

Introduced by

Industry, Business and Labor Committee

(At the request of the Commissioner of Insurance)

1 A BILL for an Act to create and enact sections 26.1-01-03.3, 26.1-30.1-01.1, and 26.1-39-16.1
2 of the North Dakota Century Code, relating to penalty for violation of the insurance code,
3 unlawful grounds for declination of commercial insurance, and flood insurance notices; to
4 amend and reenact sections 26.1-01-03.1, 26.1-02-05, 26.1-02-05.1, 26.1-03-17, subsection 7
5 of section 26.1-04-03, sections 26.1-22-21, 26.1-23-06, 26.1-33-02.1, subsection 6 of section
6 26.1-33-30, subsection 1 of section 26.1-36-03, subsection 11 of section 26.1-36-05,
7 subsection 6 of section 26.1-36-14, section 26.1-36-23, subsection 1 of section 26.1-36-23.1,
8 and section 26.1-45-05.1 of the North Dakota Century Code, relating to cease and desist
9 orders, unauthorized insurance, premium taxes, unfair discrimination, excess loss reinsurance,
10 unsatisfied judgment fund, free-look periods of life insurance policies, life insurance, accident
11 and health insurance, group health insurance, and long-term care insurance; and to provide a
12 penalty.

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

14 **SECTION 1. AMENDMENT.** Section 26.1-01-03.1 of the North Dakota Century Code
15 is amended and reenacted as follows:

16 **26.1-01-03.1. Cease and desist authority - Hearing - Failure to appear.** The
17 commissioner may issue an order to cease and desist and notice of opportunity for hearing
18 when it appears that any person is engaged in an act or practice which violates or may lead to a
19 violation of this title. Any party aggrieved by the commissioner's order may make written
20 application for a hearing on the order within thirty days of the date of the order. The application
21 for a hearing must briefly state the respects in which the applicant is aggrieved by the order and
22 the grounds for relief to be relied upon at the hearing. A hearing must be held not later than ten
23 days after an application for hearing is received unless a delay is requested by all persons
24 named in the order. The commissioner, within thirty days after the hearing, shall issue an order

1 vacating the cease and desist order or making the cease and desist order permanent, as the
2 facts require. The failure of any named person to appear at any proper hearing under this
3 section after receiving notice of the hearing will cause that person to be in default and the
4 allegations contained in the cease and desist order may be deemed to be true and may be
5 used against the person at the hearing. ~~If no civil monetary penalty is otherwise provided by~~
6 ~~law, the offender is, after hearing by the commissioner, subject to payment of an administrative~~
7 ~~monetary penalty of up to ten thousand dollars.~~ If no hearing is requested by written application,
8 the commissioner's order becomes permanent.

9 **SECTION 2.** Section 26.1-01-03.3 of the North Dakota Century Code is created and
10 enacted as follows:

11 **26.1-01-03.3. Penalty for violation of title.** Unless otherwise provided by law, a
12 person who violates this title is subject, after hearing by the commissioner, to payment of an
13 administrative monetary penalty of up to ten thousand dollars.

14 **SECTION 3. AMENDMENT.** Section 26.1-02-05 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **26.1-02-05. Unauthorized insurance prohibited - Exceptions.** An insurance
17 company may not transact insurance business in this state, as set forth in section 26.1-02-06,
18 without a certificate of authority from the commissioner. This section does not apply to:

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

1 ~~6.~~ 5. Transactions involving group life, accident, and health, or blanket accident and
2 health insurance, or group annuities where the master policy of the group was
3 lawfully issued and delivered in and pursuant to the laws of a state in which the
4 insurance company was authorized to do an insurance business, to a group
5 organized for purposes other than the procurement of insurance, and where the
6 policyholder is domiciled or otherwise has a bona fide situs.

7 ~~7.~~ 6. Transactions involving any insurance policy or annuity contract issued before
8 July 1, 1973.

