

**SENATE BILL NO. 2251**

Introduced by

Senators Espegard, Heitkamp, Krebsbach

Representatives Ekstrom, Ruby, Severson

1 A BILL for an Act to create and enact a new chapter to title 26.1 of the North Dakota Century  
2 Code, relating to creation of a property insurance placement facility.

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

4 **SECTION 1.** A new chapter to title 26.1 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Sunrise - Trigger.** The commissioner may implement a property insurance placement  
7 facility for those residents who are unable to obtain necessary property insurance through the  
8 standard insurance market. The commissioner shall hold a public hearing upon notice of not  
9 less than twenty days to determine the reasonable availability of property insurance in the  
10 market. Upon a finding by the commissioner that there is a lack of availability of property  
11 insurance in the market, the commissioner shall by order authorize the implementation of a  
12 property insurance placement facility as set forth in this chapter.

13 **Definitions.** As used in this chapter:

- 14 1. "Insurer" means an insurance company authorized to write and that is engaged in  
15 writing in North Dakota, on a direct basis, property and casualty insurance or  
16 components thereof.
- 17 2. "North Dakota property insurance placement facility" or "facility" means the  
18 organization formed by insurers to assist applicants in securing property or  
19 casualty insurance.

20 **Board.**

- 21 1. A board of directors consisting of seven members shall direct the operations of the  
22 property insurance placement facility. The seven members are comprised of five  
23 directors from the insurance industry and two public directors as follows:

- a. Two of the five industry representatives must come from domestic insurance companies, one must come from county mutual insurance companies, one from foreign stock companies, and one from foreign mutual companies. The commissioner shall appoint the first board on a staggered basis. Subsequent board members are to be elected by facility members.
- b. The public directors must be appointed by the commissioner. Public directors may include licensed insurance agents.
- c. The term of each director is three years beginning on January first of the year the director is elected or appointed, except as staggered in the initial appointment process. A vacancy must be filled by election by the other directors for the remainder of the term. A vacancy to a public directorship must be filled by appointment by the commissioner for the remainder of the term. If the board fails to elect a replacement for an industry vacancy within thirty days, the commissioner shall appoint a replacement for the remainder of the term.

2. The board shall prepare and maintain a plan of operation which provides for the management of the facility, including the hiring of employees or contracting services to carry out the plan of operation, establishment of necessary facilities within the state, assessment of members to defray losses and expenses, negotiating commission agreements, establishing reasonable underwriting standards, developing reasonable cancellation and nonrenewal standards, acceptance and cession of reinsurance, adopting procedures for determining amounts of insurance to be provided, procedures for payment of claims, procedures for appealing adverse actions, procedures for reporting the plan experience to a statistical agent, and procedures for contracting facility functions to the private sector. The board has ninety days to submit the initial plan of operation to the commissioner for approval. All subsequent amendments to the plan of operation must be submitted to the commissioner for approval.

**Facility membership.** Each insurer authorized to write and who is engaged in writing within this state, on a direct basis, property and casualty insurance or any component thereof shall participate in the facility as a condition of its authority to do the business of insurance in

1 this state. Members of the facility are responsible for the cost of funding the operations,  
2 expenses, and losses of the facility. Each year the board shall assess the members based  
3 upon each member's pro rata share of the aggregate property insurance premium written in the  
4 second preceding calendar year as disclosed in the annual statement and other reports filed by  
5 members with the commissioner. The assessment must be based on the premiums reported in  
6 the following lines of the annual statement; fire, allied lines, farmowners multiple peril,  
7 homeowners multiple peril, and commercial multiple peril (nonliability portion).

8 **Coverage and forms.** The plan must use standard policy forms to provide coverage for  
9 dwelling insurance, homeowners insurance, mobilehomeowners insurance, farmowners  
10 insurance, condominiumowners insurance, and commercial property insurance. The plan may  
11 not provide coverage for automobile, commercial liability, or such manufacturing risks as may  
12 be excluded by the commissioner.

13 **Rates.** The facility shall establish rates and may include data from an advisory or  
14 statistical organization in the development of its rates. Rates must be submitted to the  
15 commissioner for approval prior to use.

16 **Underwriting.** A person who has been refused coverage by at least five standard  
17 carriers based on an underwriting, claims, or credit history is eligible to apply to the facility for  
18 coverage.

19 **Agents.** A licensed property and casualty agent may submit an application on behalf of  
20 an applicant to the facility. The agent is entitled to receive a commission for the service. The  
21 agent is not a representative of the facility.

22 **Immunity.** The facility, its members, employees, contractors, agents, and the  
23 commissioner are not liable for or have a cause of action against them for statements made in  
24 good faith in the course of conducting facility operations and procedures.

25 **Examinations and audits.** The commissioner shall examine the facility every three  
26 years. The facility shall submit a financial report and an annual report to the commissioner by  
27 April first of each year. The report must include premiums written, losses incurred, loss  
28 adjusting expenses incurred, underwriting expenses, claims losses, and assessments.