

PROPOSED RULES

NORTH DAKOTA ADMINISTRATIVE CODE
ARTICLE 45-02
REGULATION OF INSURANCE PRODUCERS, CONSULTANTS,
AND ADMINISTRATORS

Section 45-02-03-04 – Application of Corporation, Association, Benefit Society is repealed:

45-02-03-04. Application of corporation, association, benefit society. ~~An application by a corporation, association, or benefit society must be accompanied by a certified copy of the articles of incorporation or association. Repealed effective _____, 2012.~~

~~**History:** Effective September 1, 1983.
General Authority: NDCC 26.1-01-08
Law Implemented: NDCC 26.1-27~~

Section 45-02-03-05 – Renewal Procedure is amended as follows:

45-02-03-06. Renewal procedure. The administrator is required to remit the renewal fee on or before each annual anniversary date April thirtieth of each year in order to maintain the certificate of authority. If such fee is not received in the prescribed time, the certificate of authority may be administratively terminated. The department will provide notice of the renewal of the certificate of authority or the termination of that certificate of authority. Certificates of authority issued after January first will not be required to renew until April thirtieth of the following calendar year.

~~**History:** Effective September 1, 1983; amended effective January 1, 2006; _____, 2012.
General Authority: NDCC 26.1-01-08
Law Implemented: NDCC 26.1-27~~

Section 45-02-04-03 – General Rules is amended as follows:

45-02-04-03. General rules.

1. **Course requirements.** The insurance continuing education course requirements include an educational presentation involving insurance fundamentals, policies, laws, risk management, or other courses which are offered in a process of instruction approved by the commissioner as expanding skills and developing knowledge to better serve the insurance buying public.
2. **Nonapproved courses.** The following course content will not qualify for insurance continuing education credit:
 - a. Prelicensure training.
 - b. Prospecting.
 - c. Recruiting.
 - d. Sales skills and promotions.
 - e. Motivation.
 - f. Psychology.
 - g. Communication skills.
 - h. Supportive office and machine skills.
 - i. Personnel management.

The above listing does not limit the commissioner's authority to disapprove any application which fails to meet the standards for course approval.

3. **Licensee responsibility.** Each licensee shall be responsible for maintaining original records of the licensee's insurance continuing education certificates of attendance for a period of one year from the last reporting deadline. Such records shall be made available to the commissioner upon request.
4. **Correspondence course credit.** Credit received by an insurance producer for a correspondence course must be based on successful completion of the course as prescribed by the provider and approved by the commissioner.

5. **Reciprocity.** The commissioner may approve credit for insurance-related courses approved by the North Dakota real estate commission and the North Dakota state bar association for insurance continuing education purposes.
6. **Credit hour.** A credit hour means sixty minutes of time, of which at least fifty minutes must be instruction, with a maximum of ten minutes break.
 - a. Credit hours for insurance continuing education will not be approved in increments of less than one-half hour.
 - b. Neither students nor instructors may earn credit for attending or instructing at any subsequent offering of an insurance continuing education course more than once during a reporting period.
7. **Course audit.** The commissioner or an authorized representative reserves the right to audit insurance continuing education offerings with or without notice to the provider.
8. **Class attendance.** No certificate of attendance will be issued to an insurance continuing education participant who is absent for more than ten percent of the classroom hours.
9. **Examinations.** Course examinations will not be required for insurance continuing education courses, unless required by the provider.
10. **Textbooks.** Textbooks are not required for insurance continuing education courses. All course materials must contain accurate and current information relating to the subject matter being taught.
11. **Approval of course offerings.** The commissioner requires providers of insurance continuing education courses to provide the following:
 - a. To the commissioner on a commissioner-approved form prior to course offerings:
 - (1) An application for course approval of an insurance continuing education course fifteen business days prior to course offering;
 - (2) A complete course outline designating individual topics and the amount of time devoted to each area being taught;
 - (3) An application for coordinator approval; and
 - (4) A fifty dollar per course filing fee;

- b. A class roster to the commissioner using a method prescribed by the commissioner fifteen days subsequent to completion of all insurance continuing education courses; and
- c. To course participants subsequent to course offerings provide a course attendance certificate (form SFN 10923) to all students successfully completing an approved insurance continuing education course.

Upon review by the commissioner, providers will receive a copy of the course application indicating approval or denial, credit hours assigned, and a course certification number. Course certification numbers must be used on all insurance continuing education certificates, correspondence, and advertisements.