9 ~~8.~~ 7. Transactions relative to a policy issued or to be issued outside this state involving
10 insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine
11 protection and indemnity or other risk, including strikes and war risks commonly
12 insured under ocean or wet marine forms of policy.

13 ~~9.~~ 8. Transactions involving insurance contracts issued to one or more industrial
14 insureds; provided, that this does not relieve an industrial insured from taxation
15 imposed upon independently procured insurance. An industrial insured is an
16 insured:

17 a. Which procures the insurance of any risk or risks other than life and annuity
18 contracts by use of the services of a full-time employee acting as an
19 insurance manager or buyer or the services of a regularly and continuously
20 retained qualified insurance consultant;

21 b. Whose aggregate annual premiums for insurance on all risks total at least
22 twenty-five thousand dollars; and

23 c. Which has at least twenty-five full-time employees.

24 **SECTION 4. AMENDMENT.** Section 26.1-02-05.1 of the North Dakota Century Code
25 is amended and reenacted as follows:

26 **26.1-02-05.1. Group life and health insurance trust filing - Exemption**

27 **requirements.** Any insurance company claiming an exemption under subsection ~~6~~ 5 of
28 section 26.1-02-05 from a requirement that the company have a certificate of authority to do
29 business in this state or comply with the insurance laws of this state shall provide the following
30 information to the commissioner of insurance for the commissioner's approval of the exemption:

31 1. A copy of the trust agreement for the group.

- 1 2. A full copy of the master contract.
- 2 3. A copy of the certificate of insurance to be issued or sold in this state.
- 3 4. A copy of the application for the certificate of insurance.
- 4 5. A copy of a disclosure statement used in the solicitation of the insurance indicating
- 5 that the protection of North Dakota's insurance laws will not be provided to the
- 6 holders of certificates of insurance issued by the group.
- 7 6. An assurance that only one type of insurance coverage may be included in each
- 8 mailing or mass market solicitation.
- 9 7. Such other information as the commissioner of insurance deems necessary to
- 10 assure that the group is organized for purposes other than the procurement of
- 11 insurance or otherwise meets the requirements of subsection ~~6~~ 5 of section
- 12 26.1-02-05.

13 No company may issue or deliver a policy of insurance or issue or deliver for issue a certificate
14 of insurance in this state without a certificate of authority unless it has first been granted
15 approval in writing to do so by the commissioner of insurance under this section.

16 **SECTION 5. AMENDMENT.** Section 26.1-03-17 of the 1997 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **26.1-03-17. Commissioner to collect premium tax - Insurance companies**
19 **generally - Computation - Credits - Penalty - Estimated tax.**

- 20 1. Before issuing the annual certificate required by law, the commissioner shall collect
- 21 from every stock and mutual insurance company, nonprofit health service
- 22 corporation, health maintenance organization, and prepaid legal service
- 23 organization, except a fraternal benefit ~~society~~ and benevolent societies, doing
- 24 business in this state, a tax on the gross amount of premiums, assessments,
- 25 membership fees, subscriber fees, policy fees, service fees collected by any
- 26 third-party administrator providing administrative services to a group that is
- 27 self-insured for health care benefits, and finance and service charges received in
- 28 this state during the preceding calendar year, at the rate of two percent with
- 29 respect to life insurance, one and three-fourths percent with respect to accident
- 30 and health insurance, and one and three-fourths percent with respect to all other
- 31 lines of insurance. This tax does not apply to considerations for annuities. The

1 total tax is payable on or before March first following the year for which the tax is
2 assessable. Collections from this tax must be deposited in the insurance tax
3 distribution fund under section 18-04-04.1 but not in an amount exceeding one-half
4 of the biennial amount appropriated for distribution under section 18-04-05 in any
5 fiscal year. Collections from this tax exceeding the amount deposited in the
6 insurance tax distribution fund each fiscal year must be deposited in the general
7 fund in the state treasury. If the due date falls on a Saturday or legal holiday, the
8 tax is payable on the next succeeding business day.

