Glenn Pomeroy
Commissioner of Insurance

DEPARTMENT OF INSURANCE

STATE OF NORTH DAKOTA

BULLETIN 93-3

TO: ALL INSURANCE COMPANIES LICENSED IN NORTH DAKOTA

FROM: Glenn Pomeroy, Commissioner

DATE: June 17, 1993

SUBJECT: 1993 Insurance Legislation
Company Compliance With Newly Enacted Statutes

This bulletin contains a brief description of selected insurance-related bills passed by the recently completed 53rd North Dakota Legislative Assembly. Please note that several insurance-related bills have been omitted from this summary because they do not have a general impact on all companies. Specific research into all newly enacted legislation is the responsibility of each respective company whether we have highlighted it or not.

Most of these bills will become law on August 1, 1993. Insurers are required to be in a position to implement these changes on or before this date. The text of each bill is available from the Secretary of State's office at the following address:

Honorable Al Jaeger
Secretary of State
600 East Boulevard
Bismarck, ND 58505
(701) 224-2905

Much of the legislation referred to in this bulletin is self-explanatory. If you have any specific concerns or questions regarding any of these bills, we would first suggest obtaining a copy of the bill to review its provisions. **AFTER REVIEWING THE BILL,** please feel free to contact the North Dakota Insurance Department with any unanswered questions.

INSURANCE COMPANIES

House Bill No. 1166. This bill consists of eight sections which made mostly housekeeping changes to existing law.

Section 1 - Clarifies that if the March 1 deadline for filing the Annual Statement falls on a Saturday or legal holiday, the statement is due on the next succeeding business day.

Section 2 - Corrects a reference which was mistakenly left in at the time of the recodification of the insurance code in 1983.

Section 3 - Makes a grammatical change to the Fire and Tornado Fund chapter, N.D.C.C. Chapter 26.1-22-05.

Section 4 - Corrects an incorrect reference in N.D.C.C. § 26.1-25-02(1).

Section 5 - Removes the requirement that the sponsors of insurance continuing education courses submit requests for approval 90 days prior to offering the course. The new language allows the Commissioner to set by rule the number of days and events that approval must be requested before offering a course. The current practice of the Department is a 30-day advance notice.

Section 6 - N.D.C.C. § 26.1-26-44 was amended to omit the reference on notifying individual states of any suspension, revocation, or refusal of a license of a resident of this state. Since all Insurance Departments access the NAIC data bank, it is unnecessary to inform individual Insurance Commissioners.

Section 7 - N.D.C.C. § 26.1-36-04(1)(j) makes consistent two provisions of the code regarding responsibility of an insurance company to pay claims or request additional information within certain time frames.

Section 8 - N.D.C.C. § 26.1-36-09.1(2) was amended to include a grammatical change so the existing language made sense.

House Bill No. 1167.

Section 1 - Cease and desist authority. N.D.C.C. § 26.1-01-03.1 was amended to require that the entity or person who is subject to a Cease and Desist Order from the Commissioner is required to request a hearing to protect its rights. If the entity or person fails to request a hearing, then the Cease and Desist Order becomes permanent after 30 days and remains in effect until modified or vacated by the Commissioner.

Section 2 - Licensing of partnerships or corporations. Requires a partnership or corporation to be licensed by January 1, 1994, if that entity is engaged in activities of an insurance agent, insurance broker, surplus lines broker, or limited insurance representative.

Section 3 - Revocation of nonresident license. This section makes it unnecessary for the Commissioner to conduct a hearing to revoke or suspend a nonresident agent's insurance license if that agent's license has been similarly suspended or revoked in the agent's state of residence. The basis for the agent's nonresident license is that he or she has a resident license in another state and any action by that state should automatically have a similar effect on the agent's nonresident license in our state.

House Bill No. 1168 - Filing deadlines and penalties.
Section 1 - This bill amends N.D.C.C. § 26.1-02-02 to provide a date certain when the fee for renewal of a Certificate of Authority must be paid. It also provides a penalty of $25 for each day's neglect for failure to pay the renewal fee by April 30 of each year.

Section 2 - N.D.C.C. § 26.1-03-17(3) was amended to specifically provide for a penalty of $25 per day for any person failing to file an appropriate tax statement required by rule if the tax is zero. The amount of the penalty is not to exceed $500. N.D.C.C. § 26.1-03-17(5) was amended to allow the Commissioner discretion to provide, in cases of overpayment, for a cash refund or a credit against any tax due.