- 12. **Provider management responsibility.** Providers of insurance continuing education courses are responsible for the actions of their respective instructors and coordinators.
- 13. **Course approval after the fact.** Credit may be granted for a course after the fact provided such courses are properly submitted and approved by the commissioner. Subsequent approval depends on course content and is not automatic or guaranteed.
- 14. **Advertising.** Courses may not be advertised in any manner unless approval has been granted, in writing, by the commissioner.
 - a. All advertising relating to approved course offerings shall contain the following statement: "This course has been approved by the insurance commissioner for (insert hours) of insurance continuing education credit."
 - b. Advertising must be truthful, clear, and not deceptive or misleading.
- 15. ~~**Approval of subsequent offerings.** After approval has been granted for the initial offering of a course, approval for subsequent offerings will be granted without the necessity of a new application if a notice of subsequent offering is filed with the commissioner at least fifteen days before the date the course is to be held.~~
- 16. **Fees.** Fees for courses must be reasonable and clearly identifiable to students. If a course is canceled for any reason, all fees must be returned within thirty days of cancellation.

47. 16. **Adequate facility.** Each course of study must be conducted in a classroom or other facility which will adequately and comfortably accommodate the faculty and the number of students enrolled. The provider may limit the number of students enrolled in a course.

History: Effective July 1, 1986; amended effective January 1, 2000; December 1, 2001; January 1, 2006; January 1, 2008; _____, 2012.

General Authority: NDCC 26.1-26-49

Law Implemented: NDCC 26.1-26-49

Section 45-02-04-09.3 – Exemptions from Continuing Education for Limited Lines is created as follows:

45-02-04-09.3. Exemptions from continuing education for limited lines. An insurance producer licensed exclusively for the sale of title insurance, travel or baggage insurance, surety, bail bonds, legal expense insurance, or credit insurance is exempt from continuing education requirements.

History: Effective _____.

General Authority: NDCC 26.1-26-49

Law Implemented: NDCC 26.1-26-31.1(1)

PROPOSED RULES

NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 45-03-15
ACCOUNTING PRACTICES AND PROCEDURES

Sections 45-03-15-01 and 45-03-15-02 are amended as follows:

45-03-15-01. Accounting practices and procedures. Every insurance company doing business in this state shall file with the commissioner, pursuant to North Dakota Century Code section 26.1-03-07, the appropriate national association of insurance commissioners annual statement blank, prepared in accordance with the national association of insurance commissioners instructions handbook and following the accounting procedures and practices prescribed by the March ~~2009~~ 2011 version of the national association of insurance commissioners accounting practices and procedures manual for property and casualty and life and health insurance.

History: Effective January 1, 1992; amended effective January 1, 2000; December 1, 2001; March 1, 2004; January 1, 2006; January 1, 2008; April 1, 2010; _____, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-03-07, 26.1-03-11.1

45-03-15-02. Reporting of financial information. Every insurance company licensed to do business in this state shall transmit to the commissioner and to the national association of insurance commissioners its most recent financial statements compiled on a quarterly basis, within forty-five days following the calendar quarters ending March thirty-first, June thirtieth, and September thirtieth. The financial statements must be prepared and filed in the form prescribed by the commissioner and in accordance with the national association of insurance commissioners instructions handbook and following the accounting procedures and practices prescribed by the March ~~2009~~ 2011 version of the national association of insurance commissioners accounting practices and procedures manual for property and casualty and life and health insurance. The commissioner may exempt any company or category or class of companies from the filing requirement.

History: Effective January 1, 1992; amended effective January 1, 2000; December 1, 2001; March 1, 2004; January 1, 2006; January 1, 2008; April 1, 2010; _____, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-02-03, 26.1-03-07, 26.1-03-11.1

PROPOSED RULES

**NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 45-03-23
CUSTODIAL AGREEMENTS AND THE USE OF CLEARING CORPORATIONS**

Section 45-03-23-02 is amended as follows:

45-03-23-02. Custody of agreement - Requirements.

1. An insurance company may provide, by written agreement with a custodian, for the custody of its securities with a custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.
2. The agreement must be in writing and must be authorized by the resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement must comply with the following:
 - a. Securities certificates held by the custodian must be held separate from the securities of the custodian and of all of its other customers.
 - b. Securities held indirectly by the custodian and securities in a clearing corporation must be separately identified on the custodian's official records as being owned by the insurance company. The records must identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records must also identify where the securities are and, if in a clearing corporation, the name of the clearing corporation and, if through an agent, the name of the agent.
 - c. All custodied securities that are registered must be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.
 - d. Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in North Dakota Century

Code section 26.1-05-23 must, to the extent required by that section, be under the control of the insurance commissioner and must not be withdrawn by the insurance company without the commissioner's approval.

