

INSURANCE

CHAPTER 232

HOUSE BILL NO. 1360
(Kloubec, Lodoen)

ISSUANCE OF LICENSES TO NONRESIDENT AGENTS

AN ACT to amend and reenact section 26-17-01.7 of the North Dakota Century Code, relating to the issuance of a license to a nonresident insurance agent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-17-01.7 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-17-01.7. NONRESIDENT MAY BE LICENSED.)

1. A person not resident in this state may be licensed as a nonresident insurance agent upon compliance with the provisions of this chapter, provided that the state, territory, province, or foreign country in which such person resides will accord the same privilege to a citizen of this state, and provided further that he shall pay an initial registration fee of five dollars with his application.
2. The commissioner of insurance is further authorized to enter into reciprocal agreements with the appropriate official of any other state, territory, province, or foreign country waiving the written examination of any applicant resident in such other state, territory, province, or foreign country, provided:
 - a. That a written examination is required of applicants for an insurance agent's license in such other state, territory, province, or foreign country;
 - b. That the appropriate official of such other state, territory, province, or foreign country certifies that the applicant holds a currently valid license as an insurance agent in such other state, territory, province, or foreign country and either passed such written examination or was the holder of an insurance agent's license prior to the time such written examination was required;

- c. That the applicant has no place of business within this state in the transaction of business as an insurance agent;
- d. That in such other state, territory, province, or foreign country, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state, territory, province, or foreign country.

Approved March 14, 1973

CHAPTER 233

HOUSE BILL NO. 1361
(Kloubec, Lodoen)

LICENSE REQUIREMENTS FOR
NONRESIDENT AGENTS

AN ACT to amend and reenact section 26-17-06 of the North Dakota Century Code, relating to the issuance of insurance agent's license and the requirement of underwriter's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-17-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-17-06. NONRESIDENT INSURANCE AGENT'S LICENSE - UNDERWRITER'S LICENSE REQUIRED.) A nonresident insurance agent or solicitor shall be permitted to place insurance through a resident insurance agent of this state only when he first shall have made written application for, and procured from the commissioner of insurance, a license upon a form prescribed by the commissioner permitting such placing of insurance. A license shall not be granted under the provisions of this section to a resident of any state, territory, province or foreign country which does not permit the licensing of an agent of this state under like circumstances, and each such license shall expire on the thirtieth day of April next succeeding the date of its issue.

Approved March 14, 1973

CHAPTER 234

HOUSE BILL NO. 1056

(Hilleboe, Peterson, Wilkie)

(From Legislative Audit and Fiscal Review Committee Study)

INSURANCE GUIDELINES FOR STATE PROPERTY

AN ACT to require the commissioner of insurance to formulate guidelines for use by state agencies, departments, offices, officers, boards, and commissions in determining insurable values of state-owned real and personal property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. COMMISSIONER OF INSURANCE TO FORMULATE GUIDELINES ON INSURABLE VALUES FOR STATE-OWNED REAL AND PERSONAL PROPERTY.) The commissioner of insurance shall formulate guidelines to be used by state agencies, departments, offices, officers, boards, and commissions for the purpose of determining insurable values of state-owned real and personal property for insurance coverage as authorized by law.

Approved February 6, 1973

CHAPTER 235

SENATE BILL NO. 2378
(Holand)

POWERS OF HOSPITAL SERVICE CORPORATIONS

AN ACT to amend and reenact section 26-26-01 of the North Dakota Century Code, granting additional powers to hospital service corporations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-26-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-26-01. CORPORATIONS WRITING HOSPITAL SERVICE CONTRACTS - POWERS - HOW GOVERNED.) Any corporation organized under the laws of this state, on a strictly nonprofit basis, for the purpose of establishing and operating a nonprofit hospital service plan whereby hospital service is provided by hospitals with which such corporation has a contract, to persons who become subscribers to said plan under a contract with such corporation for such hospital service, shall be subject to and governed by the provisions of this chapter, and shall not be subject to the laws of this state relating to insurance and insurance companies except as hereinafter specifically provided.

In addition to any other powers granted by law, such corporation shall have the power to:

1. Make and enter into mutual agreements with hospitals or groups of hospitals, nursing homes and other vendors and furnishers of health care services and other related facilities, excluding the practice of medicine.
2. Make and enter into mutual agreements with state, federal or other governmental agencies to provide hospital services, nursing home care and other related health services, excluding the practice of medicine, including health care services for the needy and other persons.
3. Make and enter into mutual agreements with any other health care corporation or with any state or local government or agency thereof to provide health care administrative services; to act as administrator of any other health care service plan; to act as a marketing

agency or as a fiscal intermediary of any health care plan or of any other health care organization or of any state or local government or agency thereof.

4. Enter into contracts with other corporations or other entities in this state or in other states, territories, possessions of the United States or of the Dominion of Canada or other foreign countries so that:
 - a. Reciprocity of benefits may be provided to subscribers;
 - b. Transfer of subscribers from one entity to another may be effected to conform to the subscriber's place of residence;
 - c. Uniform benefits may be provided for all employees and dependents of such employees of entities and other organizations transacting business in this state and elsewhere and a composite rate (a rate representing the composite experience) of the areas involved may be charged for such employees and their dependents; or,
 - d. Health services may be provided for subscribers of this or other corporations or entities for the purpose of ceding or accepting reinsurance or of joint provisions of benefits, underwriting, pooling, mutualization, equalization and other joint undertakings which the governing board may from time to time approve.

