

HOUSE BILL NO. 1175

Introduced by

Industry, Business and Labor Committee

(At the request of the Commissioner of Insurance)

1 A BILL for an Act to create and enact sections 26.1-05-02.1, 26.1-12-11.1, and 26.1-26-11.1 of
2 the North Dakota Century Code, relating to domestic insurance companies, incorporated mutual
3 insurance companies, and authorized lines of business; to amend and reenact sections
4 26.1-05-02, 26.1-12-01, 26.1-12-06, 26.1-12-11, 26.1-26-01, 26.1-26-02, 26.1-26-11,
5 26.1-26-25, and 26.1-26-31.1 of the North Dakota Century Code, relating to domestic insurance
6 companies, mutual insurance companies, insurance agents, authorized lines of business, and
7 exceptions from examination requirements; to repeal section 26.1-05-03 of the North Dakota
8 Century Code, relating to organization of a domestic mutual life insurance company; and to
9 provide an effective date.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 **SECTION 1. AMENDMENT.** Section 26.1-05-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 26.1-05-02. Organization of domestic stock company - Number of persons

14 **required - Authorized lines.** Any number of persons not less than seven may form a
15 corporation on the stock plan to carry on one or more of the following lines of insurance:

- 16 1. ~~Against loss or damage by fire, lightning, cyclone, tornado, hail, or theft.~~ Life and
17 annuity means insurance coverage on human lives including benefits of
18 endowment, annuities, and credit life.
- 19 2. ~~Against the risks of inland navigation and transportation.~~ Accident and health
20 means insurance coverage for sickness, disease, injury, accidental death, and
21 disability.
- 22 3. ~~Upon the lives of persons, including every kind of insurance pertaining thereto.~~
23 Property means insurance coverage for direct and consequential loss of or
24 damage to property of every kind.

- 1 4. ~~Against accidental injuries including the granting, purchasing, and paying of~~
2 ~~annuities and indemnities.~~ Casualty means insurance coverage against legal
3 liability including that for death, injury, or disability or damage to real or personal
4 property.
- 5 5. ~~To transact fidelity insurance and corporate suretyship.~~ Variable life and annuity
6 means insurance coverage provided under variable life insurance contracts,
7 variable annuities, or any other life insurance or annuity that reflects the investment
8 experience of a separate account.
- 9 6. ~~Upon automobiles covering in one policy or in separate policies fire, theft, property~~
10 ~~damage, liability, and collision insurance.~~
- 11 7. ~~Covering any other hazard not specifically prohibited by the laws of this state as a~~
12 ~~subject of insurance.~~
- 13 8. ~~Against legal expense.~~

14 A stock insurance company incorporated under this chapter may carry the lines of insurance
15 mentioned in this section which have been expressed in its articles of incorporation.

16 **SECTION 2.** Section 26.1-05-02.1 of the North Dakota Century Code is created and
17 enacted as follows:

18 **26.1-05-02.1. Authority to define products.** The commissioner may adopt rules that
19 define and set forth the specific insurance products found under each line of insurance set forth
20 in section 26.1-05-02.

21 **SECTION 3. AMENDMENT.** Section 26.1-12-01 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **26.1-12-01. Organization of mutual insurance company - Minimum number of**
24 **members.** Any number of persons, not less than twenty, a majority of whom must be bona fide
25 residents of this state, may become, together with others who thereafter may be associated
26 with them or their successors, a body corporate for the purpose of carrying on the business of
27 mutual insurance as provided in this chapter by complying with this chapter. Any number of
28 persons, not less than seven, may form a mutual life insurance company and, with others who
29 may become associated with them or their successors, may become a body corporate for the
30 purpose of carrying on the business of a mutual life insurance company. A mutual life

1 insurance company organized under this chapter may carry insurance upon the lives of
2 persons, including every kind of insurance pertaining thereto.

3 **SECTION 4. AMENDMENT.** Section 26.1-12-06 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **26.1-12-06. Bylaws of mutual company - Meetings - Notice - Quorum.** The bylaws
6 of any mutual insurance company organized under this chapter ~~or chapter 26.1-05~~ must
7 prescribe the manner of notification to members of all corporation meetings of members and
8 must prescribe what constitutes a quorum of members. A quorum is those members present in
9 person or represented by written proxies. A majority of those voting is sufficient to approve or
10 reject any proposal submitted at any annual or special meeting. Every member of the company
11 is entitled to one vote only. Every member must be notified of the time and place of the holding
12 of the meetings of the company by a written notice or by an imprint on the back of each policy,
13 receipt, or certificate of renewal. In addition, a notice of any annual or special meeting must be
14 published in the official newspaper of the county in which the principal office of the company is
15 located. The notice must be published at least twice, the first publication to be made at least
16 sixty days before the meeting. If a special meeting of members is called, a notice of the time,
17 place, and object of the meeting must be mailed to all members at least sixty days before the
18 meeting.