- e. The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly the insurance company with reports of holdings of custodied securities at such times and containing information as may be reasonably requested by the insurance company. The custodian's trust committee's annual reports of its review of the insurer's trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper form.
- f. During the course of the custodian's regular business hours, any officer or employee of the insurance company, any independent accountant selected by the insurance company, and any representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company.
- g. The custodian and its agents shall be required to send to the insurance company:
 - (1) All reports which they receive from a clearing corporation on their respective systems of internal accounting control; and
 - (2) Any reports prepared by outside auditors on the custodians or its agent's internal accounting control of custodied securities that the insurance company may reasonably request.
- h. The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in any audit of the financial statements of the insurance company.
- i. The custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate

affidavits, substantially in the form described in the appendices to this chapter, with respect to custodied securities.

- j. A national bank, state bank, or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker-dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the securities investor protection corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and the amount of coverage is adequate.
- k. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities, except that the custodian shall not be so obligated to the extent that the loss was caused by other than the negligence or dishonesty of the custodian.
- l. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction.
- m. In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company, the custodian shall promptly replace the securities or their value thereof and the value of any loss of rights or privileges resulting from the loss of securities.
- n. The agreement may provide that the custodian will not be liable for any failure to take any action required to be taken under the agreement in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, rules, orders, or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.
- o. In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to

the same liability for loss of custodied securities as the custodian; provided, however, that if the agent shall be subject to regulation under the laws of a jurisdiction which is different from the jurisdiction the laws of which regulate the custodian, the insurance commissioner of the state of domicile of the insurance company may accept a standard of liability applicable to the agent which is different from the standard of liability applicable to the custodian.

- p. The custodian shall provide written notification to the insurer's domiciliary commissioner if the custodial agreement with the insurer has been terminated or if one hundred percent of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the insurance commissioner within three business days of the receipt by the custodian of the insurer's written notice of termination or within three business days of the withdrawal of one hundred percent of the account assets.

- 3. An insurer having direct written and assumed premiums of less than three million dollars in any calendar year may request an exemption from the requirements of this section. The insurer must file with the commissioner a written statement explaining the reasons why the insurer should be exempt. The commissioner may grant an exemption if the commissioner finds that compliance with this section would constitute a financial or organizational hardship upon the insurer.

History: Effective March 1, 2004; amended effective April 1, 2010; _____, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-05-35

PROPOSED RULES

NORTH DAKOTA ADMINISTRATIVE CODE
ARTICLE 45-09
REGULATION OF UNAUTHORIZED INSURERS AND INSURANCE

Chapter
45-09-01 Surplus Lines Insurance

CHAPTER 45-09-01
SURPLUS LINES INSURANCE

Section

- 45-09-01-01 Definitions
- 45-09-01-02 Surplus Lines Insurance Producer Application
- 45-09-01-03 Surplus Lines Insurance Producer May Conduct Search
- 45-09-01-04 Presumption - Diligent Search
- 45-09-01-05 Other Acceptable Lines of Coverage
- 45-09-01-06 Surplus Lines Affidavit - Time for Filing [Repealed]
- 45-09-01-07 Surplus Lines Affidavit - Limits on Availability [Repealed]
- 45-09-01-08 Additional Policy Endorsement Requirement [Repealed]
- 45-09-01-09 Statement of Taxable Premiums [Repealed]

45-09-01-01. Definitions. Unless otherwise defined, or made inappropriate by context, all words used in this chapter have meanings given to them under North Dakota Century Code chapters 26.1-02, 26.1-26, and 26.1-44.

History: Effective January 1, 1982.
General Authority: NDCC 26.1-44-09
Law Implemented: NDCC 26.1-44

45-09-01-02. Surplus lines insurance producer application. The insurance commissioner will not issue a resident surplus lines insurance producer's license until the applicant has met the requirements of North Dakota Century Code section 26.1-26-17, has completed and filed with the commissioner a completed application for a surplus lines insurance producer license, and paid the license fee. An applicant for a nonresident surplus lines insurance producer license must hold an active resident surplus lines insurance producer license in the applicant's home state and must

complete and file with the commissioner an application for a nonresident surplus lines insurance producer license and pay the license fee.

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008; _____, 2012.

General Authority: NDCC 26.1-26-49, 26.1-44-09

Law Implemented: NDCC 26.1-26-17, ~~26.1-26-18~~ 26.1-26-20

45-09-01-03. Surplus lines insurance producer may must conduct search.

