

**PROPOSED RULES
NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 45-05-09
DEFENSE EXPENSES WITHIN THE LIMIT OF LIABILITY PROVISIONS**

Chapter 45-05-09 is created as follows:

Section

<u>45-05-09-01</u>	<u>Defense Expenses Within Limit of Liability Prohibited - Exceptions</u>
<u>45-05-09-02</u>	<u>Policies Within Which Defense Expenses Within Limit of Liability Permitted</u>
<u>45-05-09-03</u>	<u>Notice Required</u>
<u>45-05-09-04</u>	<u>Acknowledgment</u>

45-05-09-01. Defense expenses within limit of liability prohibited - Exceptions.

No insurer shall issue or renew a policy of liability insurance in this state that includes defense expenses within the limit of liability unless the policy's minimum limit per occurrence or the aggregate liability limit for all liability risks and coverages under the policy is at least:

1. One million dollars for primary coverages; and
2. One hundred thousand dollars for secondary coverages.

History: Effective _____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-04-02

45-05-09-02. Policies within which defense expenses within limit of liability permitted.

Defense expenses within the limit of liability provisions are allowed only within the following types of policies:

1. Cyber liability;
2. Directors and officers liability;
3. Errors and omissions liability;

4. Employer practices liability;
5. Medical malpractice liability;
6. Pollution liability;
7. Liquor liability;
8. Nuclear liability;
9. Fidelity bond;
10. Umbrella policies; and
11. Other policies permitted within the discretion of the insurance commissioner.

History: Effective _____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-04-02

45-05-09-03. Notice required.

“Defense expenses within the limit of liability” must appear on the declaration page in at least twelve-point bold print.

History: Effective _____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-04-02

45-05-09-04. Acknowledgment.

The application must contain a conspicuous acknowledgment initialed by the applicant wherein the applicant acknowledges that the subject policy has limits of liability which may be reduced or completely eliminated by payments for legal defense costs and claims expenses.

History: Effective _____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-04-02