Approved March 28, 1973

CHAPTER 236

HOUSE BILL NO. 1317

(Gackle, Orange, Metzger, Lundene, Atkinson)

REGULATION OF MEDICAL INSURANCE

AN ACT to create and enact sections 26-26-16, 26-26-17, 26-26-18, 26-26-19, 26-26-20, 26-26-21, 26-27-16, 26-27-17, 26-27-18, 26-27-19, 26-27-20, 26-27-21, 26-27-22, 26-27.1-21, 26-27.1-22, 26-27.1-23, 26-27.1-24, 26-27.1-25, 26-27.1-26, 26-27.2-20, 26-27.2-21, 26-27.2-22, 26-27.2-23, 26-27.2-24, and 26-27.2-25 of the North Dakota Century Code, relating to hospital, medical, vision, and dental service corporations and the insurance commissioner's approval of rates, rating systems, and rating formulas; to rate filing procedures; to rate filing disapproval; to information furnished subscribers and subscriber hearings; to the giving of false or misleading information, making this a misdemeanor, and providing a penalty; to hearing procedures and judicial review; and to amend and reenact sections 26-26-04, 26-27-03, 26-27-05, 26-27.1-05, and 26-27.2-05 of the North Dakota Century Code, relating to the boards of directors of medical, hospital, dental, and vision service corporations and to services by non-participating physicians; and to repeal section 26-26-10 of the North Dakota Century Code, relating to the approval by the commissioner of hospital service plan operating costs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-26-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-26-04. DIRECTORS - RESPONSIBILITIES AND QUALIFICATIONS.) The business affairs of the corporation shall be managed by a board of directors. A majority of the directors of such corporation must be at all times administrators, or directors, or trustees, or members of the clinical staffs of hospitals which have contracted or which may contract with such corporation to render hospital service to its subscribers. The balance of the directors shall be persons who are subscribers of such hospital service corporation and who have no direct affiliation with any hospital. The board of directors of such corporation shall consist of at least nine members, and not more than one shall be from any one hospital. This section shall be applicable to all existing hospital service corporations.

SECTION 2.) Section 26-26-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-16. RATES, RATING FORMULAS, AND RATING SYSTEMS SUBJECT TO APPROVAL OF COMMISSIONER.) Rates charged subscribers, and rating formulas and rating systems used to determine such rates, shall at all times be subject to the approval of the commissioner of insurance in the manner prescribed by this chapter. Rates shall be sufficient to cover reasonably anticipated claims, reasonable costs of operation and overhead expenses, and to maintain contingency reserves at a proper level of not less than the sum of incurred claims and operating and overhead expenses for two months. Rates shall not be excessive, inadequate, or unfairly discriminatory.

SECTION 3.) Section 26-26-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-17. RATE FILINGS.)

1. Each corporation subject to this chapter shall file with the commissioner every manual of classifications, rates, rating formulas, rating systems, and rules applicable thereto, and any modification of the foregoing which it proposes to use. Each filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. Where a filing is not accompanied by supporting information, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this chapter, he shall require the corporation to furnish supporting information, and the waiting period shall commence on the date the information is furnished. The information furnished in support of a filing shall include: (a) Contract of benefits; (b) Current rate structure; (c) Claims experience for most recent period up to three years; (d) Claims experience projection for next eighteen months; (e) Letter of opinion from the corporation actuary; and (f) Judgment of the corporation and its interpretation of the supporting data.

A filing and any supporting information shall be open to public inspection after the filing becomes effective.

2. The commissioner shall review such filings as soon as reasonably possible after they have been made and within the waiting period and the extension thereof, if any, in order to determine whether they meet the requirements of this chapter.
3. Each filing shall be on file for a waiting period of thirty days before it becomes effective. This waiting period may be extended by the commissioner

for an additional period not to exceed fifteen days if he gives written notice within the original waiting period to the filing corporation that he needs additional time to consider the filing.

Upon written application by the corporation, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

4. Under the rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirements of filing as to any kind of contract for hospital services, subdivision thereof, or combination thereof, or as to any class of risks, the rates for which cannot practically be filed before they are used. Such orders, rules, and regulations shall be made known to the hospital service corporation affected thereby. The commissioner may make an examination as he may deem advisable to ascertain whether any rates affected by an order meet the standards set forth in section 26-26-16.
5. Beginning one hundred eighty days after the effective date of this Act, no hospital service corporation shall make or issue a contract or policy except in accordance with subsection 4 of this section.

SECTION 4.) Section 26-26-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-18. DISAPPROVAL OF RATE FILINGS.)

1. If within the waiting period or any extension thereof, as provided in subsection 3 of section 26-26-17, the commissioner finds that a rate filing does not meet the requirements of this chapter, he shall send to the hospital service corporation which made the filing written notice of his disapproval of the filing, specifying therein in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective.
2. If at any time subsequent to the applicable waiting period or extension thereof, the commissioner finds that a rate filing does not meet the requirements of this chapter he shall, after a hearing held upon not less than ten days' written notice specifying the matters to be considered at the hearing to every hospital service corporation which made the filing, issue an order specifying in what respects he finds

that the filings fail to meet the requirements of this chapter, and stating the date, within a reasonable period thereafter, as of which such filings shall be deemed to be no longer effective. Copies of the order shall be sent to the hospital service corporation.

3. Any person or organization aggrieved with respect to any filing which is in effect, except the corporation which made the filing, may make written application to the commissioner for a hearing thereon. The application shall specify the grounds relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds were established, and that such grounds otherwise justify holding a hearing, he shall, within thirty days after receipt of the application, hold a hearing upon not less than ten days' written notice to the applicant and to each hospital service corporation which made such a filing. If after a hearing the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue his order specifying his findings and stating the date, within a reasonable period thereafter, as of which such filing shall be deemed no longer effective. Copies of this order shall be sent to the applicant and to each hospital service corporation.
4. No manual of classifications, rules, rating plans, rating formulas, or modifications of any of the foregoing which establish standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 26-26-17, shall be disapproved if the rates thereby produced meet the requirements of this chapter.

SECTION 5.) Section 26-26-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-19. INFORMATION TO BE FURNISHED SUBSCRIBERS - HEARINGS AND APPEALS OF SUBSCRIBERS.) Each hospital service corporation shall, within a reasonable time after receiving a written request therefor, furnish to any subscriber with whom it has a contract and who is affected by a rate made by it, or to the authorized representative of such subscriber, all pertinent information as to the rate.