~~An insured is permitted to designate the~~ The licensed surplus lines insurance producer as the insured's agent for purposes of ~~conducting seeking the placement of nonadmitted insurance~~ must conduct a diligent search to ascertain whether the insured is unable to procure the insurance, indemnity contract, or surety bond desired can be procured from a company authorized to do business in this state. The surplus lines insurance producer may rely on a diligent search done by a licensed insurance producer or the insured if the surplus lines insurance producer deems it sufficient. Within sixty days after placing of any surplus lines insurance, the surplus lines insurance producer must complete and file with the commissioner a surplus lines affidavit confirming such a search has been done. The affidavit is not required if the insured is an exempt commercial purchaser as defined in North Dakota Century Code section 26.1-44-02.

History: Effective January 1, 1982; amended effective December 1, 2001; _____, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-04. Presumption - Diligent search. A presumption that a diligent search has been made ~~by the insured and that the insured~~ insurance producer was unable to procure the insurance, indemnity contract, or surety bond desired from a company authorized to do business in this state is created when the insurance, contract, or bond is written in one of the categories set out in Appendix I.

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008; _____, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-05. Other acceptable lines of coverage. The categories designated in Appendix I are not to be considered as the only lines of coverage in which unauthorized insurers may be used. Other categories of coverage not listed may be acceptable because of special underwriting considerations such as losses, high exposure, or other similar factors. Any exceptions must be fully explained on the surplus lines affidavit ~~and approved by the insurance commissioner~~ report of placement.

The securing of advantage as to lower premium rates or as to the terms of the insurance contract do not constitute justification nor are they special underwriting considerations sufficient to allow the surplus lines broker to use an unauthorized company nor lines of coverage other than those designated in Appendix I.

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008; _____, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-06. Surplus lines affidavit - Time for filing. ~~Before a surplus lines insurance producer procures, affects, or issues any insurance policy, indemnity contract, or surety bond, the surplus lines insurance producer shall execute, personally sign, and file an affidavit in acceptable form with the office of the commissioner. An affidavit will be deemed filed with the commissioner if it is mailed to the commissioner's office within sixty days of the effective date of the policy. Repealed effective _____, 2012.~~

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-07. Surplus lines affidavit - Limits on availability. ~~The surplus lines affidavits filed with the insurance commissioner will be made available only to the insured named in the affidavit upon a written request by that insured; to the surplus lines insurance producer who executed the affidavit upon written request of that surplus lines insurance producer; to duly authorized department personnel; and to any other individual who obtains and files with the commissioner a written waiver and consent form signed by the insured. Repealed effective _____, 2012.~~

History: Effective January 1, 1982; amended effective December 1, 2001; _____, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-08. Additional policy endorsement requirement. In addition to the endorsement required by North Dakota Century Code section 26.1-44-05, every policy issued under North Dakota Century Code chapter 26.1-44 shall be endorsed as follows: THIS POLICY IS ISSUED PURSUANT TO THE NORTH DAKOTA SURPLUS LINES INSURANCE STATUTE UNDER THE SURPLUS LINES INSURANCE PRODUCER LICENSE OF _____. THE INSURER IS A QUALIFIED SURPLUS LINES INSURER, BUT IS NOT OTHERWISE LICENSED BY THE STATE OF NORTH

~~DAKOTA AND DOES NOT PARTICIPATE IN THE NORTH DAKOTA INSURANCE
GUARANTY ASSOCIATION. Repealed effective _____, 2012.~~

~~History: Effective January 1, 1982; amended effective December 1, 2001.~~

~~General Authority: NDCC 26.1-44-09~~

~~Law Implemented: NDCC 26.1-44-05~~

45-09-01-09. Statement of taxable premiums. ~~Surplus lines insurance
producers are required by North Dakota Century Code section 26.1-44-06 to file
annually a statement of taxable premiums received by that surplus lines insurance
producer. Repealed effective _____, 2012.~~

~~History: Effective January 1, 1982; amended effective December 1, 2001; January 1,
2008.~~

~~General Authority: NDCC 26.1-44-09~~

~~Law Implemented: NDCC 26.1-44-06~~

APPENDIX I

Categories of Acceptable Surplus Lines Coverage

The following categories of surplus lines coverage are not the only lines which may be written in North Dakota. Other lines of coverage not on this list may be acceptable because of special underwriting considerations. Any exceptions must be fully explained on the surplus lines affidavit and approved by the insurance commissioner report of placement.

~~There~~ If the coverage written is in an approved category, there is a presumption that the insured is unable, after diligent search, to procure the insurance, indemnity contract, or surety bond desired cannot be procured from a company authorized to do business in this state if the coverage written is in an approved category.