9 2. An insurance company, nonprofit health service corporation, health maintenance
10 organization, or prepaid legal service organization subject to the tax imposed by
11 subsection 1 is entitled to a credit against the tax due for the amount of any
12 assessment paid as a member of a comprehensive health association under
13 subsection 4 of section 26.1-08-09 for which the member may be liable for the year
14 in which the assessment was paid, a credit as provided under section
15 26.1-38.1-10, a credit against the tax due for an amount equal to the examination
16 fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02,
17 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and ~~26.1-18-27~~ 26.1-18.1-18, and a credit
18 against the tax due for an amount equal to the ad valorem taxes, whether direct or
19 in the form of rent, on that proportion of premises occupied as the principal office in
20 this state for over one-half of the year for which the tax is paid. The credits under
21 this subsection must be prorated on a quarterly basis and may not exceed the total
22 tax liability under subsection 1.

23 3. Any ~~person~~ company failing to pay the tax imposed by subsection 1, within the
24 time required, is subject to a penalty of ~~five percent of the amount of tax due or one~~
25 ~~hundred dollars, whichever is greater,~~ plus ~~interest of one percent per month on~~
26 ~~the unpaid tax for each month or fraction of a month of delay~~ ten dollars per day,
27 ~~excepting the first day after the tax became due, or twenty-five dollars per day,~~
28 ~~whichever is greater.~~ Any ~~person~~ company failing to file the appropriate tax
29 statement required by rule if the tax is zero is subject to a penalty of ~~twenty-five ten~~
30 ~~dollars per day for each day's neglect not to exceed five~~ one hundred dollars. The

- 1 commissioner, if satisfied that the delay was excusable, may waive, and if paid,
2 issue a premium tax credit for all or any part of the penalty ~~and interest~~.
- 3 4. Every stock and mutual insurance company, nonprofit health service corporation,
4 health maintenance organization, and prepaid legal service organization, except a
5 fraternal benefit ~~society~~ or benevolent societies, doing business in this state
6 required to pay premium taxes in this state shall make and file a statement of
7 estimated premium taxes. The statement and payment must be made on a
8 quarterly basis as prescribed by the commissioner. Failure of a company to make
9 payments of at least one-fourth of ~~either~~ the total tax paid during the previous
10 calendar year, or eighty percent of the actual tax for the quarter being reported of
11 the current calendar year, shall subject the company to the penalty and interest
12 provided in subsection 3.
- 13 5. If an amount of tax, penalty, or interest has been paid which was not due under the
14 provisions of this section, a refund may be issued to the taxpayer who made the
15 erroneous payment. The refund is allowed as a credit against any tax due or to
16 become due under this section or as a cash refund, at the discretion of the
17 commissioner. The taxpayer who made the erroneous payment shall present a
18 claim for refund to the commissioner not later than two years after the due date of
19 the return for the period for which the erroneous payment was made.
- 20 6. In lieu of the tax required by subsection 1, the commissioner shall collect from each
21 entity subject to this section an annual filing fee in the amount of two hundred
22 dollars, provided the total tax liability of the entity pursuant to subsection 1 is less
23 than two hundred dollars. No annual filing fee is due or may be collected from an
24 entity if its total tax liability pursuant to subsection 1 is in excess of two hundred
25 dollars. The annual filing fee may be reduced by any credits available pursuant to
26 subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee
27 subjects the company to the penalty as provided in subsection 3.

28 **SECTION 6. AMENDMENT.** Subsection 7 of section 26.1-04-03 of the 1997

29 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 30 7. Unfair discrimination.