19 **SECTION 5. AMENDMENT.** Section 26.1-12-11 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **26.1-12-11. Authority to insure or reinsure - ~~Kinds~~ Types of insurance open to**
22 **mutual company.** Any mutual insurance company organized under this chapter may make
23 insurance contracts, and may reinsure or accept reinsurance on any portion thereof, to the
24 extent specified in its articles of incorporation, for the following ~~kinds~~ lines of insurance:

25 1. ~~Fire, hail, lightning, tornado, and other insurance. Against loss or damage to~~
26 ~~property, and the loss of use and occupancy thereof, by fire, lightning, hail,~~
27 ~~tempest, flood, earthquake, frost or snow, explosion with fire ensuing, and~~
28 ~~explosion with no fire ensuing, except explosion by steam boilers or flywheels;~~
29 ~~against loss or damage by water caused by the breakage or leakage of sprinklers,~~
30 ~~pumps or other apparatus, water pipes, plumbing, or their fixtures, erected for~~
31 ~~extinguishing fires, and against accidental injury to the sprinklers, pumps or other~~

- 1 ~~apparatus, water pipes, plumbing, or fixtures; against the risks of inland~~
2 ~~transportation and navigation; upon automobiles, whether stationary or operated~~
3 ~~under their own power, against loss or damage by any of the causes or risks~~
4 ~~specified in this subsection, including also transportation, collision, liability for~~
5 ~~damage to property resulting from owning, maintaining, or using automobiles, and~~
6 ~~including burglary and theft, but not including loss or damage by reason of bodily~~
7 ~~injury to the person. Life and annuity means insurance coverage on human lives~~
8 ~~including benefits of endowment, annuities, and credit life.~~
- 9 2. ~~Liability insurance. Against loss, expense, or liability by reason of bodily injury or~~
10 ~~death by accident, disability, sickness, or disease suffered by others for which the~~
11 ~~insured may be liable or may have assumed liability. Accident and health means~~
12 ~~insurance coverage for sickness, disease, injury, accidental death, and disability.~~
- 13 3. ~~Disability insurance. Against bodily injury or death by accident and disability by~~
14 ~~sickness. Property means insurance coverage for direct and consequential loss of~~
15 ~~or damage to property of every kind.~~
- 16 4. ~~Automobile insurance. Against any or all loss, expense, and liability resulting from~~
17 ~~the ownership, maintenance, or use of any automobile or other vehicle. A policy~~
18 ~~may not be issued under this subsection against the hazard of fire alone. Casualty~~
19 ~~means insurance coverage against legal liability including that for death, injury, or~~
20 ~~disability or damage to real or personal property.~~
- 21 5. ~~Steam boiler insurance. Against loss or liability to persons or property resulting~~
22 ~~from explosions or accidents to boilers, containers, pipes, engines, flywheels, and~~
23 ~~elevators and machinery used in connection therewith, and against loss of use and~~
24 ~~occupancy caused thereby. If the company issues insurance under this~~
25 ~~subsection, it may make inspections and issue certificates of inspection. Variable~~
26 ~~life and annuity means insurance coverage provided under variable life insurance~~
27 ~~contracts, variable annuities, or any other life insurance or annuity that reflects the~~
28 ~~investment experience of a separate account.~~
- 29 6. ~~Use and occupancy insurance. Against loss from interruption of trade or business~~
30 ~~which may be the result of any accident or casualty.~~

1 7. ~~Miscellaneous insurance. Against loss or damage by any hazard upon any risk not~~
2 ~~provided for in this section which is not prohibited by statute or at common law~~
3 ~~from being the subject of insurance, except life insurance.~~

4 8. ~~Legal expense insurance.~~

5 **SECTION 6.** Section 26.1-12-11.1 of the North Dakota Century Code is created and
6 enacted as follows:

7 **26.1-12-11.1. Authority to define products.** The product types found under each of
8 the above lines of insurance are those adopted pursuant to section 26.1-05-02.1.

9 **SECTION 7. AMENDMENT.** Section 26.1-26-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **26.1-26-01. Scope.** This chapter governs the qualifications and procedures for the
12 licensing of insurance agents, insurance brokers, insurance consultants, ~~limited insurance~~
13 ~~representatives~~, and surplus lines insurance brokers. This chapter applies to all lines of
14 insurance and types of insurers including ~~life, health, property, liability, credit, title, fire, or~~
15 ~~marine operating on a stock, mutual, reciprocal, benevolent, fraternal, or health service plan, as~~
16 ~~set forth in this title~~ prepaid legal service organizations and health maintenance organizations.