These categories may be changed from time to time at the discretion of the insurance commissioner subject to provisions of North Dakota Century Code chapter 28-32, the Administrative Agencies Practice Act.

1. Fiduciary liability.
2. Professional liability (E & O) except for hospitals.
3. Directors and officers.
4. Ocean marine cargo, liability and hull.
5. Hazardous cargo and short-term trip transit.
6. Bridges (large).
7. Heavy woodworking property (unprotected, high-value sawmills).
8. Product liability (hazardous).
9. Ski lifts and tows' liability.
10. Fireworks, ammunition, fuse, cartridges, power, nitroglycerine, explosive gases.
11. Environmental impairment - pollution.
12. Kidnap ransom.
13. Oil and gas liability and marine.

14. Livestock mortality (high values and unusual).
15. Short tail (hole-in-one, 300 bowling score, etc.).
16. Large utilities (generation, transmission).
17. Building demolition and moving.
18. Mono line liquor legal liability.
19. Surcharged fire and allied lines excluding uncontrolled marine.
20. High-value substandard private passenger automobile.
21. Commercial automobile physical damage coverage in excess of rating organizations' filed rates.
22. Any excess liability coverages.
23. Day care liability insurance coverages.

History: Amended effective February 1, 1983; November 1, 1987; December 1, 2001; January 1, 2008; _____, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

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PROPOSED RULES

NORTH DAKOTA ADMINISTRATIVE CODE
ARTICLE 45-11
LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

Chapter
45-11-01 Notice to Policy Owners

CHAPTER 45-11-01
NOTICE TO POLICY OWNERS

Section
45-11-01-01 Required Notice to Policy Owners

45-11-01-01. Required notice to policy owners. A document that describes the general purposes and current limitations of the North Dakota life and health insurance guaranty association as required by subsections 2 and 3 of section 26.1-38.1-16 of the North Dakota Century Code must be in the form and contain the language printed in the notice shown in exhibit A.

History: Effective September 1, 1990; amended effective January 1, 2000; _____ 2012.

General Authority: NDCC 26.1-38.1-16

Law Implemented: NDCC 26.1-38.1-16

Replace Exhibit A – Notice Concerning Coverage, Limitations and Exclusions Under the North Dakota Life and Health Insurance Guaranty Association Act with the following two pages:

**NOTICE CONCERNING COVERAGE,
LIMITATIONS AND EXCLUSIONS UNDER THE
NORTH DAKOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT**

A resident of North Dakota who purchases life insurance, annuities, or accident and health insurance should know that an insurance company licensed in this state to write these types of insurance is a member of the North Dakota Life and Health Insurance Guaranty Association. The purpose of this association is to assure that a policy owner will be protected, within statutory limits, if a member insurer becomes financially unable to meet its obligations. If this should happen, the guaranty association will assess its other member insurance companies for the money to pay the claims of insured persons who live in this state and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the guaranty association is not unlimited, however. And, as noted in the box below, this protection is not a substitute for your care in selecting a company that is well-managed and financially stable.

The North Dakota Life and Health Insurance Guaranty Association may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions, and require continued residency in North Dakota. You should not rely on coverage by the North Dakota Life and Health Insurance Guaranty Association in selecting an insurance company or in selecting an insurance policy.

Your insurance company or its agent is required by law to give or send you this notice. However, your insurance company and its agent are prohibited by law from using the existence of the Guaranty Association to induce you to purchase any kind of insurance policy.

[Insurer's Name]
[Address]
[Telephone Number]

**The North Dakota Life and Health Insurance Guaranty Association
P.O. Box 2422
Fargo, North Dakota 58108**

**North Dakota Insurance Department
600 East Boulevard Avenue, Dept. 401
Bismarck, North Dakota 58505**

The state law that provides for this safety-net coverage is called the North Dakota Life and Health Insurance Guaranty Association Act. On the back of this page is a brief summary of this law's coverages, exclusions, and limits. This summary does not cover all provisions of the law; nor does it in any way change your rights or obligations under the act or the rights or obligations of the Guaranty Association.

COVERAGE

Generally, an individual will be protected by the Life and Health Insurance Guaranty Association if the individual lives in North Dakota and holds a life or health insurance contract or annuity contract, or if the insured is insured under a group insurance contract issued by a member insurer. A beneficiary, payee, or assignee of an insured person is protected as well, even if a nonresident of North Dakota.