- 1 a. Making or permitting any unfair discrimination between individuals of the
2 same class and equal expectation of life in the rates charged for any contract
3 of life insurance or of life annuity or in the dividends or other benefits payable
4 thereon, or in any other of the terms and conditions of such contract.
- 5 b. Making or permitting any unfair discrimination between individuals of the
6 same class and of essentially the same hazard in the amount of premium,
7 policy fees, or rates charged for any policy or contract of accident or health
8 insurance or in the benefits payable thereunder, or in any of the terms or
9 conditions of such contract, or in any other manner whatever.
- 10 c. Refusing to insure, or refusing to continue to insure, or limiting the amount,
11 extent, or kind of life insurance, accident and sickness insurance, health
12 services, or health care protection insurance available to an individual, or
13 charging an individual a different rate for the same coverage solely because
14 of blindness or partial blindness. Refusal to insure includes denial by an
15 insurer of disability insurance coverage on the grounds that the policy defines
16 "disability" as being presumed in the event that the insured loses the insured's
17 eyesight; however, an insurer may exclude from coverage disabilities
18 consisting solely of blindness or partial blindness when such condition existed
19 at the time the policy was issued. With respect to all other conditions,
20 including the underlying cause of the blindness or partial blindness, persons
21 who are blind or partially blind shall be subject to the same standards of
22 sound actuarial principles or actual or reasonably anticipated experience as
23 are sighted persons.
- 24 d. Making or permitting any unfair discrimination between individuals or risks of
25 the same class and of essentially the same hazard by refusing to insure,
26 refusing to renew, canceling, or limiting the amount of insurance coverage on
27 a property or casualty risk solely because of the geographic location of the
28 risk, unless the action is the result of the application of sound underwriting
29 and actuarial principles related to actual or reasonably anticipated loss
30 experience.

1 **SECTION 7. AMENDMENT.** Section 26.1-22-21 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **26.1-22-21. Insurance required - Excess loss reinsurance.** The commissioner shall
4 procure and shall keep in force, an excess loss reinsurance contract naming the fund as the
5 reinsured. The reinsurance contract must meet the following minimum specifications:

- 6 1. Reimburse the fund for all losses in excess of one million dollars incurred by the
7 fund under policies issued by the fund and arising out of each occurrence of a peril
8 included in the fund policies.
- 9 2. The limit of liability of such reinsurance contract must be no less than one hundred
10 million dollars for each loss occurrence.
- 11 3. A sixty-day cancellation notice.
- 12 4. The quoted rate must be the guaranteed rate for the two-year bid period.

13 The cost of the excess loss reinsurance must be paid out of the premium income of the fund.

14 This excess loss reinsurance must be procured by the commissioner and the fund only through
15 bids as hereinafter provided and must be written only by a company or companies authorized to
16 do business within this state. ~~The contract must be negotiated with and countersigned by a~~
17 ~~licensed North Dakota resident insurance agent.~~ On or before the third Monday in June of each
18 odd-numbered year the commissioner shall publish in the official newspaper of Burleigh County
19 a notice that on the last Monday in June of that year the commissioner will accept bids at the
20 commissioner's office in the state capitol. A copy of the notice must be posted at the office of
21 the fund. A copy of the notice must be mailed to each insurance company licensed to write fire
22 insurance in this state. On the last Monday in June of each odd-numbered year, the
23 commissioner, with the approval of the industrial commission, shall contract for the excess loss
24 reinsurance with the company or group of companies submitting the lowest and best bid for the
25 two-year period commencing on the ensuing first day of August. The commissioner, with the
26 approval of the industrial commission, may disregard this section after the commissioner and
27 the commission have studied the available bids for the reinsurance required by this section.

28 **SECTION 8. AMENDMENT.** Section 26.1-23-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **26.1-23-06. Attorney general may appear.** Section 26.1-23-04 does not apply in the
31 case of any judgment entered by default, unless the commissioner and the attorney general

1 have been given at least thirty days' notice prior to ~~the entry of judgment hearing~~, to which
2 notice shall be attached a copy of the summons and complaint. Upon receipt of the notice, the
3 attorney general may enter an appearance, file a defense, appear by counsel at the trial, or
4 take any other action the attorney general deems appropriate on behalf of the fund and in the
5 name of the defendant, and may thereupon, on behalf of the fund and in the name of the
6 defendant, conduct a defense, and all acts done in accordance therewith shall be deemed to be
7 acts of the defendant. The attorney general may appear and be heard on any application for
8 payment from the fund and may show cause, if any, why the order applied for should not be
9 made.