17 **SECTION 8. AMENDMENT.** Section 26.1-26-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **26.1-26-02. Definitions.** As used in this chapter, unless the context requires
20 otherwise:

- 21 1. "Insurance" includes annuities.
- 22 2. "Insurance agent" means an individual, partnership, corporation, or limited liability
23 company appointed by an insurer to solicit applications for an insurance policy or to
24 negotiate a policy on its behalf.
- 25 3. "Insurance broker" means any individual, partnership, corporation, or limited
26 liability company which, for compensation, not being a licensed agent for the
27 insurer in which an insurance policy is placed, acts or aids in any manner in
28 negotiating insurance contracts or placing risks of effecting insurance for a party
29 other than oneself or itself.
- 30 4. "Insurance consultant" means an individual, partnership, corporation, or limited
31 liability company that, for a fee, holds oneself or itself out to the public as engaged

1 in the business of offering any advice, counsel, opinion, or service with respect to
2 the benefits, advantages, or disadvantages promised under any insurance policy
3 that could be issued in this state.

4 5. ~~"Limited insurance representative" means an individual, partnership, corporation,~~
5 ~~or limited liability company authorized by the commissioner to solicit or negotiate~~
6 ~~contracts for a particular line of insurance which the commissioner may by rule~~
7 ~~deem essential for the transaction of business in this state and which does not~~
8 ~~require the professional competency demanded for a license as an insurance~~
9 ~~agent or insurance broker.~~

10 6. "Surplus lines insurance broker" means an individual, partnership, corporation, or
11 limited liability company which solicits, negotiates, or procures an insurance policy
12 from an insurer not licensed to transact business in this state which cannot be
13 procured from an insurer licensed to do business in this state.

14 **SECTION 9. AMENDMENT.** Section 26.1-26-11 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **26.1-26-11. License of agent or broker - Lines of insurance.** An insurance agent,
17 insurance broker, or surplus lines insurance broker may receive ~~qualification for~~ a license ~~in~~ to
18 market products under one or more of the following lines:

- 19 1. ~~Life insurance and annuity contracts~~ means insurance coverage on human lives
20 including benefits of endowment, annuities, and credit life.
- 21 2. ~~Sickness, accident,~~ Accident and health insurance means insurance coverage for
22 sickness, disease, injury, accidental death, and disability.
- 23 3. ~~Credit life insurance and credit accident and health insurance.~~
- 24 4. ~~Fire and allied lines.~~
- 25 5. ~~Vehicle liability and vehicle physical damage insurance.~~
- 26 6. ~~Comprehensive personal and general liability coverage.~~
- 27 7. ~~Marine and transportation insurance.~~
- 28 8. ~~Credit and mortgage guarantee insurance.~~
- 29 9. ~~Burglary and theft insurance.~~
- 30 10. ~~Crop insurance.~~
- 31 11. ~~Bail bonds.~~

- 1 ~~12. Fidelity and surety insurance.~~
2 ~~13. Homeowners' and farmowners' multiple peril insurance.~~
3 ~~14. Commercial multiple peril insurance.~~
4 ~~15. 3. Property and casualty insurance sold in connection with a credit transaction means~~
5 insurance coverage for direct and consequential loss of or damage to property of
6 every kind.
7 4. Casualty means insurance coverage against legal liability including that for death,
8 injury, or disability or damage to real or personal property.
9 ~~16. Industrial fire insurance.~~
10 ~~17. Legal expense insurance.~~
11 ~~18. 5. Variable annuities and variable life insurance~~ life and annuity means insurance
12 coverage provided under variable life insurance contracts, variable annuities, or
13 any other life insurance or annuity that reflects the investment experience of a
14 separate account.
15 ~~19. Title insurance.~~

16 The product types found under each of the above lines of insurance are those adopted
17 pursuant to section 26.1-15-02.1.

18 **SECTION 10.** Section 26.1-26-11.1 of the North Dakota Century Code is created and
19 enacted as follows:

20 **26.1-26-11.1. Authority to define procedures and requirements.** The commissioner
21 may adopt rules to implement licensing procedures and requirements specific to each line of
22 insurance and each product type within each line of insurance.

23 **SECTION 11. AMENDMENT.** Section 26.1-26-25 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-26-25. Exceptions from examination.** The requirement for a written examination
26 is subject to the following exceptions:

- 27 1. An applicant for a license covering the same line or lines of insurance for which the
28 applicant was licensed under a like resident license in this state, other than a
29 temporary license, within the twelve months next preceding the date of application,
30 unless the previous license was suspended or revoked by the commissioner.