House Bill No. 1230 - Continuing education exemption. This bill amends N.D.C.C. § 26.1-26-31.1(1) regarding continuing education requirements. This amendment provides that no continuing education is required of an agent licensed for the sale of life insurance or sickness, accident, and health insurance, or both, who is (1) at least 62 years of age; (2) has a combined total years of continuous licensure as such agent which equals 85; and (3) whose commissions from new business each year do not exceed $10,000.

Senate Bill No. 2231 - Accreditation legislation. This lengthy bill incorporated changes required by the NAIC accreditation process. Therefore, it covers a wide range of topics. A brief overview of each section follows.

Section 1 - This codifies an existing administrative rule regarding the methodology to be employed by insurance companies in valuing their securities and other investments. This new law will be set out at N.D.C.C. § 26.1-03-02.1.

Sections 2 through 8 - The Department has essentially adopted the NAIC Model Law on Examinations which are contained within these sections and will be set out at N.D.C.C. §§ 26.1-03-19.1 through 26.1-03-19.7.

Section 9 - This amendment eliminates the grandfather clause which certain domestic companies were permitted to continue operating in the state even though they did not meet the minimum capital and surplus requirements for a new company. This amendment provides a timetable to meet those statutory minimum capital stock and surplus requirements for domestic stock companies.

Section 10 - A new chapter is created which puts into statute the NAIC Administrative Supervision Model Act. This was previously an administrative rule.

Section 11 - A new section to N.D.C.C. Chapter 26.1-10 provides for certain restrictions on dividend distributions from the insurance company to the holding company.

Sections 12 through 15 - These amendments make technical corrections and update the North Dakota Insurance Holding Company Systems Act, N.D.C.C. Chapter 26.1-10, to meet the current provisions of the NAIC Model Act.

Sections 16 and 17 - These sections eliminate grandfather clauses relative to the capital and surplus requirements for mutual insurance companies. This amendment provides a timetable for domestic mutual insurance companies to increase their capital and surplus to $1 million over a period of five years.

Section 18 - This section creates a new chapter which is the current NAIC Model Health Maintenance Organization Act. N.D.C.C. Chapter 26.1-18 is repealed.

Sections 19 through 28 - These changes are updates to the NAIC Model Act on Managing General Agents, Insurance Broker Controlled Companies Act, and the Reinsurance Intermediaries Act. In adopting the Insurance Broker Controlled Companies Act, the new NAIC model was adopted and the old Act located at N.D.C.C. Chapter 26.1-26.2 was repealed. The new law is located at N.D.C.C. Chapter 26.1-26.5.

Sections 29 through 31 - These changes involve technical corrections to update our current law with the current NAIC Model Act on Credit for Reinsurance.

Sections 32 through 34 - These amendments update our law to meet certain provisions of the current NAIC Standard Valuation Model Act.

Sections 35 through 49 - These amendments represent North Dakota's adoption of the NAIC's Model Law on Risk Retention and Purchasing Groups.

Section 49 - Repeals certain sections of the code related to examination of insurance companies, health maintenance organizations, and insurance broker controlled companies which are no longer necessary because of new law enacted which takes effect August 1, 1993.

Senate Bill No. 2384 - Insurance fraud. This new chapter defines what constitutes insurance fraud and facilitates the detection of insurance fraud and allows reporting of suspected insurance fraud. It also provides a penalty for violation of the chapter.

LIFE, ANNUITIES, ACCIDENT AND HEALTH

House Bill No. 1332 - Utilization review agents. This bill revises the reporting requirements and minimum standards for utilization review agents set out at N.D.C.C. Chapter 26.1-26.4.

Senate Bill No. 1415 - Long-term care partnership program. This bill allows the Commissioner of Insurance to coordinate the establishment of a long-term care partnership program. Long-term care insurance policies, which are part of the program, must meet certain requirements regarding consumer information and public education and also offer certain options under the policy.

House Bill No. 1485 - Coordination of benefit provisions. N.D.C.C. §§ 26.1-36-10 and 26.1-36-29 were amended to allow individual insurance policies, other than specified disease, hospital indemnity, and limited benefit plans to contain coordination of benefit provisions for the control of overinsurance.