10 **SECTION 9.** Section 26.1-30.1-01.1 of the North Dakota Century Code is created and
11 enacted as follows:

12 **26.1-30.1-01.1. Unlawful grounds for declination.** The declination or termination of a
13 commercial insurance policy subject to sections 26.1-30.1-01 through 26.1-30.1-08 by an
14 insurer, agent, or broker is prohibited if the declination or termination is based solely upon any
15 of the following reasons:

- 16 1. The race, religion, nationality, ethnic group, disability, age, sex, or marital status of
17 the applicant or named insured, except this subsection does not prohibit rating
18 differentials based upon age, sex, or marital status.
- 19 2. The lawful occupation or profession of the applicant or named insured, except that
20 this provision does not apply to an insurer, agent, or broker that limits its market to
21 one lawful occupation or profession or to several related occupations or
22 professions.
- 23 3. The age or location of the property of the applicant or named insured, unless the
24 decision is for a business purpose that is not a mere pretext for unfair
25 discrimination.
- 26 4. The principal location of the insured motor vehicle, unless the decision is for a
27 business purpose which is not a mere pretext for unfair discrimination.
- 28 5. The fact that another insurer previously declined to insure the applicant or
29 terminated an existing policy in which the applicant was the named insured.

- 1 6. The fact that the applicant or named insured previously obtained insurance
2 coverage through a residual market insurance mechanism or an insurance
3 company that insures substandard risks.

4 **SECTION 10. AMENDMENT.** Section 26.1-33-02.1 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **26.1-33-02.1. Life insurance policies and certificates - Right to return ~~policy~~.** A
7 person who purchases a life insurance policy or certificate issued or delivered in this state may
8 return the policy or certificate within twenty days of delivery to the purchaser. If a policy or
9 certificate is returned, the purchaser is entitled to a refund of the premium. Every life insurance
10 policy or certificate issued or delivered in this state to any person must have a notice
11 prominently printed on or attached to the first page of the policy or certificate stating in
12 substance that the purchaser may return the policy or certificate within twenty days of its
13 delivery and have the premium refunded if, after examination of the policy, the applicant is not
14 satisfied for any reason.

15 **SECTION 11. AMENDMENT.** Subsection 6 of section 26.1-33-30 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 6. Filings subject to this section must ~~be accompanied by a certificate signed by an~~
18 ~~officer of the life insurance company or fraternal benefit society stating that it meets~~
19 provide the minimum reading ease score ~~on the test used~~ or stating a statement
20 that the score is lower than the minimum required but should be approved in
21 accordance with subsection 2. To confirm the accuracy of any ~~certification~~
22 statement, the commissioner may require the submission of further information to
23 verify the certification in question.

24 **SECTION 12. AMENDMENT.** Subsection 1 of section 26.1-36-03 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 1. No accident and health insurance policy may be delivered or issued for delivery to
27 any person in this state unless:
- 28 a. The entire money and other considerations for the policy are expressed in the
 - 29 policy.
 - 30 b. The time at which the insurance takes effect and terminates is expressed in
 - 31 the policy.