(please turn to back of page)

EXCLUSIONS FROM COVERAGE

However, a person holding a policy is not protected by this association if:

- The individual is eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insureds who live outside that state).
- The insurer was not authorized to do business in this state.
- The policy is issued by an organization which is not a member of the North Dakota Life and Health Insurance Guaranty Association. Health maintenance organizations, fraternal benefit societies, and the Comprehensive Health Association of North Dakota are not members of the guaranty association.

The association does not provide coverage for:

- A policy of reinsurance (unless an assumption certificate was issued).
- An interest rate yield that exceeds an average rate.
- A dividend.
- A credit given in connection with the administration of a policy by a group contractholder.
- An employer's plan to the extent that it is self-funded (that is, not insured by an insurance company, even if an insurance company administers the plan).
- A policy or contract providing any hospital, medical, prescription drug, or other healthcare benefits associated with Medicare Part C and Part D.

LIMITS ON AMOUNT OF COVERAGE

The act also limits the amount the association is obligated to pay. The association cannot pay more than what the insurance company would owe under a policy or contract. For any one insured life, no matter how many policies or contracts with the same company, for the following types of coverage, the association is only obligated up to the maximum amounts set out below.

- \$300,000 in life insurance death benefits, but no more than \$100,000 in cash surrender and withdrawal values.
- \$500,000 for basic hospital, medical, surgical or major medical policies.
- \$300,000 for disability and for long term care policies.
- \$100,000 for other health policies, including cash surrender and withdrawal values.
- \$250,000 for the present value of annuity benefits, including cash surrender and withdrawal values.

For any one life, the association will not be liable, in the aggregate, for more than \$300,000 for health-related benefits (disability, long-term care and other health policies), except that the aggregate liability for basic hospital, medical, surgical and major medical benefits will be \$500,000.

The association will not be liable, in the aggregate, for more than \$5,000,000, to one owner of multiple nongroup policies of life insurance no matter how many policies or contracts are held by the owner.

Note to benefit plan trustees or other holders of unallocated annuities (GICs, DACs, etc.) covered by the act: For unallocated annuities that fund governmental retirement plans under §§ 401(k), 403(b), or 457 of the Internal Revenue Code, the limit is \$250,000 in present value of annuity benefits including net cash surrender and net cash withdrawal per participating individual. In no event shall the association be liable to spend more than \$300,000 in the aggregate per individual. For covered unallocated annuities that fund other plans, a special limit of \$5,000,000 applies to each contract holder, regardless of the number of contracts held with the same company or number of persons covered. In all cases the contract limits also apply.

COMPLAINTS AND COMPANY FINANCIAL INFORMATION

A written complaint to allege a violation of any provision of the Life and Health Insurance Guaranty Association Act must be filed with the North Dakota Insurance Department, 600 East Boulevard Avenue, Dept. 401, Bismarck, North Dakota 58505; telephone - (701) 328-2440. Financial information for an insurance company, if the information is not proprietary, is available at the same address and telephone number.

PROPOSED RULES

**NORTH DAKOTA ADMINISTRATIVE CODE
ARTICLE 45-12
NORTH DAKOTA BOILER RULES**

**CHAPTER 45-12-01
DEFINITIONS**

Subsections 4, 5, and 23 of Section 45-12-01-01 – Definitions are amended as follows:

4. "A.S.M.E. code" means the boiler and pressure vessel construction code of the American society of mechanical engineers of which sections I, II, IV, V, VIII (divisions 1 and 3), IX, and X, ~~2007~~ 2010 edition and section VIII, (division 2), 2004 edition, are hereby adopted by the commissioner and incorporated by reference as a part of this article. A copy of the American society of mechanical engineers code is on file at the office of the boiler inspection program. The American society of mechanical engineers code may be obtained from the American society of mechanical engineers headquarters at 3 park avenue, New York, New York 10016-5990.
5. "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels or from electricity or nuclear energy. The term boiler includes fired units for heating ~~or~~ vaporizing liquids other than water when these units are separate from processing systems and are complete within themselves, as provided under North Dakota Century Code section 26.1-22.1-01.
23. "National board inspection code" means the manual for boiler and pressure vessel inspectors supplied by the national board. The national board inspection code, ~~2007~~ 2011 edition, is hereby adopted by the commissioner and incorporated by reference as a part of this article. Copies of this code may be obtained from the national board at 1055 crupper avenue, Columbus, Ohio 43229.

