



# DEPARTMENT OF INSURANCE STATE OF NORTH DAKOTA

Jim Poolman  
Commissioner of Insurance

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

59<sup>TH</sup> LEGISLATIVE ASSEMBLY  
EFFECTIVE AUGUST 1, 2005

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### Boiler Inspection

**HB 1116 – Boilers (26.1-22.1).** Allows the Commissioner to appoint as a Special Boiler Inspector an inspector employed by a company qualified by the National Board of Boiler and Pressure Vessel Inspectors either (a) as an accredited owner/user inspection organization to inspect the company's own boilers, or (b) as an accredited authorized inspection agency, which company need not be an insurance company. This bill also limits the duration of a Certificate of Inspection for steam traction engines to 12 months.

### Financial

**HB 1114 – HMO annual reports (26.1-18.1-08).** Allows the Commissioner to designate the NAIC as the repository for the filing of the annual report by HMOs.

**SB 2194 – Treatment of reinsurance upon a company's insolvency (26.1-02-21, 26.1-06.1-31).** Clarifies the requirement that credit for reinsurance will not be granted unless the reinsurance agreement has a proper insolvency clause and clarifies the conditions under which a cut through provision in a reinsurance contract will be recognized by the receiver in the event of a company's insolvency.

## Legal

**SB 2088 – Review of Company Articles of Incorporation (26.1-05-07, 26.1-13-02, 26.1-13-33, 26.1-16-07).** Removes the requirement that both the Attorney General and the Insurance Commissioner review a company's Articles and leaves in place the requirement that the Insurance Commissioner review a company's articles.

**SB 2093 – Administrative hearings (26.1-07-05.1, 26.1-10-03(4)).** Allows the Commissioner to waive a public hearing relating to a dissolution, merger or consolidation involving a domestic company if the companies involved and all the policyholders of the domestic companies involved affected consent to the waiver.

## Licensing

**HB 1113 – Continuing education requirements (26.1-26-31.1(1)).** Reduces the number of continuing education hours for producers to 24 hours over a 2-year reporting period, of which 3 must be in ethics.

**HB 1213 – Unauthorized insurance (26.1-02-25).** Increases the penalty for selling unauthorized insurance from a Class A misdemeanor to a Class C felony.

**SB 2187 – Third-party administrators (26.1-27-03, 26.1-27-03.1, 26.1-27-04).** Requires that a third-party administrator that administers self-funded life, annuity, or health plans in North Dakota register with the Commissioner and maintain a surety bond or proof of insurance satisfactory to the Commissioner. The bond must be the greater of \$100,000 or 10% of the aggregate total amount of administered coverage under the plans handled in North Dakota.

## Life and Health

**HB 1208 – Health savings accounts (HSAs) (26.1-36-08(2)(d), 26.1-36-09(2)(f)(4)).** Excludes high deductible health plans for use with HSAs from the mental health and substance abuse mandates to allow HSAs to meet federal requirements for qualifying as an HSA.

**HB 1332 – Pharmacy benefits management (26.1-27.1).** Defines a Pharmacy Benefit Manager (PBM) and requires that a PBM be registered with the Insurance Commissioner. Requires that the PBM disclose to the Commissioner any ownership interests that might create a conflict of interest. Identifies certain prohibited practices and lists certain alternatives that a PBM must offer when negotiating a PBM contract. Also requires disclosure of certain information to the Commissioner and provides for a Legislative Council study relating to pharmacy benefit management and the pharmaceutical manufacturing industry.

**HB 1376 – Discount medical plans and cards (26.1-53).** Defines discount medical plans and sets forth prohibited activities, disclosure requirements, provisions required in provider agreements, marketing limitations, and cancellation and refund provisions. Provides for enforcement by either the Attorney General or Insurance Commissioner.

**SB 2244 – CHAND (26.1-08-01(9), 26.1-08-12(4) and (10), 26.1-08-13).** Identifies coverages excluded from the definition of “health insurance coverage”; allows CHAND to exclude benefits requested for treatment for a condition for which medical advice, treatment, etc., was recommended or received during the 180 days preceding the date of application; allows CHAND to terminate coverage if an insured fails to respond to CHAND’s inquiry concerning the insured’s eligibility or place of residence; and requires that a Medicare applicant apply for coverage within 180 days of being rejected or uprated or subjected to a significant restrictive rider by an insurer.