Each hospital service corporation shall provide reasonable means whereby any person aggrieved by the application of its rating system, rating formula, or rate may be heard in person or through his authorized representative on his written request to review the manner in which the rating system, rating formula, or rate has been applied in connection with the hospital

contract issued to him. If the hospital service corporation fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of a hospital service corporation on such request may, within thirty days after written notice of the action, appeal to the commissioner who, after hearing held upon not less than ten days' written notice to the appellant and to the hospital service corporation, may affirm or reverse the action.

SECTION 6.) Section 26-26-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-20. GIVING FALSE OR MISLEADING INFORMATION A MISDEMEANOR - PENALTY.) No person or organization shall willfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, or any hospital service corporation, which will affect the rates or premiums chargeable under this chapter. Any person, firm, or corporation who violates the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars for each violation. If the court finds that a violation was willful, it may impose a fine of not more than five hundred dollars for each such violation.

SECTION 7.) Section 26-26-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-21. HEARING PROCEDURE AND JUDICIAL REVIEW.)

1. Any hospital service corporation aggrieved by any order or decision of the commissioner made without a hearing may, within thirty days after notice of the order to the hospital service corporation, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing, the commissioner shall affirm, reverse, or modify his previous action specifying his reasons therefor. Pending a hearing and decision thereon, the commissioner may suspend or postpone the effective date of his previous action.
2. Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence.
3. Any order or decision of the commissioner shall be subject to review by appeal within the time and in the manner provided by chapter 28-32.

SECTION 8. AMENDMENT.) Section 26-27-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*26-27-03. MEDICAL SERVICES OF PHYSICIANS OTHER THAN THOSE PARTICIPATING UNDER MEDICAL SERVICE PLAN AUTHORIZED.) The medical service plan put into effect by any corporation organized under the provisions of this chapter may also provide for medical services to such subscribers by doctors of medicine other than those participating under the plan, subject to the approval of the governing body of such medical service plan corporation.

In the case of a subscriber patient being referred by a participating doctor of medicine to a non-participating doctor of medicine, such plan corporation will pay, without the approval of the governing body of such medical service plan corporation, to such subscriber, upon proper filing of claim, an amount equal to the amount lawfully charged for the service performed by such non-participating doctor of medicine, but not to exceed an amount equal to one hundred percent of the maximum amount which such plan corporation would be obligated to pay to a participating doctor of medicine for identical service.

SECTION 9. AMENDMENT.) Section 26-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 26-27-05. DIRECTORS - RESPONSIBILITIES AND QUALIFICATION.) The business affairs of the nonprofit medical service corporation shall be managed by a board of directors. The board of directors of such medical service corporation shall consist of at least nine members, a majority of whom shall be at all times doctors of medicine and oral surgeons licensed to practice in North Dakota and who have contracted with such corporation to provide medical service to its subscribers. The balance of the directors shall be nonmedical persons who have no direct affiliation with any physician, group of physicians, or clinic. This section shall be applicable to all existing nonprofit medical service corporations.

SECTION 10.) Section 26-27-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-16. CONTRACTS WITH SUBSCRIBERS SUBJECT TO APPROVAL OF COMMISSIONER.) The contracts by the corporations with the subscribers for medical service shall at all times be subject to the approval of the commissioner of insurance.

SECTION 11.) Section 26-27-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-17. RATES, RATING FORMULAS, AND RATING SYSTEMS SUBJECT TO APPROVAL OF COMMISSIONER.) Rates charged subscribers, and rating formulas and rating systems used to determine such rates, shall at all times be subject to the approval of the

*NOTE: Section 26-27-03 was also amended by section 3 of Senate Bill No. 2066, chapter 237.

*NOTE: Section 26-27-05 was also amended by section 4 of Senate Bill No. 2066, chapter 237.

commissioner of insurance in the manner prescribed by this chapter. Rates shall be sufficient to cover reasonably anticipated claims, reasonable costs of operation and overhead expenses, and to maintain contingency reserves at a proper level of not less than the sum of incurred claims and operating and overhead expenses for two months. Rates shall not be excessive, inadequate, or unfairly discriminatory.

SECTION 12.) Section 26-27-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-18. RATE FILINGS.)

1. Each corporation subject to this chapter shall file with the commissioner every manual of classifications, rates, rating formulas, rating systems, and rules applicable thereto, and any modification of the foregoing which it proposes to use. Each filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. Where a filing is not accompanied by supporting information, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this chapter, he shall require the corporation to furnish supporting information, and the waiting period shall commence on the date the information is furnished. The information furnished in support of a filing shall include: (a) Contract of benefits; (b) Current rate structure; (c) Claims experience for most recent period up to three years; (d) Claims experience projection for next eighteen months; (e) Letter of opinion from corporation actuary; and (f) Judgment of the corporation and its interpretation of the supporting data.

A filing and any supporting information shall be open to public inspection after the filing becomes effective.

2. The commissioner shall review such filings as soon as reasonably possible after they have been made and within the waiting period and the extension thereof, if any, in order to determine whether they meet the requirements of this chapter.
3. Each filing shall be on file for a waiting period of thirty days before it becomes effective. This waiting period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within the original waiting period to the filing corporation that he needs additional time to consider the filing.

Upon written application by the corporation, the commissioner may authorize a filing which he has reviewed to become effective before the

expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

4. Under the rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirements of filing as to any kind of contract for medical services, subdivision thereof, or combination thereof, or as to any class of risks, the rates for which cannot practically be filed before they are used. Such orders, rules, and regulations shall be made known to the nonprofit medical service corporation affected thereby. The commissioner may make an examination as he may deem advisable to ascertain whether any rates affected by an order meet the standards set forth in section 26-27-17.
5. Beginning one hundred eighty days after the effective date of this Act, no nonprofit medical service corporation shall make or issue a contract or policy except in accordance with subsection 4 of this section.

SECTION 13.) Section 26-27-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-19. DISAPPROVAL OF RATE FILINGS.)

