report" to "annual tax statement". This legislation became law on July 1, 2015.

SB 2187 – Surplus lines filings (26.1-44-06.1 and 26.1-44-08). This bill changes the due date of the annual surplus lines tax return to March 1 and imposes a penalty for not filing all surplus lines reports and documents correctly or on time. The late filing penalty is set at \$25 per day. The bill also cleans up language referring to certain reports and statements in this area of the law. This legislation became law on June 1, 2015.

The complete text of all legislative bills, resolutions, and journals is available at www.legis.nd.gov.



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CORRECTION TO SUMMARY OF INSURANCE LEGISLATION

Please note the correction below to the effective date of HB 1146 concerning surplus lines which is bolded and underlined below:

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