



North Dakota Insurance Department

Adam Hamm, Commissioner

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

63RD LEGISLATIVE ASSEMBLY
EFFECTIVE AUGUST 1, 2013 ¹

HB 1010 – Insurance Department appropriation (26.1-01-09). The Insurance Department's appropriation bill for 2013-2015 kept the existing number of full-time equivalent (FTE) positions at 49.5 and lowered the overall appropriation to \$11,040,704 from \$19,004,080 in the 2011-2013 biennium. The primary reason for the decrease is the removal of the fire district grant dollars to House Bill No. 1145 and the removal of federal grant dollars related to federal health care reform. This bill has an effective date of July 1, 2013.

Consumer Assistance

HB 1117 – Consumer assistance records exempt (new section to 26.1-02). This bill provides that personal, financial, or health information received by the North Dakota Insurance Department is exempt from open records laws and is subject to public disclosure at the discretion of the Insurance Commissioner.

HB 1196 – Issuance of insurance policies in foreign languages (26.1-30-03.1). This bill allows insurance carriers or licensed producers the ability to provide insurance policies, endorsements, or riders in a language other than English. The insurance carrier must follow the applicable filing requirements and meet the same North Dakota statutory requirements. In addition, the product filing must contain a certification from the insurance carrier attesting that the non-English versions are accurate translations of the benefits provided in the English version. If a dispute arises with the policy contract, the English version would prevail.

Company Licensing

HB 1145 – Use of insurance premium tax collections for firefighting (18-04-02, 18-04-05, 23-46-05, 26.1-01-07.5, 26.1-03-17). This bill increases the appropriation for payments made to the fire districts from \$6,200,000 to \$14,536,386 and moves the appropriation from the Insurance Department budget to a separate piece of legislation for the 2013-2015 biennium.

¹ Some bills are effective on dates other than August 1, 2013. Those effective dates are noted where applicable.

The bill also appropriates \$800,000 to be paid to the North Dakota Firefighter's Association. The total appropriation is based on 100% of the premium tax collected on fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and crop hail insurance policies. The payments will be made to the fire districts and the NDFA by December 1 of each year. This bill has an effective date of July 1, 2013.

HB 1150 – General powers, liabilities, and duties of county mutual insurance companies (126.1-13-12, 26.1-13-15). This bill allows a county mutual to write the residence or a rental property that is no larger than four residential units within the platted limits of an incorporated city in the state. The law also allows the insurance of a seasonal dwelling located in the state regardless of the county it is located in if the primary residence is located in an authorized county. The law expands the county mutual's ability to write business within the platted limits of incorporated cities with a population over 10,000 from 25% of its previous year's gross written premium to 35% of its previous year's gross written premiums.

HB 1181 – Domestic surplus lines insurers (26.1-44-03.2). The Nonadmitted and Reinsurance Reform Act of 2010 allows surplus lines companies to write surplus lines business in the state they are domiciled in. This bill recognizes domestic surplus lines insurers in North Dakota. Prior to this legislation, a domestic insurer in North Dakota had to be licensed as an admitted carrier and, as such, it could not write surplus lines business in North Dakota.

Fraud

SB 2074 – Penalties for insurance fraud (26.1-02.1-05(1)). This bill amends the criminal penalties for insurance fraud in N.D.C.C. § 26.1-02.1-05. This bill adds a Class A felony for property or services retained above \$50,000; adds a Class B felony at the \$10,001 to \$50,000 level; and changes the Class C felony to the \$1,000 to \$10,000 level. The misdemeanor A classification for all other cases remains as before. The bill adds penalties for attempted insurance fraud at the Class A and Class B levels. The new penalty levels correspond to changes in theft penalties made to N.D.C.C. ch. 12.1-23 in the criminal code by Senate Bill No. 2251.

SB 2117 – Marking on official state vehicles (39-01-02). This bill expands the entities that are exempt from the requirement to display license plates and decals identifying a vehicle as a state vehicle. The bill exempts any state entity that engages in investigatory activities, which includes the Insurance Department, from the vehicle identification requirements of N.D.C.C. § 39-01-02. The bill further exempts these entities from the requirement to display no smoking signs. The effect of the bill is to permit undercover surveillance by the Department's fraud investigators when using state vehicles. The bill has an effective date of March 21, 2013.

Life and Health

HB 1034 – Legislative Management study of health care reform. This bill directs Legislative Management to study health care reform options, the law's impact and state alternatives for state-based health care reform if the federal law is repealed. It requires the Insurance

Commissioner, the Department of Health and the Department of Human Services to provide regular reports.

HB 1153 – Nonprofit health service corporation (26.1-17-33.1). This bill allows Blue Cross Blue Shield of North Dakota to create a holding company through which the holding company can acquire or affiliate with other businesses, including other states' Blues plans. This bill has an effective date of April 3, 2013.

HB 1168 – Individual health plans – Open enrollment periods (new section to 26.1-36). This bill defines adverse selection and open enrollment periods pertaining to individual health insurance sold outside the federally-facilitated Marketplace (formerly known as the Exchange) in North Dakota and allows the Insurance Commissioner to adopt rules to set specific requirements for initial, open and special open enrollment periods. This bill pertains only to enrollment periods for health insurance products that will be sold outside the federally-facilitated Marketplace in North Dakota. This bill has an effective date of April 10, 2013.