1. If within the waiting period or any extension thereof as provided in subsection 3 of section 26-27-18, the commissioner finds that a rate filing does not meet the requirements of this chapter, he shall send to the nonprofit medical service corporation which made the filing written notice of disapproval of the filing, specifying therein in what respects he finds the filing fails to meet the requirements of this chapter and stating that such filing shall not become effective.
2. If at any time subsequent to the applicable waiting period or extension thereof, the commissioner finds that a rate filing does not meet the requirements of this chapter he shall, after a hearing held upon not less than ten days' written notice specifying the matters to be considered at such hearing to every nonprofit medical service corporation which made the filing, issue an order specifying in what respects he finds that the filing fails to meet the requirements of this chapter, and state the date, within a reasonable period thereafter, as of which such filing shall be deemed to be no longer effective. Copies of the order shall be sent to the nonprofit medical service corporation.

3. Any person or organization aggrieved with respect to any filing which is in effect, except the corporation which made the filing, may make written application to the commissioner for a hearing thereon. The application shall specify the grounds relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds were established, and that such grounds otherwise justify holding a hearing, he shall, within thirty days after receipt of the application, hold a hearing upon not less than ten days' written notice to the applicant and to each nonprofit medical service corporation which made such a filing. If after a hearing the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue his order specifying his findings and stating the date, within a reasonable period thereafter, as of which such filing shall be deemed no longer effective. Copies of this order shall be sent to the applicant and to each nonprofit medical service corporation.
4. No manual of classifications, rules, rating plans, rating formulas, or modifications of any of the foregoing which establish standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 26-27-18, shall be disapproved if the rates thereby produced meet the requirements of this chapter.

SECTION 14.) Section 26-27-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-20. INFORMATION TO BE FURNISHED SUBSCRIBERS - HEARINGS AND APPEALS OF SUBSCRIBERS.) Each nonprofit medical service corporation shall, within a reasonable time after receiving a written request therefor, furnish to any subscriber with whom it has a contract and who is affected by a rate made by it, or to the authorized representative of such subscriber, all pertinent information as to the rate.

Each nonprofit medical service corporation shall provide reasonable means whereby any person aggrieved by the application of its rating system, rating formula, or rate may be heard in person or through his authorized representative on his written request to review the manner in which the rating system, rating formula, or rate has been applied in connection with the medical service contract issued to him. If the nonprofit medical service corporation fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of a nonprofit medical service corporation on such request may, within thirty days after written notice of the action, appeal to the commissioner who, after hearing held upon not less than ten

days' written notice to the appellant and to the nonprofit medical service corporation, may affirm or reverse the action.

SECTION 15.) Section 26-27-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-21. GIVING FALSE OR MISLEADING INFORMATION A MISDEMEANOR - PENALTY.) No person or organization shall willfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, or any nonprofit medical service corporation, which will affect the rates or premiums chargeable under this chapter. Any person, firm, or corporation who violates the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars for each violation. If the court finds that a violation was willful, it may impose a fine of not more than five hundred dollars for each such violation.

SECTION 16.) Section 26-27-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-22. HEARING PROCEDURE AND JUDICIAL REVIEW.)

1. Any nonprofit medical service corporation aggrieved by any order or decision of the commissioner made without a hearing may, within thirty days after notice of the order to the nonprofit medical service corporation, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing, the commissioner shall affirm, reverse, or modify his previous action specifying his reasons therefor. Pending a hearing and decision thereon, the commissioner may suspend or postpone the effective date of his previous action.
2. Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence.
3. Any order or decision of the commissioner shall be subject to review by appeal within the time and in the manner provided by chapter 28-32.

SECTION 17. AMENDMENT.) Section 26-27.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.1-05. DIRECTORS - RESPONSIBILITIES AND QUALIFICATIONS.) The business affairs of a nonprofit dental service corporation shall be managed by a board of directors. The board of directors of a dental service corporation shall

consist of at least nine members, a majority of whom shall at all times be licensed to practice dentistry in North Dakota and who have contracted or may contract with such corporation to provide dental services to its subscribers. The balance of the directors shall be persons who have no direct affiliation with any dentist, group of dentists, or dental clinic. This section shall be applicable to all existing nonprofit dental service corporations.

SECTION 18.) Section 26-27.1-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-21. RATES, RATING FORMULAS, AND RATING SYSTEMS SUBJECT TO APPROVAL OF COMMISSIONER.) Rates charged subscribers, and rating formulas and rating systems used to determine such rates, shall at all times be subject to the approval of the commissioner of insurance in the manner prescribed by this chapter. Rates shall be sufficient to cover reasonably anticipated claims, reasonable costs of operation and overhead expenses, and to maintain contingency reserves at a proper level of not less than the sum of incurred claims and operating and overhead expenses for two months. Rates shall not be excessive, inadequate, or unfairly discriminatory.

SECTION 19.) Section 26-27.1-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-22. RATE FILINGS.)

1. Each corporation subject to this chapter shall file with the commissioner every manual of classifications, rates, rating formulas, rating systems, and rules applicable thereto, and any modification of the foregoing which it proposes to use. Each filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. Where a filing is not accompanied by supporting information, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this chapter, he shall require the corporation to furnish supporting information, and the waiting period shall commence on the date the information is furnished. The information furnished in support of a filing shall include: (a) Contract of benefits; (b) Current rate structure; (c) Claims experience for most recent period up to three years; (d) Claims experience projection for next eighteen months; (e) Letter of opinion from corporation actuary; and (f) Judgment of the corporation and its interpretation of the supporting data.

A filing and any supporting information shall be open to public inspection after the filing becomes effective.

2. The commissioner shall review such filings as soon as reasonably possible after they have been made and within the waiting period and the extension thereof, if any, in order to determine whether they meet the requirements of this chapter.
3. Each filing shall be on file for a waiting period of thirty days before it becomes effective. This waiting period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within the original waiting period to the filing corporation that he needs additional time to consider the filing.

