

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2186

Introduced by

Senators Epegard, Heitkamp, Klein, Mutch

Representatives Dietrich, Monson

1 A BILL for an Act to create and enact chapter 26.1-25.2 of the North Dakota Century Code,
2 relating to personal insurance loss history information.

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

4 **SECTION 1.** Chapter 26.1-25.2 of the North Dakota Century Code is created and
5 enacted as follows:

6 **26.1-25.2-01. Scope.** This chapter applies to only personal insurance.

7 **26.1-25.2-02. Definitions.** As used in this chapter:

8 1. "Consumer reporting agency" means any person who for monetary fees, dues, or
9 on a cooperative nonprofit basis, regularly engages, in whole or in part, in the
10 practice of assembling from institutions, other than insurance institutions,
11 information on consumers for the purpose of furnishing a consumer report to a
12 third party.

13 2. "Deceptive practices" means any misstatement or omission of any material fact, or
14 submission of a false statement, in light of the circumstances under which it was
15 made, by a person acting with the intent to defraud in filing an insurance claim.

16 3. "Insurance support organization" means:

17 a. (1) A person who regularly engages, in whole or in part, in the practice of
18 assembling or collecting information about an individual for the primary
19 purpose of providing the information to an insurance institution or
20 insurance producer for an insurance transaction.

21 (2) The term includes the furnishing of consumer reports or investigative
22 consumer reports to an insurance institution or insurance producer for
23 use in connection with an insurance transaction.

1 (3) The term also includes the collection of personal information from an
2 insurance institution, insurance producer, or insurance support
3 organization for the purpose of detecting or preventing fraud, material
4 misrepresentation, or material nondisclosure in connection with
5 insurance underwriting or insurance claim activity.

6 b. The following persons are not insurance support organizations:

- 7 (1) Insurance producers.
8 (2) Government institutions.
9 (3) Insurance institutions.
10 (4) Medical care institutions.
11 (5) Medical professionals.

12 4. "Personal insurance" means private passenger automobile, homeowner,
13 motorcycle, mobile homeowner, and owner-occupied dwelling fire insurance
14 policies.

15 5. "Weather-related event" means wind or hail.

16 **26.1-25.2-03. Prohibited claims usage.** An insurer may not consider the following
17 events for purposes of surcharging, declining, nonrenewing, or canceling either personal
18 insurance coverage or a binder for personal insurance coverage. The events include:

- 19 1. An insured's inquiry into the type or level of coverage or an inquiry into whether a
20 policy will cover a loss;
21 2. An insured's inquiry regarding coverage for a loss if the insured files no claim;
22 3. A claim if the insurer conducts no investigation of a claim or initiates no other claim
23 activity and the claim does not involve deceptive practices on the part of the
24 insured;
25 4. A claim if the insurer makes no payment to or on behalf of the insured and the
26 claim does not involve deceptive practices on the part of the insured;
27 5. A first-party property claim if a claim is the insured's first claim resulting from a
28 weather-related event unless the insurer can provide evidence that the insured
29 unreasonably failed to maintain the property and the failure to maintain the
30 property contributed to the loss; or

1 6. A claim if the claim is over ten years old, unless the insurer can provide evidence
2 that the insured unreasonably failed to maintain the property and the failure to
3 maintain the property contributed to the loss.

4 **26.1-25.2-04. Prohibited use of prior owner's history.** An insurer may not decline to
5 insure a property not previously owned by an applicant based solely upon the loss history of a
6 previous owner of the property, unless the insurer can provide evidence that the previous
7 owner did not mitigate the damage.

8 **26.1-25.2-05. Disclosure requirements.** An insurer writing personal insurance must
9 inform the applicant in writing at the time of an application for personal insurance that the
10 insurer will consider the insured's claims history in determining whether to decline, cancel,
11 nonrenew, or surcharge a policy and that a claim incurred by the insured will be reported to an
12 insurance support organization.