- 1 c. The policy purports to insure only one person, except that a policy may insure,
2 originally or by subsequent amendment, upon the application of an adult
3 member of a family who is deemed the policyholder, any two or more eligible
4 members of that family, including spouse, dependent children or any children
5 under a specified age which may not exceed ~~nineteen~~ twenty-two years, and
6 any other person dependent upon the policyholder.
- 7 d. The style, arrangement, and overall appearance of the policy give no undue
8 prominence to any portion of the text, and unless every printed portion of the
9 text of the policy and of any endorsements or attached papers is plainly
10 printed in lightfaced type of a style in general use, the size of which is uniform
11 and not less than ten point with a lowercase unspaced alphabet length not
12 less than one hundred twenty point. The "text" must include all printed matter
13 except the name and address of the insurer, name or title of the policy, the
14 brief description, if any, and captions and subcaptions.
- 15 e. The exceptions and reductions of indemnity are set forth in the policy and,
16 except those which are set forth in section 26.1-36-04, are printed at the
17 insurer's option, either included with the benefit provisions to which they
18 apply, or under an appropriate caption such as "EXCEPTIONS" or
19 "EXCEPTIONS AND REDUCTIONS". If an exception or reduction specifically
20 applies only to a particular benefit of the policy, a statement of the exception
21 or reduction must be included with the benefit provision to which it applies.
- 22 f. Each form, including riders and endorsements, must be identified by a form
23 number in the lower left-hand corner of the first page thereof.
- 24 g. It contains no provision purporting to make any portion of the charter, rules,
25 constitution, or bylaws of the insurer a part of the policy unless the portion is
26 set forth in full in the policy, except in the case of the incorporation of, or
27 reference to, a statement of rates or classification of risks, or short-rate table
28 filed with the commissioner.

29 **SECTION 13. AMENDMENT.** Subsection 11 of section 26.1-36-05 of the North Dakota
30 Century Code is amended and reenacted as follows:

1 11. A provision that all benefits payable under the policy or contract other than benefits
2 for loss of time or unless subject to section 26.1-36-37.1 will be payable not more
3 than sixty days after receipt of ~~proof, and that, subject to~~ due proof of loss, ~~all.~~ All
4 accrued benefits payable under the policy or contract for loss of time will be paid at
5 least monthly during the continuance of the period for which the insurer is liable,
6 and that any balance remaining unpaid at the termination of that period will be paid
7 as soon as possible after receipt of proof of loss.

8 **SECTION 14. AMENDMENT.** Subsection 6 of section 26.1-36-14 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 6. Filings subject to this section must ~~be accompanied by a certificate signed by an~~
11 ~~officer of the insurance company, nonprofit health service corporation, fraternal~~
12 ~~benefit society, or health maintenance organization stating that it meets~~ provide the
13 minimum reading ease score ~~on the test used~~ or stating a statement that the score
14 is lower than the minimum required but should be approved in accordance with
15 subsection 2. To confirm the accuracy of any ~~certification~~ statement, the
16 commissioner may require the submission of further information to verify the
17 certification in question.

18 **SECTION 15. AMENDMENT.** Section 26.1-36-23 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **26.1-36-23. Continuation of group hospital, surgical, and major medical coverage**
21 **after termination of employment or membership.** A group policy or certificate of insurance
22 or certificate on a master policy of a group as defined by subsection ~~6~~ 5 of section 26.1-02-05
23 delivered or issued for delivery in this state issued by any insurance company, nonprofit health
24 service corporation, health maintenance organization, or any other insurer that provides
25 hospital, surgical, or major medical expense insurance or any accommodation of these
26 coverages on an expense incurred basis, but not a policy that provides benefits for specific
27 diseases or for accidental injuries only, must provide that employees or members whose
28 insurance under the group policy would otherwise terminate because of termination of
29 employment or membership are entitled to continue their hospital, surgical, and major medical
30 insurance under that group policy, for themselves and their eligible dependents, subject to all of

1 the group policy's terms and conditions applicable to those forms of insurance and to the
2 following conditions:

