

**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.