

March 20, 2001

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2144

Page 1, line 1, after "sections" insert "26.1-26-04.1,"

Page 14, line 24, remove "**insurance producers**" and overstrike "- Residence requirements" and insert immediately thereafter "**insurance producers**"

Page 14, line 25, overstrike "residents of this state and must"

Page 14, line 26, overstrike "be"

Page 16, line 30, overstrike "resident"

Page 17, line 20, overstrike "resident"

Page 18, line 27, overstrike "negotiated with and"

Page 24, after line 4, insert:

**"SECTION 54.** Section 26.1-26-04.1 of the North Dakota Century Code is created and enacted as follows:

**26.1-26-04.1. Fees.**

1. Except as provided in subsection 2, an insurance producer acting as an agent of an insured as provided under section 26.1-26-07 may charge a consumer a fee if:
  - a. The fee is disclosed to the consumer in a manner that separately identifies the fee and the premium and states that the insurance producer is entitled to receive a commission from the insurer for selling, soliciting, or negotiating the insurance;
  - b. The fee is not calculated as a percentage of the premium;
  - c. The fee is not refunded, forgiven, waived, offset, or reduced by any commission earned or received for any policy or coverage sold;
  - d. The amount of the fee and the consumer's obligation to pay the fee are not conditioned upon the occurrence of a future event or condition, such as the purchase, cancellation, lapse, declination, or nonrenewal of insurance;

- e. The insurance producer discloses to the consumer that the fee is being charged by the insurance producer and not by the insurance company, neither state law nor the insurance company requires that the insurance producer charge the fee, and the fee is not refundable;
  - f. The consumer consents in writing to the fee; and
  - g. The insurance producer, in charging the fee, does not discriminate on the basis of sex, race, national origin, religion, disability, health status, age, marital status, or geographic location and does not unfairly discriminate between individuals of essentially the same class and of essentially the same hazard or expectation of life.
2. An insurance producer acting as an agent of an insured as provided under section 26.1-26-07 may not charge a fee for taking or submitting an initial application for coverage or processing a change to an existing policy, cancellation, claim, or renewal in connection with any of the following personal lines policies:
- a. Private passenger automobile.
  - b. Homeowners, including coverage for tenants or condominium owners; owner-occupied fire, dwelling, or property coverage; personal umbrella liability; or any other personal lines-related coverage whether sold as a separate policy or as an endorsement to another personal lines policy.
  - c. Individual life insurance.
  - d. Individual sickness or accident insurance.
  - e. Disability income policies.
  - f. Credit insurance products.
3. Notwithstanding any other provision of this section, an insurance producer acting as a broker for the insured under section 26.1-26-07 may charge a fee for insurance producer services in connection with a policy issued if the producer provides the consumer with prior disclosure of the fee and of the services to be provided.
4. In the event of a dispute between an insurance producer and a consumer regarding any disclosure required by this section, the insurance producer has the burden of proving that the disclosure was made."

Page 27, line 25, replace "Employees" with "An employee" and replace "respond" with "responds"

Page 27, line 26, remove "those"

Page 27, line 27, replace "employees are" with "employee is"

Page 27, line 28, after "services" insert "and provided that employee does not sell, solicit, or negotiate insurance"

Page 32, after line 20, insert:

"6. A nonresident insurance producer shall pay a biennial continuation fee of twenty-five dollars."

Page 44, line 26, after "licensee" insert "knowingly" and replace "an administrative or" with "a"

Page 44, line 28, after "licensee" insert "knowingly" and replace "any" with "a"

Page 44, line 29, remove "administrative or"

Page 45, line 17, replace "of the initial pretrial hearing date" with "after a criminal conviction"

Page 45, line 18, replace "prosecution" with "conviction"

Page 45, line 20, replace "resulting from" with "issued by" and replace "hearing" with "court"

Page 45, line 26, replace "26.1-26-20.1" with "26.1-26-20"

Page 46, line 2, remove "However, a nonresident insurance producer shall pay a"

Page 46, remove lines 3 and 4

Page 50, line 25, overstrike "Resident insurance" and after "~~agents~~" insert "Insurance"

Renumber accordingly