House Bill No. 1504 - Small employer-small employee health insurance coverage. This bill basically adopts the NAIC Small Employer Group Reinsurance Model, however, with higher reinsurance limits and tighter rating bands. This bill requires individual hospital, surgical, medical, or major medical policies to meet a 65 percent lifetime loss ratio. It requires group accident and health policies to meet a 75 percent loss ratio.

Senate Bill No. 2206 - Long-term care and Medicare supplement insurance. Requires any new long-term care policies or certificates to include a six-month incontestability clause. The bill also makes certain technical corrections for Medicare supplement policies. It also provides that the 30-day free-look period for long-term care insurance begins with the delivery or the effective date, whichever occurs later.

Senate Bill No. 2226 - Prepaid limited health organizations. This bill represents the adoption of the NAIC Model on Prepaid Limited Health Organizations.

Senate Bill No. 2328 - Required annuity contract provision. This bill sets out a new requirement for an annuity contract which would provide on an annuity death claim settlement reasonable interest from the date of death.

Senate Bill No. 2536 - Long-term care benefit comparison guide. Requires the Commissioner to adopt rules to create a long-term care benefit comparison guide to be presented at the point of sale between the client and the agent. This will be a new section to N.D.C.C. Chapter 26.1-45.

Senate Bill No. 2311 - Income tax credit for premiums paid for long-term care insurance. This provision allows for a credit against an individual's tax liability in the amount of 25 percent of any premiums paid by the taxpayer for long-term care insurance coverage for the taxpayer or the taxpayer's spouse, parent, or stepparent in an amount not to exceed $100 in any taxable year.

Senate Bill No. 2479 - Mental illness group coverage. Amends N.D.C.C. § 26.1-36-09(2) relating to group health policy and service contract mental disorder coverage. This sets out more specifically the qualification requirements for psychologists and social workers for the mental illness group coverage mandate.

PROPERTY AND CASUALTY

House Bill No. 1037 - Insurance applications to include a statement of the fire protection district in which the insured property is located. This bill sets forth the requirement that no insurer may issue or renew a policy for fire, allied lines, multiple peril crop, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, or crop hail insurance coverage for property in the state unless the application identifies each fire district in which the insured property is located. This bill provides that the Commissioner of Insurance, with the assistance of the Firemen's Association and State Fire

Marshal, shall publish maps of the fire districts of the state for use by insurers under this section.

House Bill No. 1046 - Transfer of boiler inspection duties. This bill transfers boiler inspection duties from the Workers Compensation Bureau to the Commissioner of Insurance.

House Bill No. 1217 - Automobile accident damage liability. A new section of the code which modifies the contributory negligence attributable to a person recovering damages in a two-party automobile accident with property damages of less than $5,000. This section waives contributory negligence if the party against whom recovery is sought is over 50 percent at fault.

House Bill No. 1357 - Discounts from certain motor vehicle insurance premiums. This is an amendment to the statute regarding premium reductions for accident prevention course completion by indicating the driver is 55 years of age or older or entitled to a three-year insurance premium reduction. Further, it clarified that this reduction applies only to private passenger motor vehicles or pickup trucks or vans with gross vehicle weight of less than 10,000 pounds.

House Bill No. 1417 - Bail bonds activities and penalties. This bill creates a new chapter which regulates activities of bailbondsmen and provides penalties for misconduct.

House Bill No. 1488 - Filing of SR-22 with Motor Vehicle Department. This bill shortens the time for which a person must file an SR-22 form with the Motor Vehicle Department from three years to one year.

Senate Bill No. 2225 - Accident surcharges and prohibited reasons for declination of automobile insurance. A new section of the code prohibits certain kinds of accidents from a surcharge as well as requiring the insurance company before or at the time of issuance of a policy to disclose to the purchaser in writing the insurer's underwriting and rating procedures applicable to accident surcharges and loss of discounts. A second amendment states that an individual cannot be refused insurance solely because the insurance company the individual was previously with insured substandard risks.

Senate Bill No. 2340 - Reporting of product liability information. Amended the code to allow the Insurance Commissioner flexibility in developing the reporting format for the product liability claims report.

Senate Bill No. 2351 - Tort liability, products liability, and comparative fault. Amendment to the code deleting the sunset provision for the modified comparative fault statute and creating new sections regarding exemplary damages and product liability.

Senate Bill No. 2401 - Payment of automobile insurance benefits to a policyholder's family member. A new section to the code prohibits an automobile insurance policy from limiting payment of benefits or reducing amounts of benefits payable to a person who is related to a policyholder and resides in the same household.

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