



DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

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Commissioner of Insurance

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

**61st LEGISLATIVE ASSEMBLY
EFFECTIVE AUGUST 1, 2009**

Financial

SB 2181 - Reinsurer's liability (26.1-06.1-31(1)). Adds the word "contracts" that was mistakenly omitted in a prior legislative amendment. The underlying provision is part of the insurance company rehabilitation and liquidation law and it relates to the liquidator's recovery of reinsurance payments in the event of insolvency of an insurer. The change removes ambiguity and provides conformity with a corresponding provision in N.D.C.C. § 26.1-02-21 that requires an insurer's reinsurance contracts to contain a proper insolvency clause in order for the insurer to obtain credit for reinsurance in its statutory financial reports.

Legal

HB 1199 – Collections (57-38.3-02(1)). This legislation allows the Insurance Department another method of recovering money owed to it by individuals against whom a judgment has been entered by a court. The money is collected by an offset against, or a withhold of, the individual's state income tax refund.

Licensing

HB 1141 – Surplus lines license and consultant license fees (26.1-01-07). Changes the fee for an initial application for a surplus lines license or a consultant license to \$100, and the fee for the annual renewal of a surplus lines license or a consultant license to \$25 effective July 1, 2009.

HB 1142 - Rule of 85 continuing education exemption (26.1-26-31.1). Eliminates the exemption from continuing education requirements based on the insurance producer's age and years of service. Insurance producers must meet the qualifications of the Rule of 85 by January 1, 2010, or will be required to meet all the continuing education requirements for the lines of authority on their license.

HB 1192 - Insurance producer license renewals (26.1-01-07, new section to 26.1-26, 26.1-26-20, 26.1-26-31, 26.1-26-31.1, 26.1-26-50, 26.1-26-31.4 (repeal), 26.1-26-31.8 (repeal)). Changes the license renewal and continuing education due dates to biennially by the last day of the insurance producer's birth month, rather than biennially on January 31 based on the producer's last name; and requires every licensed insurance producer to file a biennial renewal application and pay a \$25 fee to maintain the license, regardless of the lines of authority or exemptions from continuing education.

Life and Health

HB 1204 – Treating alcohol/narcotics as illness (26.1-36-04(2), 26.1-36-05(15), new section to 26.1-36, new section to 54-52.1). Relates to individual health insurance coverage of injuries caused by intoxication or the use of narcotics. This legislation stipulates that major medical policies provide the same coverage for losses sustained as a result of the insured being intoxicated or under the influence of narcotics as is provided for other illnesses under the policy.

HB 1209 – Tax credit for long-term care policies under partnership program (new section to 57-38, 57-38-30.3(7)). Provides a credit against an individual's tax liability to each taxpayer equal to the premiums paid during the taxable year by the taxpayer for a long-term care policy covering the taxpayer or the taxpayer's spouse, which satisfies the criteria for the North Dakota Long-Term Care Partnership Program. The tax credit for each insured individual may not exceed \$250 in any taxable year. The tax credit is effective for taxable years beginning after December 31, 2008.

HB 1284 – Viatical settlement contracts (26.1-33.4). Relates to the transactions involving the sale of a life insurance policy to an investor, or the financing of the purchase of a policy by one or more investors, who speculate on the death of the insured. Viatical settlement laws were enacted in the 2007 session based on the National Association of Insurance Commissioners (NAIC) model. The current legislation is a hybrid of the NAIC and National Conference of Insurance Legislators (NCOIL) models. It preserves the five-year waiting period, disclosure requirements, the rescission timeline and the Commissioner's authority for bad faith acts.

HB 1391 – Legislative Council study of healthcare needs. Requires the Legislative Council to conduct a comprehensive study of unmet healthcare needs in North Dakota, including an assessment of the needs on uninsured and underinsured.

HB 1577 – Legislative Council study of factors affecting cost of health insurance and health insurance company reserves. The Legislative Council will study the factors that affect the cost of health insurance.

SB 2214 – Comprehensive Health Association of North Dakota (CHAND) eligibility provisions (26.1-08-12). Among other things, this legislation added language to include another state's high risk health pool as one of the types of most recent qualifying previous

coverage recognized for certain applicants; to allow an individual who has reached his lifetime maximum with private insurance to be automatically eligible for CHAND, without the requirement of applying for other coverage first and being denied first; and clarifies that the waiting period does not apply to an individual who is receiving nonelective treatment or procedures for a congenital or genetic disease.