Upon written application by the corporation, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

4. Under the rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirements of filing as to any kind of contract for dental services, subdivision thereof, or combination thereof, or as to any class of risks, the rates for which cannot practically be filed before they are used. Such orders, rules, and regulations shall be made known to the corporation affected thereby. The commissioner may make an examination as he may deem advisable to ascertain whether any rates affected by an order meet the standards set forth in section 26-27.1-21.
5. Beginning one hundred eighty days after the effective date of this Act, no dental service corporation shall make or issue a contract or policy except in accordance with subsection 4 of this section.

SECTION 20.) Section 26-27.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-23. DISAPPROVAL OF RATE FILINGS.)

1. If within the waiting period or any extension thereof, as provided in subsection 3 of section 26-27.1-22, the commissioner finds that a rate filing does not meet the requirements of this chapter, he shall send to the nonprofit dental service corporation which made the filing written notice of his disapproval of the filing, specifying therein in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall

not become effective.

2. If at any time subsequent to the applicable waiting period or extension thereof, the commissioner finds that a rate filing does not meet the requirements of this chapter he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at the hearing to every nonprofit dental service corporation which made the filing, issue an order specifying in what respects he finds that the filings fail to meet the requirements of this chapter, and stating the date, within a reasonable period thereafter, as of which such filings shall be deemed to be no longer effective. Copies of the order shall be sent to the nonprofit dental service corporation.
3. Any person or organization aggrieved with respect to any filing which is in effect, except the corporation which made the filing, may make written application to the commissioner for a hearing thereon. The application shall specify the grounds relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds were established, and that such grounds otherwise justify holding a hearing, he shall, within thirty days after receipt of the application, hold a hearing upon not less than ten days' written notice to the applicant and to each nonprofit dental service corporation which made such a filing. If after a hearing the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue his order specifying his findings and stating the date, within a reasonable period thereafter, as of which such filing shall be deemed no longer effective. Copies of this order shall be sent to the applicant and to each nonprofit dental service corporation.
4. No manual of classifications, rules, rating plans, rating formulas, or modifications of any of the foregoing which establish standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 26-27.1-22, shall be disapproved if the rates thereby produced meet the requirements of this chapter.

SECTION 21.) Section 26-27.1-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-24. INFORMATION TO BE FURNISHED SUBSCRIBERS - HEARINGS AND APPEALS OF SUBSCRIBERS.) Each nonprofit dental service corporation shall, within a reasonable time after receiving a written request therefor, furnish to any subscriber

with whom it has a contract and who is affected by a rate made by it, or to the authorized representative of such subscriber, all pertinent information as to the rate.

Each nonprofit dental service corporation shall provide reasonable means whereby any person aggrieved by the application of its rating system, rating formula, or rate may be heard in person or through his authorized representative on his written request to review the manner in which the rating system, rating formula, or rate has been applied in connection with the dental service contract issued to him. If the nonprofit dental service corporation fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of a corporation on such request may, within thirty days after written notice of the action, appeal to the commissioner who, after hearing held upon not less than ten days' written notice to the appellant and to the corporation, may affirm or reverse the action.

SECTION 22.) Section 26-27.1-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-25. GIVING FALSE OR MISLEADING INFORMATION A MISDEMEANOR - PENALTY.) No person or organization shall willfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, or any nonprofit dental service corporation, which will affect the rates or premiums chargeable under this chapter. Any person, firm, or corporation who violates the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars for each violation. If the court finds that a violation was willful, it may impose a fine of not more than five hundred dollars for each violation.

SECTION 23.) Section 26-27.1-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-26. HEARING PROCEDURE AND JUDICIAL REVIEW.)

1. Any nonprofit dental service corporation aggrieved by any order or decision of the commissioner made without a hearing may, within thirty days after notice of the order to the corporation, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing, the commissioner shall affirm, reverse, or modify his previous action specifying his reasons therefor. Pending a hearing and decision thereon, the commissioner may suspend or postpone the effective date of his previous action.

2. Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence.
3. Any order or decision of the commissioner shall be subject to review by appeal within the time and in the manner provided by chapter 28-32.

SECTION 24. AMENDMENT.) Section 26-27.2-05 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.2-05. DIRECTORS - RESPONSIBILITIES AND QUALIFICATIONS.) The business affairs of a nonprofit vision service corporation shall be managed by a board of directors. The board of directors of a vision service corporation shall consist of not less than nine members, two of whom shall be licensed physicians, elected by the participating licensed optometrists. A majority of such board of directors shall be licensed optometrists who have contracted or may contract with such corporation to provide optometric services to its subscribers.

SECTION 25.) Section 26-27.2-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.2-20. RATES, RATING FORMULAS, AND RATING SYSTEMS SUBJECT TO APPROVAL OF COMMISSIONER.) Rates charged subscribers, and rating formulas and rating systems used to determine such rates, shall at all times be subject to the approval of the commissioner of insurance in the manner prescribed by this chapter. Rates shall be sufficient to cover reasonably anticipated claims, reasonable costs of operation and overhead expenses, and to maintain contingency reserves at a proper level of not less than the sum of incurred claims and operating and overhead expenses for two months. Rates shall not be excessive, inadequate, or unfairly discriminatory.

SECTION 26.) Section 26-27.2-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.2-21. RATE FILINGS.)

1. Each corporation subject to this chapter shall file with the commissioner every manual of classifications, rates, rating formulas, rating systems, and rules applicable thereto, and any modification of the foregoing which it proposes to use. Each filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. Where a filing is not accompanied by supporting information, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this chapter, he shall require the

corporation to furnish supporting information, and the waiting period shall commence on the date the information is furnished. The information furnished in support of a filing shall include: (a) Contract of benefits; (b) Current rate structure; (c) Claims experience for most recent period up to three years; (d) Claims experience projection for next eighteen months; (e) Letter of opinion from corporation actuary; and (f) Judgment of the corporation and its interpretation of the supporting data.

A filing and any supporting information shall be open to public inspection after the filing becomes effective.

