

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

11 2. "Insurance support organization" means:

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

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

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

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

- 1 (1) Insurance producers.
- 2 (2) Government institutions.
- 3 (3) Insurance institutions.
- 4 (4) Medical care institutions.
- 5 (5) Medical professionals.

6 3. "Personal insurance" means private passenger automobile, homeowner,
7 motorcycle, mobile homeowner, and owner-occupied dwelling fire insurance
8 policies.

9 **26.1-25.2-03. Prohibited claims usage.** An insurer may not consider the following
10 events for purposes of surcharging, declining, nonrenewing, or canceling either personal
11 insurance coverage or a binder for personal insurance coverage. The events include:

- 12 1. An insured's inquiry into the type or level of coverage or an inquiry into whether a
13 policy will cover a loss;
- 14 2. An insured's inquiry regarding coverage for a loss if the insured files no claim;
- 15 3. A claim if the insurer conducts no investigation of a claim or initiates no other claim
16 activity and the claim does not involve deceptive practices on the part of the
17 insured;
- 18 4. A claim if the insurer makes no payment to or on behalf of the insured and the
19 claim does not involve deceptive practices on the part of the insured;
- 20 5. A first-party property claim resulting from wind or hail if the insured had no
21 previous wind or hail claim on that property within the previous five years
22 regardless of the insurer unless the insurer can provide evidence that the insured
23 unreasonably failed to maintain the property and the failure to maintain the
24 property contributed to the loss; or
- 25 6. A claim if the claim is over ten years old, unless the insurer can provide evidence
26 that the insured unreasonably failed to maintain the property and the failure to
27 maintain the property contributed to the loss.

28 **26.1-25.2-04. Prohibited use of prior owner's history.** An insurer may not decline to
29 insure a property not previously owned by an applicant based solely upon the loss history of a
30 previous owner of the property, unless the insurer can provide evidence that the previous
31 owner did not repair the damage.

- 1 **26.1-25.2-05. Disclosure requirements.** An insurer writing personal insurance must
2 inform the applicant in writing or in the same medium as the application at the time of an
3 application for personal insurance that the insurer will consider the insured's claims history in
4 determining whether to decline, cancel, nonrenew, or surcharge a policy and that a claim
5 incurred by the insured will be reported to an insurance support organization.