History: Effective June 1, 1994; amended effective April 1, 1996; January 1, 2000; October 1, 2002; January 1, 2006; January 1, 2008; April 1, 2010; _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-03
GENERAL REQUIREMENTS**

Section 45-12-03-01.1 – Boiler Inspection Fees is amended as follows:

45-12-03-01.1. Boiler inspection fees. The following will be charged for boiler inspections:

1. High pressure boilers.
 - a. Internal inspections.

	Fee	
- 50 square feet [4.65 square meters] or less of heating surface	\$60.00	<u>\$80.00</u>
- Over 50 square feet [4.65 square meters] and not over 500 square feet [46.45 square meters]	\$70.00	<u>\$100.00</u>
- Over 500 square feet [46.45 square meters] and not over 4,000 square feet [371.61 square meters]	\$80.00	<u>\$120.00</u>
- Over 4,000 square feet [371.61 square meters] of heating surface	\$90.00	<u>\$150.00</u>
 - b. External inspections.

- 50 square feet [4.65 square meters] of heating surface or less; 100 KW or less	\$40.00	<u>\$60.00</u>
- Over 50 square feet [4.65 square meters] of heating surface; over 100 KW	\$50.00	<u>\$80.00</u>
 - c. Portable oil field boilers. Internal and external inspections of portable oil field boilers must be charged inspection fees of seventy-five dollars per hour, including travel time, plus expenses for meals, mileage and lodging at current state rates.
2. Low pressure boilers.
 - a. Internal inspections.

- Without manway	\$60.00	<u>\$75.00</u>
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	- With manway	\$70.00	<u>\$85.00</u>
b.	External inspections.		
	- Hot water heat and low pressure steam	\$40.00	<u>\$50.00</u>
	- Hot water supply	\$25.00	<u>\$35.00</u>
	- Additional boilers at same account for same day inspection (account = same owner, management firm, user, etc.)	\$35.00	
3.	Steam traction engines.		
	- Internal	\$50.00	<u>\$60.00</u>
	- External	\$45.00	<u>\$55.00</u>
	- Hydrostatic test	\$55.00	<u>\$70.00</u>
	- Ultrasonic survey, per hour	\$40.00	<u>\$60.00</u>
4.	Multiple boiler fee cap. Inspection fees for the same account, per day, must be as stated in this fee schedule, or at the flat rate of four hundred dollars, whichever is less. This is in addition to the certificate fee noted in subsection 5.		
5.	Certificate fee, per certificate as required by North Dakota Century Code section 26.1-22.1-10	\$20.00, per year	<u>of certificate issued</u>

History: Effective June 1, 1994; amended effective January 1, 2000; October 1, 2002; 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

Section 45-12-03-16 – Boiler Logs is amended as follows:

45-12-03-16. Boiler logs. A log must be kept as to all repairs made, unusual incidents, accidents, water tests, amounts, types, and dates of water treatment. Logs for hobby boilers must also include operating hours, operators, fusible plug installation dates, safety valve tests, and apprentice operator training data.

History: Effective June 1, 1994; amended effective _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-04
POWER BOILERS – NEW INSTALLATIONS**

Section 45-12-04-01 – Requirements is amended as follows:

45-12-04-01. Requirements.

1. All new boilers, except those exempt by law, to be installed in North Dakota must be reported to the chief boiler inspector by the owner or user and by the installer.
2. After July 1, 1973, power boilers that are not exempt by law may not be installed in this state unless they have been constructed, inspected, and stamped in conformity with the applicable edition of the American Society of Mechanical Engineers Code for power boilers and are approved, registered, and inspected in accordance with the requirements of this article.
3. A boiler having the standard stamping of another state or province of Canada that has adopted a standard of construction equivalent to the standard of North Dakota may be accepted by the chief boiler inspector if the person desiring to install the boiler makes application for the installation and files with the application the manufacturer's data report covering the construction of the boiler.

History: Effective June 1, 1994; amended effective _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

Section 45-12-04-02 – Appurtenances – Piping and Tests is amended as follows:

45-12-04-02. Appurtenances - Piping and tests.

1. The inspector shall inspect all boilers and connected appurtenances for their safe operation and all pressure piping connecting them to the appurtenances and all piping up to and including the first stop valve, or the second stop valve when two are required.
2. Any pressure piping to the boiler, such as water column, blowoff valve, feedwater regulator, super heater, economizer, stop valves, etc., which are shipped connected to the boiler as a unit, must be hydrostatically tested with the boiler and witnessed by an inspector.