HB 1171 – Unclaimed life insurance benefits (new chapter to 26.1, 47-30.1-07). Before November 1, 2014, and semiannually thereafter, life and annuity insurers shall run all non-ERISA (Employee Retirement Income Security Act), in-force life and annuity policies, issued in this state, against the Social Security Administrations Death Master File (DMF) or equivalent. Insurers shall implement procedures to account for inconsistent matching of policy information such as nicknames, initials, interchanged names, transposed birth dates, name changes and incomplete social security numbers. If the comparison to the DMF results is a potential match, the insurer must complete an effort to confirm the death within 12 months to determine if benefits are due and notify and submit any unclaimed benefits to the state abandoned property office. The Commissioner may adopt rules to phase in compliance.

HB 1194 – Short-term care insurance (new section to 26.1-36). This bill allows the Insurance Commissioner to develop administrative rules for the sale of short-term care insurance (less than 12 months of insurance coverage) in North Dakota.

HB 1232 – Pre-need funeral contracts and Medicaid eligibility (43-10.1-03.1, 50-24.1-02.3). This bill allows for pre-need funeral costs to be paid and requires the funds of payment to be transferred into a trust company until they are needed. Specific requirements must be met to ensure these paid funds do not exceed the amount allowable for determining eligibility for medical assistance under N.D.C.C. § 50-24.1-02.3. The section of this bill specific to insurance is used in determining eligibility for medical assistance with the Department of Human Services. When evaluating this eligibility, if an applicant's or recipient's burial is funded by an insurance policy, the amount considered set-aside for burial is the lesser of the cost basis or the face value of the insurance policy.

HB 1362 – Medicaid expansion (new section to 50-24.1). This bill provides for the expansion of Medicaid as suggested by the Patient Protection and Affordable Care Act. The Department of Human Services must cover new enrollees by bidding through private carriers or utilizing the federally-facilitated Marketplace (Exchange). This bill expires July 31, 2017.

SB 2337 – Basic health benefit plans and standard health benefit plans (14-09-08.20(4), 26.1-36-09.4, 26.1-36.3-01, 26.1-36.3-04(4), 26.1-36.3-06, 26.1-36.3-08, 26.1-36.3-10, 26.1-

36.3-11, 26.1-36.4-07). This bill amends certain sections within N.D.C.C. ch. 26.1-36, 26.1-36.1, 26.1-36.3, and 26.1-36.4 that required carriers to provide a basic and standard health benefit plan in the small group market. These sections required carriers to offer plans with certain requirements. However, the Patient Protection and Affordable Care Act (PPACA) requires specific Essential Health Benefits to be offered to all consumers in the individual and small group plans designed by carriers. Therefore, the requirements under N.D.C.C. Title 26.1 were duplicative and outdated under PPACA. This bill is effective January 1, 2014.

Producer Licensing

HB 1098 – Disclosure of tax return information of insurance producers (26.1-25-42(18) and 57-38-57). This bill creates a new subsection to N.D.C.C. § 57-38-57 (income tax) and amends N.D.C.C. § 26.1-26-42(18) (producers). This bill allows the Tax Commissioner to share specified information about an insurance producer's state income tax status at the request of the Insurance Commissioner for investigative purposes only. The producer's tax return is not part of the disclosed information. The bill allows action for failure to file returns and failure to withhold taxes from the licensee's employees and drops the requirement "knowingly."

SB 2304 – Insurance producer criminal history record checks (12-60-24(2), 26.1-26-13.3). An individual applying for a resident producer license shall complete a criminal history record check as provided in N.D.C.C. § 12-60-24. All costs associated with the criminal history record check are the responsibility of the applicant. This subsection does not apply to license continuation under N.D.C.C. § 26.1-26-13.4 or individuals who apply for an insurance producer license within 12 months following the cancellation or expiration of a valid resident insurance producer license issued by the North Dakota Insurance Department, unless the license was suspended or revoked. The Commissioner may make arrangements, including contracting with an outside service, for the collection and transmission of fingerprints for conducting criminal history record checks. This law becomes effective September 1, 2013.

Property and Casualty

HB 1263 – Demerit points for driving without liability insurance (39-06.1-05, 39-06.1-09, 39-06.1-10(3)(a)(37), (38), (39), 39-05.1-10(3)(b), 39-08-20. This bill provides for the assignment of demerit points and other penalties when an investigation determines that a driver cannot produce immediate proof of liability insurance coverage for the vehicle. This bill allows the courts to assign penalties based on the current status of liability coverage.

Special Funds

SB 2154 – Registration fees for above and underground petroleum tanks (23-37-17(2), (3), (4)). This bill cleans up language in N.D.C.C. ch. 23-37 relating to petroleum tank registration fees and penalties. It changes the penalty to \$25 in addition to the registration fee for both aboveground and underground tanks for each previous year a tank was required to be registered for which a fee was not paid. The bill also removes an obsolete effective date regarding phase two environmental studies and tank integrity tests.

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