**SB 2282 – Health insurance independent external reviews (new section to Chapter 26.1-36).** Requires that an insurance company, nonprofit health service corporation, or health maintenance organization that offers accident and health insurance establish an external review mechanism. Identifies those entities that are qualified to conduct independent external reviews.

**Property and Casualty**

**HB 1064 – Awarding of attorney’s fees in a case removed from small claims court (27-08.1-04).** Requires the district court to award attorney’s fees to the prevailing plaintiff in a case removed from small claims court to district court if the plaintiff prevails.

**HB 1178 – Bail bond agents (26.1-26.6, 26.1-26.6-09).** Changes the term “bondsman” to “bail bond agent” and allows the court to keep 50% of a forfeiture even if the bail bond agent returns the defendant to the court.

**HB 1437 – Notice to contractors regarding defects in construction of residential buildings (new section to Chapter 43-07).** Requires that a homeowner or purchaser give a contractor notice of a defect in construction and allow the contractor time to correct the defect before the homeowner or purchaser can sue. Requires that the homeowner or purchaser give notice within six months of knowledge of the defect. Also requires that the contractor give notice of the statute to the purchaser or homeowner.

**HB 1501 – Territorial limits of county mutual insurance companies (26.1-13).** Permits a county mutual insurance company to write insurance in any city within its authorized territory but, in the case of cities with a population over 10,000, limits the coverage to the policyholder’s residence and four rental units. Establishes an aggregate limit of 25% of gross written premiums of the previous year on the amount of insurance written in cities with a population over 10,000.

**HB 1507 – Registering of home inspectors (new chapter to Title 43).** Requires the registration of home inspectors with the Secretary of State. Requires that a home inspector carry errors and omissions coverage of \$100,000.

**SB 2032 – Economic development – Study of travel and tourism liability insurance (Section 21 of SB 2032).** Requires that the Commissioner gather data and report to the Legislature regarding the availability and affordability of liability insurance for the travel and tourism industry.

**SB 2047 – No-fault motor vehicle insurance (23-12-14, 26.1-41).** Changes no-fault law by limiting coverage to those claims that occur when claimant is occupying a motor vehicle or that are caused by another motor vehicle. Also limits payment for medical expenses to “usual and customary”, excludes from no-fault benefits all nonprescription drugs and experimental and medically unproven treatments, requires billings for services to be within 180 days of treatment, penalizes insureds who refuse to submit to an examination, repeals binding intercompany arbitration, and sets a maximum fee that providers are allowed to charge for medical records.

**SB 2094 – Terrorism fire loss (26.1-39-06).** Allows commercial insurance policies to exclude fire coverage for loss resulting from an act of terrorism. Change is effective March 25, 2005.

**SB 2096 – Auto warranty programs (26.1-40-18).** Requires that an auto dealer or third-party administrator that sells automobile warranty contracts purchase a contractual liability policy from a company authorized to do business in the state. The company must either maintain surplus and paid-in capital of at least \$15 million or, if capital and surplus is less than \$15 million but greater than \$10 million, the company must maintain a ratio of net premiums to surplus and paid-in capital of at least 3:1. A company may not write backup contractual liability insurance for automobile warranty programs if its combined capital and surplus is less than \$10 million.

**SB 2102 – Driving under the influence of intoxicating liquor (39-08-01).** Requires that a court order the surrender of a person’s motor vehicle license plates upon conviction of a second or subsequent offense for driving under the influence. Allows for a hardship exemption.

**SB 2186 – Personal loss history information (26.1-25.2).** Regulates the use of loss history information in personal insurance by prohibiting the use of inquiries, claims not investigated, claims made but not paid, some wind and hail claims, and claims over 10 years old. Also prohibits a company from refusing to write a property risk based solely on the loss history of the previous owner unless repairs were not completed. Requires company disclosure of the use of loss history to customers.

**HCR 3013 – Study by Legislative Council of the causes of and factors that reduce the severity of motor vehicle crashes.**

**HCR 3045 – Study by Legislative Council of the feasibility and desirability of authorizing nonprofit organizations to participate in a government liability self-insurance pool.**

*The complete text of all legislative bills, resolutions, and journals is available at [www.state.nd.us/lr](http://www.state.nd.us/lr).*