3. All economizers and ~~super heaters~~, whether separately fired or not, and ~~whether~~ when located within the scope of boiler external piping ~~or not~~, must be constructed to section I of the American Society of Mechanical Engineers Code. All superheaters must be constructed to section I of the American Society of Mechanical Engineers Code.
4. The chief boiler inspector may waive American society of mechanical engineers section I boiler external piping requirements for new and secondhand boilers of less than forty horsepower output if the boiler external piping is mechanically installed (i.e., no welding), the piping does not exceed two-inch [5.08 centimeters] national pipe standard in size, the piping is schedule eighty minimum, and the boiler maximum allowable working pressure does not exceed one hundred fifty pounds per square inch [1034.22 kilopascals] gauge.

History: Effective June 1, 1994; amended effective October 1, 2002; _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-05 POWERS BOILERS – EXISTING INSTALLATIONS

Subsection 5 of Section 45-12-05-02 – Maximum Allowable Working Pressure for Nonstandard Boilers is amended as follows:

45-12-05-02. Maximum allowable working pressure for nonstandard boilers.

...

5. The following factors of safety must be increased by the inspector if the condition and safety of the boiler demand it:

...

Reinstalled or secondhand boilers must have a minimum factor of safety of six when the longitudinal seams are of lap-riveted construction, and a minimum factor of safety of five when the longitudinal seams are of butt-and-double-strap construction. ~~Seam~~ Steam traction engines must be considered as secondhand boilers for purposes of determining their factors of safety.

History: Effective June 1, 1994; amended effective _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

Subsection 8 of Section 45-12-05-12 – Operation is amended as follows:

8. If the operating conditions of a valve are changed so as to require a new spring under subsection 1 for a different pressure, the valve must be adjusted by the manufacturer or, the manufacturer's authorized representative, or by a holder of a valid national board "VR" certificate who shall furnish and install a new nameplate.

History: Effective June 1, 1994; amended effective _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-09 HEATING, LOW PRESSURE, AND HOT WATER SUPPLY BOILERS - EXISTING INSTALLATIONS

Subsection 4 of Section 45-12-09-11 – Feedwater Connections is amended as follows:

4. There must be a stop valve and a check valve in the feedwater line at the boiler. For hot water heating boilers, the check valve must be a backflow preventer approved by the State Plumbing Code, ~~2000~~ 2009 edition.

History: Effective June 1, 1994; amended effective January 1, 2000; October 1, 2002; 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-10 UNFIRED PRESSURE VESSELS

Section 45-12-10-01 – Construction and Installation Standards – Exceptions is amended as follows:

45-12-10-01. Construction and installation standards - Exceptions. Unfired pressure vessels may not be installed in North Dakota unless such vessels have been constructed in accordance with the American society of mechanical engineers boiler and pressure vessel code, section VIII, division 1 or 3, ~~2007~~ 2010 edition or section VIII, division 2, 2004 edition, and bear the "U" stamp as proof of such construction.

Manufacturers shall register unfired pressure vessels with the national board of boiler and pressure vessel inspectors. Unfired pressure vessels must bear the required stamping of the national board.

The requirements of this section apply to all pressure vessels within the scope of the American society of mechanical engineers boiler and pressure vessel code, section VIII, division 1 or 3, ~~2007~~ 2010 edition or section VIII, division 2, 2004 edition, with these exceptions:

...

4. Unfired pressure vessels installed or ordered prior to November 1, 1987. However, these unfired pressure vessels must be maintained in a safe operating condition using ANSI/NB-23 and ANSI/API-510 as guidelines. Unfired pressure vessels referenced by this section must be protected with the American society of mechanical engineers stamped pressure relief devices as defined in section VIII of the American society of mechanical engineers boiler and pressure vessel code, ~~2007~~ 2010 edition. Existing pressure relief devices installed on unfired pressure vessels referenced by this section will be considered acceptable if the pressure relief device is set for the correct pressure, if the usage is correct, and if the device is in a satisfactory operating condition.

History: Effective June 1, 1994; amended effective April 1, 1996; January 1, 2000; October 1, 2002; January 1, 2006; April 1, 2010; _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

Section 45-12-10-02 – Application of Standards – Repairs is amended as follows:

45-12-10-02. Application of standards - Repairs. These rules apply only to new construction, except as noted below:

...

2. ...

- c. The national board inspection code and the American petroleum institute code (ANSI/API-510, ~~2004~~ 2006 edition) cover repair and alteration procedures. ANSI/API-510 may be used to cover the maintenance inspection, repair, alteration, and rerating procedure for pressure vessels used by the petroleum and chemical process industries. It is intended that ANSI/NB-23 cover installations other than those covered by ANSI/API-510.

History: Effective June 1, 1994; amended effective April 1, 1996; January 1, 2000; October 1, 2002; January 1, 2006; January 1, 2008; _____, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14