

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2306

Introduced by

Senators Nething, Fiebiger, Olafson

Representatives DeKrey, Delmore, Klemin

1 A BILL for an Act to create and enact sections 26.1-12-33, 26.1-12-34, and 26.1-12-35 of the
2 North Dakota Century Code, relating to rate filing procedures for mutual insurance companies
3 that offer accident and health insurance.

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

5 **SECTION 1.** Section 26.1-12-33 of the North Dakota Century Code is created and
6 enacted as follows:

7 **26.1-12-33. Accident and health insurance - Premium rate requirements.**

- 8 1. This section is limited in application to a mutual insurance company that offers
9 accident and health insurance contracts as defined under section 26.1-12-11.
- 10 2. Premium rates associated with any insurance policy, certificate, contract, or
11 agreement or notice of proposed insurance against loss or expense from the
12 sickness, bodily injury, or death by accident of the insured may not be issued for
13 delivery or delivered to any person in this state nor may any application, rider, or
14 endorsement be used in connection with such a policy, certificate, contract,
15 agreement, or notice until the classification of risks and premium rates have been
16 filed with and approved by the commissioner.
- 17 3. Premium rates must cover reasonably anticipated claims; cover reasonable costs
18 of operation and overhead expenses; be reasonable in relation to benefits
19 provided; and notwithstanding the prohibition of use of risk-based capital
20 information for ratemaking as defined in section 26.1-03.1-08, be presumed
21 reasonable if established to maintain a risk-based capital margin between six
22 hundred percent and seven hundred fifty percent based on the risk-based capital
23 instructions defined in chapter 26.1-03.1.

1 4. Rates may not be excessive; inadequate, unless mutually agreed by the insurer
2 and the commissioner; or unfairly discriminatory. Except as otherwise provided, as
3 used in this section:

4 a. "Excessive rates" means rates that are projected to not meet the minimum
5 loss ratios specified in section 26.1-36-37.2.

6 b. "Inadequate rate" means a rate that is projected to return benefits to group
7 policyholders in the aggregate of more than ninety percent of premium
8 received and to return benefits to individual policyholders in the aggregate of
9 more than eighty-five percent of premium received.

10 c. "Unfairly discriminatory rate" means a rate established in violation of
11 subsection 7 of section 26.1-04-03.

12 5. Reliance on the risk-based capital instructions under chapter 26.1-03.1 for
13 establishing reasonable premium rates does not waive the confidentiality protection
14 and other restrictions for a mutual insurance company under section 26.1-03.1-08.

15 **SECTION 2.** Section 26.1-12-34 of the North Dakota Century Code is created and
16 enacted as follows:

17 **26.1-12-34. Accident and health insurance - Procedure for use of premium rates**
18 **filed with commissioner.**

19 1. Notwithstanding chapter 26.1-30, this section is limited in application to a mutual
20 insurance company that offers accident and health insurance contracts as defined
21 under section 26.1-12-11.

22 2. Except as otherwise provided or except upon receipt of written approval by the
23 commissioner, a premium rate or a rate schedule may not be issued, nor may any
24 application, rider, or endorsement be used in connection with such a rate or rate
25 schedule, until the expiration of thirty days following the filing of the rate or rate
26 schedule with the commissioner. The commissioner may extend the thirty-day
27 period for an additional period, not to exceed fifteen days, if the commissioner
28 provides written notice to the mutual insurance company within the initial thirty-day
29 period. The written notice must advise the mutual insurance company that the
30 additional time is necessary for the commissioner to consider the filing. During the
31 initial thirty-day review period and any extension, the commissioner may request

no more than three separate inquiries as specified in section 26.1-02-03. An inquiry may include more than one question. The thirty-day period and any extension must be tolled from the date an inquiry is made by the commissioner until the insurer issues a response. A request for clarification of an original inquiry is not included in the specified three separate inquiries. If the applicable time period for consideration of a premium rate filing by the commissioner expires without a written response as required under subsection 4, the filing is deemed approved until the next time the same rate filing for the associated insurance policy, certificate, contract, agreement, or rate schedule, or any associated application, rider, or endorsement, is submitted to the commissioner for review.

3. At the time the rate filing is submitted, the mutual insurance company may demand that the actuarial review of the rate filing be completed by an independent professional consulting actuary, at the expense of the mutual insurance company. The commissioner shall consider findings of such an independent professional consulting actuary prima facie evidence as to the reasonableness of the submitted premium rate filing.

4. The commissioner shall review the premium rate filing, including additional information requested related to the rate filing, as well as the submitted actuarial analysis, and shall provide a written response that:

- a. Approves the premium rate schedule as filed;
- b. Disapproves the premium rate schedule as filed, and which includes the specific actuarial basis and reasons for the denial, and which is accompanied by the actuarial analysis used in making the determination by the commissioner; or
- c. Disapproves the submitted premium rate schedule as filed and approves an alternative rate schedule, and which includes the specific actuarial basis and reasons for the alternate rate schedule, and which is accompanied by the actuarial analysis used in making the determination by the commissioner.

SECTION 3. Section 26.1-12-35 of the North Dakota Century Code is created and enacted as follows:

**26.1-12-35. Accident and health insurance - Disapproval of premium rate - Notice
and hearing.**

1. This section is limited in application to a mutual insurance company that offers accident and health insurance contracts as defined under section 26.1-12-11.
2. If the commissioner disapproves the rate schedule or approves an alternative rate schedule as provided under section 26.1-12-34, as part of the written response the commissioner shall notify the mutual insurance company that the mutual insurance company may request an administrative hearing by filing a written request within fifteen days of the written response.
3. If the mutual insurance company requests a hearing under subsection 2, the commissioner shall coordinate with the office of administrative hearings, in consultation with the mutual insurance company, to schedule an administrative hearing that must be conducted by an independent hearing officer within forty-five days of the hearing request. Upon a determination of just cause, the hearing officer may extend the forty-five-day deadline for no more than fifteen days.
4. The hearing officer shall issue a final decision within thirty days following completion of the administrative hearing and any posthearing briefs. The parties have thirty days from the issuance of the final decision to file an appeal with the district court.