2. The commissioner shall review such filings as soon as reasonably possible after they have been made and within the waiting period and the extension thereof, if any, in order to determine whether they meet the requirements of this chapter.
3. Each filing shall be on file for a waiting period of thirty days before it becomes effective. The waiting period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within the original waiting period to the filing corporation that he needs additional time to consider the filing.

Upon written application by a corporation, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

4. Under the rules and regulations as he shall adopt, the commissioner may, by written order, suspend or modify the requirements of filing as to any kind of contract for optometric services, subdivision thereof, or combination thereof, or as to any class of risks, the rates for which cannot practically be filed before they are used. Such orders, rules, and regulations shall be made known to the non-profit vision service corporation affected thereby. The commissioner may make an examination as he may deem advisable to ascertain whether any rates affected by an order meet the standards set forth in section 26-27.2-20.
5. Beginning one hundred eighty days after the effective date of this Act, no nonprofit vision service corporation shall make or issue a contract or policy except in accordance with subsection 4 of this section.

SECTION 27.) Section 26-27.2-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.2-22. DISAPPROVAL OF RATE FILINGS.)

1. If within the waiting period or any extension thereof as provided in subsection 3 of section 26-27.2-21, the commissioner finds that a rate filing does not meet the requirements of this chapter, he shall send to the nonprofit vision service corporation which made the filing written notice of disapproval of the filing, specifying therein in what respects he finds the filing fails to meet the requirements of this chapter and stating that such filing shall not become effective.
2. If at any time subsequent to the applicable waiting period or extension thereof, the commissioner finds that a rate filing does not meet the requirements of this chapter he shall, after a hearing held upon not less than ten days' written notice specifying the matters to be considered at such hearing to every nonprofit vision service corporation which made such filing, issue an order specifying in what respects he finds that the filing fails to meet the requirements of this chapter, and state the date, within a reasonable period thereafter, as of which such filing shall be deemed to be no longer effective. Copies of the order shall be sent to the corporation.
3. Any person or organization aggrieved with respect to any filing which is in effect, except the corporation which made the filing, may make written application to the commissioner for a hearing thereon. The application shall specify the grounds relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds were established, and that such grounds otherwise justify holding a hearing, he shall, within thirty days after receipt of the application, hold a hearing upon not less than ten days' written notice to the applicant and to each corporation which made such a filing. If after a hearing the commissioner finds that the filing does not meet the requirements of this chapter, he shall issue his order specifying his findings and stating the date, within a reasonable period thereafter, as of which such filing shall be deemed no longer effective. Copies of this order shall be sent to the applicant and to each corporation.

4. No manual of classifications, rules, rating plans, rating formulas, or modifications of any of the foregoing which establish standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 26-27.2-21, shall be disapproved if the rates thereby produced meet the requirements of this chapter.

SECTION 28.) Section 26-27.2-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.2-23. INFORMATION TO BE FURNISHED SUBSCRIBERS - HEARINGS AND APPEALS OF SUBSCRIBERS.) Each nonprofit vision service corporation shall, within a reasonable time after receiving a written request therefor, furnish to any subscriber with whom it has a contract and who is affected by a rate made by it, or to the authorized representative of such subscriber, all pertinent information as to the rate.

Each nonprofit vision service corporation shall provide reasonable means whereby any person aggrieved by the application of its rating system, rating formula, or rate may be heard in person or through his authorized representative on his written request to review the manner in which the rating system, rating formula, or rate has been applied in connection with the vision service contract issued to him. If the corporation fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of a nonprofit vision service corporation on such request may, within thirty days after written notice of the action, appeal to the commissioner who, after hearing held upon not less than ten days' written notice to the appellant and to the corporation, may affirm or reverse the action.

SECTION 29.) Section 26-27.2-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.2-24. GIVING FALSE OR MISLEADING INFORMATION A MISDEMEANOR - PENALTY.) No person or organization shall willfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, or any nonprofit vision service corporation, which will affect the rates or premiums chargeable under this chapter. Any person, firm, or corporation who violates the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars for each violation. If the court finds that a violation was willful, it may impose a fine of not more than five hundred dollars for each violation.

SECTION 30.) Section 26-27.2-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.2-25. HEARING PROCEDURE AND JUDICIAL REVIEW.)

1. Any nonprofit vision service corporation aggrieved by any order or decision of the commissioner made without a hearing may, within thirty days after notice of the order to the corporation, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing, the commissioner shall affirm, reverse, or modify his previous action specifying his reasons therefor. Pending a hearing and decision thereon, the commissioner may suspend or postpone the effective date of his previous action.
2. Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence.
3. Any order or decision of the commissioner shall be subject to review by appeal within the time and in the manner provided by chapter 28-32.

SECTION 31. REPEAL.) Section 26-26-10 of the North Dakota Century Code is hereby repealed.

Approved March 28, 1973

CHAPTER 237

SENATE BILL NO. 2066
(Litten)

ORAL SURGEONS COVERED UNDER
NONPROFIT MEDICAL SERVICE PLANS

AN ACT to amend and reenact sections 26-27-01, 26-27-02, 26-27-03, 26-27-05, 26-27-08, and 26-27-10 of the North Dakota Century Code, relating to the medical care provided under nonprofit medical service plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-27-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-01. PURPOSE.) It is the purpose and intent of the legislative assembly to promote and protect the public health; to promote a wider distribution of medical care; and to maintain the standing and promote the progress of the science and art of medicine in this state. Medical service or medical care shall mean the general and usual services rendered and care administered by doctors of medicine and oral surgeons. Oral surgeon shall mean a dentist who has met all of the formal requirements to be certified by the American board of oral surgery. Nothing in this chapter shall include hospital services.

