

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2167

Introduced by

Senators Burckhard, Vedaa

Representatives Kasper, Louser, Schobinger

1 A BILL for an Act to create and enact section 26.1-26-31.9 of the North Dakota Century Code,  
2 relating to insurance producer and consultant continuing education; and to amend and reenact  
3 sections 26.1-26-02 and 26.1-26-35 of the North Dakota Century Code, relating to definitions  
4 relating to insurance producers and consultants.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-26-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **26.1-26-02. Definitions.**

9 As used in this chapter, unless the context requires otherwise:

10 1. "Active participation" means:

11 a. Attendance at a formal meeting of a professional insurance association at which  
12 a formal business program is presented;

13 b. Service on the board of directors or a formal committee of a professional  
14 insurance association and involvement in the activities of the board or committee;

15 or

16 c. Participation in industry, regulatory, or legislative meetings held by or on behalf of  
17 a professional insurance association.

18 2. "Business entity" means a corporation, association, partnership, limited liability  
19 company, limited liability partnership, or other legal entity.

20 ~~2.3.~~ "Home state" means the District of Columbia and any state or territory of the United  
21 States in which an insurance producer maintains the producer's principal place of  
22 residence or principal place of business and is licensed to act as an insurance  
23 producer.

24 ~~3.4.~~ "Insurance" means any of the lines of authority in section 26.1-26-11.

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- 1     ~~4-5.~~ "Insurance consultant" means a person that, for a fee, holds oneself or itself out to the  
2           public as engaged in the business of offering any advice, counsel, opinion, or service  
3           with respect to the benefits, advantages, or disadvantages promised under any  
4           insurance policy that could be issued in this state.
- 5     ~~5-6.~~ "Insurance producer" means a person required to be licensed under the laws of this  
6           state to sell, solicit, or negotiate insurance.
- 7     ~~6-7.~~ "Insurer" means all types of insurance companies as well as prepaid legal services  
8           organizations and health maintenance organizations.
- 9     ~~7-8.~~ "License" means a document issued by the commissioner authorizing a person to act  
10          as an insurance producer for the lines of authority specified in the document. The  
11          license itself does not create any authority, actual, apparent, or inherent, in the holder  
12          to represent or commit an insurance carrier.
- 13    ~~8-9.~~ "Negotiate" means the act of conferring directly with or offering advice directly to a  
14          purchaser or prospective purchaser of a particular contract of insurance concerning  
15          any of the substantive benefits, terms, or conditions of the contract, provided that the  
16          person engaged in that act either sells insurance or obtains insurance from insurers  
17          for purchasers.
- 18    ~~9-10.~~ "Person" means an individual or a business entity.
- 19    ~~10-11.~~ "Professional insurance association" means a state or national membership  
20          organization that offers courses, lectures, seminars, or other instructional programs  
21          certified by the commissioner as approved continuing education activities pursuant to  
22          section 26.1-26-31.3; is organized as an association or corporation for the express  
23          purpose of promoting the interests of insurance licensees in this state or nationally;  
24          and is based on paid membership renewable annually or biennially for a membership  
25          fee.
- 26    ~~12.~~ "Sell" means to exchange a contract of insurance by any means, for money or its  
27          equivalent, on behalf of an insurance company.
- 28    ~~11-13.~~ "Solicit" means attempting to sell insurance or asking or urging a person to apply for a  
29          particular kind of insurance from a particular company.

1 ~~12-14.~~ "Surplus lines insurance producer" means a person that sells, solicits, negotiates, or  
2 procures an insurance policy from an insurer not licensed to transact business in this  
3 state which cannot be procured from an insurer licensed to do business in this state.

4 ~~13-15.~~ "Terminate" means the cancellation of the relationship between an insurance producer  
5 and the insurer or the termination of a producer's authority to transact insurance.

6 ~~14-16.~~ "Uniform application" means the current version of the national association of  
7 insurance commissioners uniform application for resident and nonresident insurance  
8 producer licensing.

9 ~~15-17.~~ "Uniform business entity application" means the current version of the national  
10 association of insurance commissioners uniform business entity application for  
11 resident and nonresident business entities.

12 **SECTION 2.** Section 26.1-26-31.9 of the North Dakota Century Code is created and  
13 enacted as follows:

14 **26.1-26-31.9. Credit for active participation.**

15 1. For each two-year reporting period, the commissioner may approve up to four hours of  
16 continuing education credit earned through active participation, with no more than two  
17 hours accepted for each calendar year. One hour of active participation equates to one  
18 hour of continuing education credit. A licensee may not use continuing education  
19 granted for active participation to satisfy other continuing education requirements or  
20 ethics hours required under section 26.1-26-31.1.

21 2. If an insurance producer or consultant claims continuing education hours through  
22 active participation, the professional insurance association shall verify the claimed  
23 active participation. The professional insurance association shall inform the  
24 commissioner of participation by the insurance producer or consultant. Upon receipt of  
25 participation confirmation the commissioner may accept the claimed continuing  
26 education hours.

27 **SECTION 3. AMENDMENT.** Section 26.1-26-35 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **26.1-26-35. Duties of consultant - Agreements.**

30 An insurance consultant shall serve with objectivity and complete loyalty the interests of the  
31 consultant's client alone and to render the client such information, counsel, and service as

1 within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the  
2 client's insurance needs and interests. Before rendering ~~any service set forth in subsection 4 of~~  
3 ~~section 26.1-26-02~~services as an insurance consultant, an insurance consultant shall prepare a  
4 written agreement on a form approved by the commissioner. The agreement must outline the  
5 nature of the work to be performed by the consultant and must state the fee for the work. The  
6 consultant and the client shall sign the agreement. The consultant shall retain a copy of the  
7 agreement for not less than two years after completion of the services. This copy must be  
8 available to the commissioner.