

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2246

Introduced by

Senators Lee, Watne

Representatives Carlson, Rennerfeldt

1 A BILL for an Act to create and enact a new section to chapter 26.1-33 of the North Dakota
2 Century Code, relating to the duties of a trustee of a life insurance trust.

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

4 **SECTION 1.** A new section to chapter 26.1-33 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Life insurance policy ownership or retention by trust - Duties of trustee.**

7 Notwithstanding any other provision of law, the duties of a trustee regarding the acquisition,
8 retention, or ownership of a life insurance policy upon the life of any one or more of the grantor
9 of the trust, the grantor's spouse, children, grandchildren, or parents include a duty of loyalty
10 and fair dealing, but, except as provided below, do not include a duty to:

- 11 1. Determine whether any life insurance policy in the trust is or remains a proper
12 investment;
- 13 2. Exercise a policy option, right, or privilege available under a life insurance policy;
14 or
- 15 3. Diversify the investment.

16 A trustee is not liable to the beneficiaries under the trust instrument or to any other person for a
17 loss that is claimed to result from the absence of these duties, except if a trustee acquires a
18 replacement policy for the trust which replaces an existing policy owned by the trust or
19 previously owned by the trust. The trustee's exoneration from duty provided in this section
20 does not apply to the replacement policy and only applies to a policy transferred to a trust by
21 the grantor or some other party other than the trustee or acquired by the trustee of a trust which
22 before the acquisition of the policy had never owned any such life insurance policy.