SECTION 2. AMENDMENT.) Section 26-27-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-02. NONPROFIT MEDICAL SERVICE CORPORATIONS AUTHORIZED.) Corporations may be organized under the laws of this state on a strictly nonprofit basis for the purpose of establishing and putting into effect nonprofit medical service plans whereby medical service is provided by a group of participating licensed doctors of medicine and licensed oral surgeons, with which such corporation has contracted for such purpose, to such members of the public as become subscribers to said corporation under a contract which entitles each subscriber to certain specified medical care. Such corporation shall be subject to, and governed by the provisions of this chapter and shall not be subject to the laws of the state relating to insurance and insurance companies, except as herein-after specifically provided.

SECTION 3. AMENDMENT.) Section 26-27-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 26-27-03. MEDICAL SERVICES OF DOCTORS OF MEDICINE AND ORAL SURGEONS OTHER THAN THOSE PARTICIPATING UNDER MEDICAL SERVICE PLAN AUTHORIZED.) The medical service plan put into effect by any corporation organized under the provisions of this chapter may also provide for medical services to such subscribers by doctors of medicine and oral surgeons other than those participating under the plan, subject to the approval of the governing body of such medical service plan corporation.

SECTION 4. AMENDMENT.) Section 26-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 26-27-05. BOARD OF DIRECTORS.) The board of directors of such medical service corporation shall consist of not less than nine members, a majority of whom shall be licensed doctors of medicine and licensed oral surgeons who have contracted with such corporation to provide medical service to its subscribers.

SECTION 5. AMENDMENT.) Section 26-27-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-08. CONTRACTS WITH DOCTORS OF MEDICINE AND ORAL SURGEONS - BENEFITS MAY BE LIMITED.) Every doctor of medicine and oral surgeon duly licensed and registered in the state of North Dakota shall have the right to contract with any corporation organized and doing business under the provisions of this chapter for furnishing general or special medical care as the case may be. A nonprofit medical care corporation shall impose no restrictions as to the methods of diagnosis or treatment on the doctors of medicine and oral surgeons who treat subscribers. The private relationship of physician and patient shall be maintained at all times and the subscriber shall have the right of free choice in selecting any doctor of medicine or oral surgeon with whom the corporation has a contract.

Such medical care corporation may, in its discretion, by its articles of incorporation, articles of association or its bylaws, and in its contract with its subscribers, limit the benefits that such corporation will furnish, and may provide for a division of such benefits as it shall agree to furnish into classes or kinds. In the absence of any such limitations or division of services, a nonprofit medical care corporation shall be authorized to provide both general and special medical and surgical care benefits, including such services as may necessarily be incident to such medical care. A medical care corporation organized and doing business under the provisions of this chapter, may, in its discretion, limit the issuance of contracts as specified by its bylaws.

SECTION 6. AMENDMENT.) Section 26-27-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-10. EFFECT OF CONTRACTS.) The issuance of a contract by any corporation organized and doing business under the provisions of this chapter to a subscriber shall not be deemed to create the relationship of a physician and patient between the corporation and such subscriber. The subscriber shall at all times have the right to select any participating doctor of medicine or oral surgeon

*NOTE: Section 26-27-03 was also amended by section 8 of House Bill No. 1317, chapter 236.

*NOTE: Section 26-27-05 was also amended by section 9 of House Bill No. 1317, chapter 236.

named in his contract, subject to the terms and conditions of such contract. No action at law or in equity arising out of the relationship of physician and patient shall be maintained against any nonprofit medical care corporation governed by this chapter.

Approved February 25, 1973

CHAPTER 238

HOUSE BILL NO. 1238
(Rued)

UNAUTHORIZED TRANSACTIONS OF INSURANCE

AN ACT relating to unauthorized insurance, classifying transactions constituting doing an insurance business, subjecting those insurers and their agents to the jurisdiction and regulation of the commissioner of insurance, providing for the issuance of process and jurisdiction of court proceedings, providing for reciprocal enforcement, and defining violations and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. UNAUTHORIZED INSURANCE PROHIBITED.) It shall be unlawful for any insurer to transact insurance business in this state, as set forth in section 2 of this Act, without a certificate of authority from the commissioner; provided, however, that this section shall not apply to:

1. The lawful transaction of surplus lines insurance.
2. The lawful transaction of reinsurance by insurers.
3. Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.
4. Transactions in this state involving life insurance, health insurance or annuities provided to educational or religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions.
5. Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses.
6. Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where

the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs.

7. Transactions in this state involving any policy of insurance or annuity contract issued prior to the effective date of this Act.
8. Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargos, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy.
9. Transactions in this state involving contracts of insurance issued to one or more industrial insured provided that nothing herein shall relieve an industrial insured from taxation imposed upon independently procured insurance. An "industrial insured" is hereby defined as an insured:
 - a. Which procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant;
 - b. Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and
 - c. Which has at least twenty-five full-time employees.

SECTION 2. INSURANCE TRANSACTIONS DEFINED - VENUE.)

Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer is deemed to constitute the transaction of an insurance business in this state:

1. The making of or proposing to make, as an insurer, an insurance contract.
2. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

3. The taking or receiving of any application for insurance.
4. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof.
5. The issuance or delivery of contract of insurance to residents of this state or to persons authorized to do business in this state.
6. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer.
7. The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance.
8. The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurer" as used in this section includes all corporations, associations, partnerships and individuals, engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.

SECTION 3. UNAUTHORIZED CONTRACTS VALID.) The failure of an insurer transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance

business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim or demand arising out of the transaction of such business until the insurer shall have obtained a certificate of authority.

SECTION 4. LIABILITY OF UNAUTHORIZED INSURER.) In the event of failure of any unauthorized insurer to pay any claim or loss within the provisions of its insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of the insurance contract shall be liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of the insurance contract.

SECTION 5. RESTRAINT OF VIOLATIONS - JURISDICTION.) Whenever the commissioner believes, from evidence satisfactory to him, that any insurer is violating or about to violate the provisions of this Act, the commissioner may, through the attorney general of this state, cause a complaint to be filed in the district court of Burleigh County to enjoin and restrain the insurer from continuing any violation or engaging therein or doing any act in furtherance thereof. The court shall have jurisdiction of the proceeding and shall have the power to make and enter an order or judgment awarding preliminary or final injunctive relief as in its judgment is proper.

