

**HOUSE BILL NO. 1115**

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact sections 26.1-01-04, 26.1-02-11, 26.1-03.1-12, and  
2 26.1-06-09, subsection 2 of section 26.1-11-12, subsection 2 of section 26.1-15.1-35, and  
3 section 26.1-26-22 of the North Dakota Century Code, relating to service of process by the  
4 insurance commissioner by certified mail or registered mail.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-01-04 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **26.1-01-04. Service of process upon commissioner - Procedure.** When a consent  
9 to service of any process, notice, order, or demand upon the commissioner is provided under  
10 this title, the service is to be in duplicate. The commissioner immediately shall forward one  
11 copy by registered or certified mail to the person against whom the process, notice, order, or  
12 demand is directed at that person's last reasonably ascertainable address and shall file the  
13 other copy in the office of the commissioner. The person serving process upon the  
14 commissioner shall pay the fee provided in section 26.1-01-07. The commissioner shall keep a  
15 record of the date and hour of service.

16 **SECTION 2. AMENDMENT.** Section 26.1-02-11 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **26.1-02-11. Service of process - How made.** Service of process is made by  
19 delivering to the secretary of state, or some person in apparent charge of the secretary of  
20 state's office, two copies thereof and by payment to the secretary of state of the fee prescribed  
21 by law. The secretary of state immediately shall forward by registered or certified mail one  
22 copy to the defendant in a court proceeding, or to whom the process is addressed or directed in  
23 an administrative proceeding, at its last reasonably ascertainable address. The secretary of  
24 state shall keep a record of the date and hour of service. This service is sufficient if notice of

1 the service and a copy of the process is mailed within ten days thereafter by certified mail to the  
2 defendant by the plaintiff or the plaintiff's attorney in a court proceeding, or to whom the process  
3 is addressed or directed by the commissioner in an administrative proceeding, at its last  
4 reasonably ascertainable address, and the defendant's receipt issued by the post office with  
5 which the letter is registered or certified, showing the name of the sender of the letter and the  
6 name and address of the person or insurer to whom the letter is addressed, and an affidavit of  
7 mailing showing compliance herewith is filed with the clerk of the court in which the proceeding  
8 is pending, or with the commissioner in an administrative proceeding. No judgment or  
9 determination by default may be entered in any proceeding until the expiration of forty-five days  
10 from the date of filing of the affidavit of compliance.

11 This section does not limit or affect the right to serve any process upon any person or  
12 insurer in any other manner permitted by law.

13 **SECTION 3. AMENDMENT.** Section 26.1-03.1-12 of the North Dakota Century Code  
14 is amended and reenacted as follows:

15 **26.1-03.1-12. Notices.** All notices by the commissioner to an insurer that may result in  
16 regulatory action hereunder are effective upon dispatch if transmitted by registered or certified  
17 mail, or in the case of any other transmission is effective upon the insurer's receipt of the notice.

18 **SECTION 4. AMENDMENT.** Section 26.1-06-09 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **26.1-06-09. Consent to service of process.** Every nonresident offeror who makes a  
21 takeover bid is deemed to have appointed the commissioner as agent upon whom may be  
22 served, in any matter arising under this chapter, any process, notice, order, or demand except  
23 one issued by the commissioner. The commissioner or a designated person in the  
24 commissioner's office shall serve any process, notice, order, or demand issued by the  
25 commissioner by registered or certified mail addressed to the offeror at the offeror's latest  
26 address on file. A foreign corporation which has a duly appointed agent for service of process  
27 need not comply with this section.

28 **SECTION 5. AMENDMENT.** Subsection 2 of section 26.1-11-12 of the North Dakota  
29 Century Code is amended and reenacted as follows:

1           2. A copy of the process must be sent within ten days thereafter by registered or  
2           certified mail by the plaintiff or the plaintiff's attorney, to the defendant at the  
3           defendant's last-known principal place of business.

4           **SECTION 6. AMENDMENT.** Subsection 2 of section 26.1-15.1-35 of the North Dakota  
5 Century Code is amended and reenacted as follows:

6           2. Service may be made only upon the commissioner or upon any person in charge of  
7           the commissioner's office. It must be made in duplicate and constitutes sufficient  
8           service upon the society. When legal process against a society is served upon the  
9           commissioner, the commissioner shall forthwith forward one of the duplicate copies  
10          by registered or certified mail, postage prepaid, directed to the secretary or  
11          corresponding officer. No service may require a society to file its answer, pleading,  
12          or defense in less than twenty days from the date of mailing the copy of the service  
13          to a society. Legal process may not be served upon a society except in the  
14          manner herein provided. At the time of serving any process upon the  
15          commissioner, the plaintiff or complainant in the action shall pay to the  
16          commissioner the fee specified in section 26.1-01-07.

17          **SECTION 7. AMENDMENT.** Section 26.1-26-22 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19          **26.1-26-22. Nonresident proceeding by commissioner - Service of process -**

20 **Procedure.** The commissioner shall serve process upon any nonresident licensee in any  
21 action or proceeding instituted by the commissioner under this chapter by mailing the process  
22 by registered or certified mail return receipt requested to the licensee at the licensee's  
23 last-known address of record or principal place of business. Service of process under this  
24 section is complete upon mailing.