

Fifty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2119

Introduced by

Senator Espgaard

(At the request of the Insurance Commissioner)

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 third
12 party.

13 2. "Insurance support organization" means:

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

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

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

b. The following persons are not insurance support organizations:

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

3. "Natural phenomena-related event" means a weather or natural event, commonly referred to as "an act of God", whether classified as an emergency by a federal or state authority.

4. "Personal insurance" means private passenger automobile, homeowner, motorcycle, mobile homeowner, and noncommercial dwelling fire insurance policies. A personal insurance policy must be individually underwritten for personal, family, or household use.

26.1-25.2-03. Prohibited claims usage. An insurer may not consider the following events for purposes of surcharging, declining, nonrenewing, or canceling either personal insurance coverage or a binder for personal insurance coverage. The insurer or its agent may not report these events to a consumer reporting agency or insurance support organization. The events include:

1. An insured's inquiry into the type or level of coverage or an inquiry into whether a policy will cover a loss;
2. An insured's inquiry regarding coverage for a loss if the insured files no claim;
3. A claim if the insurer conducts no investigation of a claim or initiates no other claim activity;
4. A claim if the insurer makes no payment to or on behalf of the insured;
5. A claim if a claim is pending;
6. A claim if a claim is for the repair of a windshield, although a claim for windshield replacement may be reported;
7. A claim if a claim is the insured's first claim resulting from a natural phenomena-related event unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and the failure to maintain the property contributed to the loss; or

- 1 8. A claim if the claim is over five 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.

7 **26.1-25.2-05. Eligibility guidelines to be filed.**

- 8 1. An insurer must file its underwriting eligibility guidelines for writing personal
9 insurance with the commissioner.

- 10 2. A filing relating to underwriting eligibility guidelines for writing personal insurance is
11 considered a trade secret under chapter 47-25.1.

12 **26.1-25.2-06. Disclosure requirements.** An insurer writing personal insurance must
13 inform the applicant in writing at the time of an application for personal insurance that the
14 insurer will consider the insured's claims history in determining whether to decline, cancel,
15 nonrenew, or surcharge a policy and that a claim incurred by the insured will be reported to an
16 insurance support organization.