SB 2274 – Independent external review (26.1-36-44). Amends the existing statute to stipulate that a provider may not use an independent external review under this section unless the provider has exhausted all internal appeal processes offered by the company, nonprofit health service corporation or HMO.

SB 2281 – Banks as custodian for health savings accounts (6-03-02(7)). This legislation enables banks to serve as custodians for health savings accounts.

SB 2318 – Elderly all-inclusive care programs (26.1-18.1-01, 26.1-18.1-03.1). This legislation provides that a qualified program of all-inclusive care for the elderly is not a health maintenance organization if it is sponsored by a religious or charitable organization, has been approved by the Centers for Medicare and Medicaid Services to operate, and has revenues from private pay sources which do not exceed 10 percent of the program's total revenues. Such entities must maintain a surety bond in the amount of \$250,000 which authorizes recovery on behalf of any person who sustained damages as the result of unfair practices, conviction of fraud, or failure by the program to perform a contractual obligation owed to the person.

SB 2380 – Annuity suitability requirements for registered annuities (26.1-34.2-03, 26.1-34.2-03(5)). Under the existing legislation, the annuity suitability requirements in N.D.C.C. Chapter 26.1-34.2 were satisfied for variable annuities by compliance with National Association of Securities Dealers (NASD) requirements. This legislation updates the suitability requirements to the Financial Industry Regulatory Authority (FINRA), and replaces “variable” annuities with “registered” annuities (to include equity indexed annuities as well).

Property and Casualty

HB 1158 – Auto warranty, mechanical breakdown, and service contract contractual liability requirement (26.1-40-18). Amends the current law by requiring any person who issues written automobile warranties, mechanical breakdown or service contracts to carry a contractual liability policy. Original Equipment Manufacturers (OEM) are exempt from the requirement. “Person” means an individual, organization, government, political subdivision, or government agency or instrumentality.

HB 1175 – Child support insurance data match (new section to Title 26.1). Amends current law by adding language indicating that insurance companies may exchange information about a claimant with the Department of Human Services or its designee before paying a claim under a contract of insurance that the information shared is confidential and the company is immune from prosecution if acting in good faith under this section.

HB 1195 – Indemnity agreement in motor carrier contract void (new section to 22-02). Amends current law by adding language making hold harmless agreements between motor carriers and promisees void in specific situations.

HB 1205 – Transfer of structured annuity settlements (32-03.4). New chapter that sets forth procedures and requirements for individuals transferring a structured annuity settlement to another.

HB 1219 – Testing required in accident in which death results (39-20-01.1). Amends current law to require (must) that law enforcement test a driver's blood, breath or urine to determine alcohol concentration or presence of drugs or substance when the driver is involved in an accident resulting in death and there is probable cause to believe that the driver is under the influence of intoxicating liquor or any other drugs. Also permits (may) law enforcement to test the driver when an accident occurs in which there was a serious injury.

HB 1245 – Change in notification requirement for removal of no-fault coverage (26.1-41-03). Amends current law to eliminate the requirement for a written request to temporarily suspend or to reinstate no-fault coverage.

HB 1295 – Multipurpose vehicles (39-06-14(3)(c), 39-27-05(3), 39-29.2). Creates a new chapter for unconventional vehicles including requirements for titling, registration and operation.

HB 1430 – Asbestos liabilities and successor corporations (32-46). Creates a new chapter that sets forth limited liability for innocent successor corporations with asbestos liability exposure.

SB 2104 – Prohibited practices/unfair compensation (26.1-04-03). Amends current law by adding a new prohibited practice. The section prohibits basing compensation, including performance bonuses or incentives, for claims employees and contracted claims personnel on four specific activities.

SB 2109 – Trade secret status of filings with credit-related information (26.1-25.1-07). Amends current law to limit the trade secret protection in a filing to only those portions of a filing dealing with credit information, scores and formulas.

SB 2279 – Release of accident reports by local law enforcement agencies (39-08-13). Amends current law by adding language that in addition to the Director of the Department of Transportation, a law enforcement agency shall release a completed accident report.

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