

**SECOND ENGROSSMENT  
with House Amendments**

Fifty-ninth  
Legislative Assembly  
of North Dakota

**REENGROSSED SENATE BILL NO. 2190**

Introduced by

Senator Wardner

Representative Wald

1 A BILL for an Act to amend and reenact section 50-24.1-02.8 of the North Dakota Century  
2 Code, relating to transfers involving annuities.

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

4 **SECTION 1. AMENDMENT.** Section 50-24.1-02.8 of the North Dakota Century Code  
5 is amended and reenacted as follows:

6 **50-24.1-02.8. Transfers involving annuities.**

- 7 1. For purposes of this section, "annuity" means a policy, certificate, contract, or other  
8 arrangement between two or more parties whereby one party pays money or other  
9 valuable consideration to the other party in return for the right to receive payments  
10 in the future. The term does not mean an employee benefit that qualifies for  
11 favorable tax treatment under the Internal Revenue Code or a plan described in  
12 the Internal Revenue Code as a retirement plan under which contributions must  
13 end and withdrawals begin by age seventy and one-half.
- 14 2. The purchase of an annuity, an instrument purporting to be an annuity, or any  
15 other arrangement that meets the definition of annuity in subsection 1 is  
16 considered an uncompensated assignment or transfer of assets under section  
17 50-24.1-02, resulting in a penalty under the applicable rules established by the  
18 department of human services unless the following criteria are met:
- 19 a. The annuity is a single premium immediate annuity or an annuity in which a  
20 settlement option has been selected, is irrevocable, and cannot be assigned  
21 to another person.
- 22 b. The annuity is purchased from an insurance company or other commercial  
23 company that sells annuities as part of the normal course of business.

- 1           c.    The annuity provides substantially equal monthly payments of principal and  
2                    interest and does not have a balloon or deferred payment of principal or  
3                    interest. Payments will be considered substantially equal if the total annual  
4                    payment in any year varies by five percent or less from the payment in the  
5                    previous year.
- 6           d.    The annuity will return the full principal and interest within the purchaser's life  
7                    expectancy as determined by the life expectancy tables used by the  
8                    department of human services.
- 9           e.    The monthly payments from the annuity, unless specifically ordered otherwise  
10                   by a court of competent jurisdiction, do not exceed the maximum monthly  
11                   income amount allowed for a community spouse as determined by the  
12                   department pursuant to 42 U.S.C. 1396r-5.
- 13        3.    An annuity that contains a provision that allows for cancellation of the annuity upon  
14        a denial of medical assistance may not be considered an available asset unless  
15        the annuity is canceled and the proceeds are not used to purchase an annuity that  
16        meets the requirements of subsection 4 if House Bill No. 1248 becomes effective  
17        or, if House Bill No. 1248 does not become effective, subsection 2. Any proceeds  
18        from a cancellation described in this subsection which are not used to purchase an  
19        annuity described in subsection 2 must be considered an available asset of the  
20        annuity owner and the owner's spouse.