SECTION 6. AGENT FOR SERVICE OF PROCESS - UNAUTHORIZED INSURER.) Any act of transacting insurance business as set forth in this Act by any unauthorized insurer is equivalent to and shall constitute an irrevocable appointment by such insurer, binding upon him, his executor or administrator, or successor in interest if a corporation, of the secretary of state or his successor in office, to be the true and lawful attorney of such insurer upon whom may be served all lawful process in any action, suit, or proceeding in any court by the commissioner of insurance or by the state and upon whom may be served any notice, order, pleading or process in any proceeding before the commissioner of insurance and which arises out of transacting insurance business in this state by an insurer. Any act of transacting insurance business in this state by any unauthorized insurer shall be signification of its agreement that any lawful process in any court action, suit, or proceeding and any notice, order, pleading, or process in any administrative proceeding before the commissioner so served shall be of the same legal force and validity as personal service of process in this state upon the insurer.

SECTION 7. SERVICE OF PROCESS - HOW MADE.) Service of process as authorized herein shall be made by delivering to and leaving with the secretary of state, or some person in apparent charge of his office, two copies thereof and by payment to the secretary of state of the fee prescribed by law. Service upon the secretary of state as such attorney shall be service upon the principal. The secretary of state shall

forthwith forward by certified mail one of the copies of the process, to the defendant, in a court proceeding, or to whom the process is addressed or directed, in an administrative proceeding, at its last known principal place of business and shall keep a record of all process so served on him which shall show the day and hour of service. Such service is sufficient, provided: Notice of the service and a copy of the process is mailed within ten days thereafter by certified mail to the defendant by the plaintiff or the plaintiff's attorney in a court proceeding, or to whom the process is addressed or directed by the commissioner of insurance in an administrative proceeding, at its last known principal place of business; the defendant's receipt or receipts issued by the postoffice with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of mailing showing compliance herewith is filed with the clerk of the court in which the proceeding is pending, or with the commissioner in administrative proceedings. No judgment or determination by default shall be entered in any proceeding until the expiration of forty-five days from the date of filing of the affidavit of compliance.

Nothing in this section shall limit or affect the right to serve any process upon any person or insurer in any other manner now or hereafter permitted by law.

SECTION 8. PLEADING BY UNAUTHORIZED INSURER - WHEN PERMITTED.) Before any unauthorized insurer files or causes filed any pleading in any court proceeding instituted against the insurer by service made as provided in section 7 of this Act, such insurer shall either:

1. File with the clerk of the court in which the proceeding is pending a cash or other bond with good and sufficient sureties, to be approved by the clerk in an amount to be fixed by the court sufficient to secure payment of any final judgment which may be rendered in such action, or
2. Procure a certificate of authority to transact the business of insurance in this state. In considering the application of an insurer for a certificate of authority, for the purposes of this paragraph, the commissioner need not assert the provisions of section 26-01-05 against such insurer with respect to its application if he determines that such company would otherwise comply with the requirements for such certificate of authority.

SECTION 9. MOTION TO QUASH.) Nothing in this Act shall be construed to prevent an unauthorized insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in section 7 of this Act, on the ground that such unauthorized insurer has not done any of the acts enumerated in section 1 of this Act.

SECTION 10. ENFORCEMENT OF DECISIONS OR ORDERS.)

The attorney general upon request of the commissioner may proceed in the courts of this state or any reciprocal state to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner of insurance.

SECTION 11. DEFINITIONS.) As used in this Act:

1. "Reciprocal state" means any state or territory of the United States the laws of which contain procedures substantially similar to those specified in this Act for the enforcement of decrees or orders in equity issued by courts located in other states or territories of the United States, against any insurer incorporated or authorized to do business in said state or territory.
2. "Foreign decree" means any decree or order in equity of a court located in a "reciprocal state", including a court of the United States located therein, against any insurer incorporated or authorized to do business in this state.
3. "Qualified party" means a state regulatory agency acting in its capacity to enforce the insurance laws of its state.

SECTION 12. LIST OF RECIPROCAL STATES.) The insurance commissioner of this state shall determine which states and territories qualify as reciprocal states and shall maintain at all times an up-to-date list of such states.

SECTION 13. FILING AND STATUS OF FOREIGN DECREES.)

A certified copy of any foreign decree may be filed in the office of the clerk of any district court of this state and concurrently in the office of the insurance commissioner with information showing which district court is being used. The clerk, upon receiving verification from the insurance commissioner as hereinafter provided shall treat the foreign decree in the same manner as a decree of a district court of this state. A foreign decree so filed has the same effect and shall be deemed as a decree of a district court of this state, and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a decree of a district court of this state and may be enforced or satisfied in like manner.

SECTION 14. VERIFICATION - NOTICE OF FILING.) At the time a foreign decree is filed in this state, the insurance commissioner shall make and file with the clerk of the appropriate district court an affidavit setting forth the name and last known postoffice address of the defendant and verifying that the decree or order is a foreign decree as defined herein. Promptly upon receipt of the affidavit, the clerk shall mail notice of the filing of the foreign decree to the defendant at the address contained therein and to the insurance commissioner and shall make a note of the mailing in the docket.

SECTION 15. ENFORCEMENT OF FOREIGN DECREES.) No execution or other process for enforcement of a foreign decree filed hereunder shall issue until thirty days after the date the decree is filed.

SECTION 16. STAY OF ENFORCEMENT.) If the defendant shows the district court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered. If the defendant shows the district court any ground upon which enforcement of a decree of any district court of this state would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which would be required in this state.

SECTION 17. FEES.) Any person filing a foreign decree shall pay to the clerk of court ten dollars. Fees for docketing, transcriptions or other enforcement proceedings shall be as provided for decrees of the district court.

SECTION 18. PENALTY.) Any unauthorized insurer who transacts any unauthorized act of insurance business as set forth in this Act may be fined not more than ten thousand dollars.

Approved March 21, 1973