

HOUSE BILL NO. 1238

Introduced by

Representative Klemin

1 A BILL for an Act to amend and reenact sections 26.1-12-06, 26.1-12-14, 26.1-12-16, and
2 subsection 3 of section 28-22-03.1 of the North Dakota Century Code, relating to mutual
3 insurance company bylaws, domestic mutual insurance company voting, and absolute
4 exemptions of Roth individual retirement accounts in process, levy, and sale proceedings.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 26.1-12-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

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

22 **SECTION 2. AMENDMENT.** Section 26.1-12-14 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **26.1-12-14. Membership in domestic mutual company - Votes of members -**
2 **Notice of meetings.** Every member ~~insured by~~ of a domestic mutual insurance company
3 organized under this chapter is a member of the company while the policy is in force. A
4 member may be an insured or owner of a policy as provided in the bylaws of the company.
5 Every member of the company is entitled to one vote ~~or to a number of votes based upon the~~
6 ~~insurance in force, the number of policies held, or the amount of premiums paid, as may be~~
7 ~~provided in the bylaws of the company.~~ Every member must be notified of the time and place of
8 the holding of the meetings of the company by a written notice or by an imprint on ~~the back of~~
9 each policy, receipt, or certificate of renewal as follows:

10 The ~~assured~~ member is hereby notified that by virtue of this policy ~~the assured is you~~
11 are a member of _____ mutual insurance company, and that the annual
12 meetings of such company are held at its home office on the _____ day of
13 _____ in each year at _____ o'clock.

14 When the blanks in the notice are properly filled, the notice is sufficient.

15 **SECTION 3. AMENDMENT.** Section 26.1-12-16 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **26.1-12-16. Vote by proxy permitted - Manner of voting by proxy.** Members of a
18 mutual insurance company may vote by proxy dated and executed within three months prior to
19 the meeting at which the proxy is to be used when returned and recorded on the books of the
20 company three days or more before the meeting. A person may not as proxy or otherwise cast
21 more than fifty votes, and an officer, personally or by another, may not ask for, receive, procure
22 to be obtained, or use, a proxy vote. This section does not apply to ~~state mutual hail insurance~~
23 ~~companies~~ a proxy committee duly established by the bylaws comprised of no less than three
24 members appointed by the board of directors whose duty is to cast the vote by proxy of
25 members at any duly called annual or special meeting of the mutual insurance company.

26 **SECTION 4. AMENDMENT.** Subsection 3 of section 28-22-03.1 of the 1997
27 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28 3. Pensions, annuity policies or plans, and life insurance policies which, upon the
29 death of the insured, would be payable to the spouse, children, or any relative of
30 the insured dependent, or likely to be dependent, upon the insured for support and
31 which have been in effect for a period of at least one year; individual retirement

1 accounts; Keogh plans, Roth individual retirement accounts under section 408A of
2 the Internal Revenue Code [Pub. L. 105-34; 111 Stat. 825; 26 U.S.C. 408A], and
3 simplified employee pension plans; and all other plans qualified under section 401
4 of the Internal Revenue Code [Pub. L. 83-591; 68A Stat. 134; 26 U.S.C. 401], and
5 section 408 of the Internal Revenue Code [Pub. L. 93-406; 88 Stat. 959; 26 U.S.C.
6 408], and pension or retirement plans sponsored by nonprofit corporations or
7 associations organized and operated exclusively for one or more of the purposes
8 specified in 26 U.S.C. 501(c)(3), and proceeds, surrender values, payments, and
9 withdrawals from such pensions, policies, plans, and accounts, up to one hundred
10 thousand dollars for each pension, policy, plan, and account with an aggregate
11 limitation of two hundred thousand dollars for all pensions, policies, plans, and
12 accounts. The dollar limit does not apply to the extent this property is reasonably
13 necessary for the support of the resident and that resident's dependents, except
14 that the pensions, policies, plans, and accounts or proceeds, surrender values,
15 payments, and withdrawals are not exempt from enforcement of any order to pay
16 spousal support or child support, or a qualified domestic relations order under
17 sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6. As used in this subsection,
18 "reasonably necessary for the support" means required to meet present and future
19 needs, as determined by the court after consideration of the resident's
20 responsibilities and all the present and anticipated property and income of the
21 resident, including that which is exempt.