

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2246
(Senators Lee, Watne)
(Representatives Carlson, Rennerfeldt)

AN ACT to create and enact a new section to chapter 26.1-33 of the North Dakota Century Code, relating to the duties of a trustee of a life insurance trust.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2246.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 91 Nays 1 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State