- 1 2. A nonresident applicant may be licensed without examination if the commissioner
2 of the state of the applicant's residence certifies, by facsimile signature and seal,
3 that the applicant has passed a similar written examination, or has been a
4 continuous holder prior to the time the written examination was required, of a
5 license like the license being applied for in this state.
- 6 3. An applicant who has been licensed under a like license in another state within
7 twelve months prior to the application for a license in this state, and who files with
8 the commissioner the certificate of the public official having supervision of
9 insurance in the other state, by facsimile signature and seal, as to the applicant's
10 license and good standing in such state; provided, however, that the applicant shall
11 take that portion of the examination pertaining to state laws and rules.
- 12 4. An applicant who has attained the designation of chartered life underwriter is only
13 required to take that portion of the examination for lines one and ~~eighteen~~ five
14 pertaining to state laws and rules.
- 15 5. An applicant who has attained the designation of chartered property and casualty
16 underwriter is only required to take that portion of the examination for lines ~~two~~
17 ~~through seventeen~~ three and four pertaining to state laws and rules.
- 18 6. An applicant for a license to ~~act as a limited insurance representative~~ write only a
19 specific product type may be licensed without examination ~~in one or more of the~~
20 ~~following lines:~~
- 21 a. ~~Any ticket selling agent of a common carrier who acts thereunder only with~~
22 ~~reference to the issuance of insurance on personal effects carried as~~
23 ~~baggage, in connection with the transportation provided by the common~~
24 ~~carrier, or an applicant selling limited travel accident insurance in~~
25 ~~transportation terminals.~~
- 26 b. ~~Any other lines that~~ if the commissioner finds by rule ~~de~~ the specific product
27 type does not require ~~the~~ an agent's same professional competency
28 demanded for ~~a license as an agent or broker~~ other product types.
- 29 7. An applicant for a license to write only a specific product type may be licensed
30 subject to reduced examination requirements if the commissioner finds by rule that

1 the requirements for licensure would otherwise be too burdensome and unrelated
2 to that specific product type.

3 **SECTION 12. AMENDMENT.** Section 26.1-26-31.1 of the North Dakota Century Code
4 is amended and reenacted as follows:

5 **26.1-26-31.1. Continuing education required - Exceptions.**

6 1. Except as otherwise provided in this section, any person licensed as an insurance
7 agent, insurance broker, surplus lines insurance broker, or insurance consultant
8 shall provide the commissioner evidence, as required by the commissioner, that
9 the person attended or participated in continuing education of not less than fifteen
10 hours per year of approved coursework, of which seven and one-half hours per
11 year must be classroom hours. The commissioner may waive the requirement of
12 seven and one-half hours per year of classroom hours. The commissioner may
13 reduce the minimum number of hours per year of approved coursework for any
14 person having a license limited to a ~~single line of insurance as described in section~~
15 26.1-26-14 specific product type. The continuing education advisory task force
16 may recommend granting up to fifteen hours continuing education credit for
17 nationally recognized insurance education correspondence programs. The
18 commissioner shall review the task force's recommendation, and the commissioner
19 may approve up to fifteen hours of credit. Credit for courses attended in any one
20 year over the minimum number of hours of coursework required may be credited to
21 the year next preceding the year in which they were earned or to the year next
22 following the year in which they were earned. Reports of continuing education
23 must be made at the end of each two-year period following licensure. No
24 continuing education is required of an agent licensed for the sale of life insurance
25 or sickness, accident, and health insurance, or both, who is at least sixty-two years
26 of age, who has a combined total years of continuous licensure as such agent and
27 years of age which equals eighty-five, and whose commissions from new business
28 each year do not exceed ten thousand dollars. No continuing education is required
29 of an insurance agent who sells only group credit life or group credit accident and
30 health insurance to cover an indebtedness.

- 1 2. The commissioner shall by rule divide the persons subject to this section into two
2 equal segments for the purpose of reporting, as follows:
- 3 a. One-half of the persons shall file their report showing at least the minimum
4 number of required hours of approved coursework for the previous two years
5 within thirty days of January first of every odd-numbered year.
- 6 b. One-half of the persons shall file a report showing at least the minimum
7 number of required hours of approved coursework for the previous two years
8 within thirty days of January first of every even-numbered year.
- 9 3. All persons licensed after January 1, 1989, shall report within thirty days of the first
10 day of January of the year following the second anniversary of the person's
11 licensure.

12 **SECTION 13. REPEAL.** Section 26.1-05-03 of the North Dakota Century Code is
13 repealed.

14 **SECTION 14. EFFECTIVE DATE.** This Act becomes effective on July 1, 2000.