- 3 1. Continuation is only available to an employee or member who has been
4 continuously insured under the group policy, and for similar benefits under any
5 group policy which it replaced, during the entire three-month period ending with the
6 termination.
- 7 2. Continuation is not available for any person who is covered by medicare. Neither
8 is continuation available for any person who is covered by any other insured or
9 uninsured arrangement which provides hospital, surgical, or medical coverages for
10 individuals in a group and under which the person was not covered immediately
11 prior to the termination.
- 12 3. Continuation need not include dental, vision care, or prescription drug benefits or
13 any other benefits provided under the group policy in addition to its hospital,
14 surgical, or major medical benefits.
- 15 4. An employee or member who wishes continuation of coverage must request the
16 continuation in writing within the ten-day period following the later of the date of
17 termination, or the day the employee is given notice of the right of continuation by
18 either the employer or the group policyholder. The employee or member may not
19 elect continuation more than thirty-one days after the date of termination.
- 20 5. An employee or member electing continuation shall pay to the group policyholder
21 or the employer, on a monthly basis in advance, the amount of contribution
22 required by the policyholder or employer, but not more than the group rate for the
23 insurance being continued under the group policy on the due date of each
24 payment. The employee's or member's written election of continuation, together
25 with the first contribution required to establish contributions on a monthly basis in
26 advance, must be given to the policyholder or employer within thirty-one days of
27 the date the employee's or member's insurance would otherwise terminate.
- 28 6. Continuation of insurance under the group policy for any person terminates when
29 the person fails to satisfy subsection 2 or, if earlier, at the first to occur of the
30 following:

- 1 a. The date thirty-nine weeks after the date the employee's or member's
2 insurance under the policy would otherwise have terminated because of
3 termination of employment or membership.
- 4 b. If the employee or member fails to make timely payment of a required
5 contribution, the end of the period for which contributions were made.
- 6 c. The date on which the group policy is terminated or, in the case of an
7 employee, the date the employer terminates participation under the group
8 policy. However, if this subdivision applies and the coverage ceasing by
9 reason of such termination is replaced by similar coverage under another
10 group policy, the following apply:
- 11 (1) The employee or member may become covered under that other group
12 policy for the balance of the period that the employee or member would
13 have remained covered under the prior group policy in accordance with
14 this subsection had a termination described in this subdivision not
15 occurred.
- 16 (2) The minimum level of benefits to be provided by the other group policy
17 is the applicable level of benefits of the prior group policy reduced by
18 any benefits payable under that prior group policy.
- 19 (3) The prior group policy must continue to provide benefits to the extent of
20 its accrued liabilities and extensions of benefits as if the replacement
21 had not occurred.
- 22 7. A notification of the continuation privilege must be included in each certificate of
23 coverage.
- 24 8. Upon termination of the continuation period, the member, surviving spouse, or
25 dependent is entitled to exercise any option which is provided in the group plan to
26 elect a conversion policy. The member electing a conversion policy shall notify the
27 carrier of the election and pay the required premium within thirty-one days of the
28 termination of the continued coverage under the group contract.

29 **SECTION 16. AMENDMENT.** Subsection 1 of section 26.1-36-23.1 of the North
30 Dakota Century Code is amended and reenacted as follows:

- 1 1. No group accident and health insurance policy, including a policy issued under a
2 self-insured plan, group health service contract issued under chapter 26.1-17, or
3 evidence of coverage issued under chapter ~~26.1-18~~ 26.1-18.1, providing coverage
4 for hospital or medical expenses, delivered, issued for delivery, renewed, or
5 amended after July 1, 1987, which in addition to covering the insured also provides
6 coverage to the spouse of the insured, may contain a provision for termination of
7 coverage for a spouse covered under the policy, contract, or evidence of coverage
8 solely as a result of a break in the marital relationship except by reason of an entry
9 of a decree of annulment of marriage or divorce.

10 **SECTION 17.** Section 26.1-39-16.1 of the North Dakota Century Code is created and
11 enacted as follows:

12 **26.1-39-16.1. Flood insurance notice.**

- 13 1. Insurers shall provide to their homeowners and dwelling fire personal lines
14 insureds a notice explaining clearly and in plain language that such policies do not
15 provide coverage for loss caused by mudslide or flood, and insurance is available
16 under separate policies issued in accordance with the national flood insurance
17 program [42 U.S.C. 4001 et seq.], including information regarding flood insurance
18 eligibility and access.
- 19 2. The provisions of this section apply to any homeowners policy or dwelling fire
20 personal lines policy upon the first renewal of the policies, and to all policies newly
21 issued, on and after the effective date of this section.

22 **SECTION 18. AMENDMENT.** Section 26.1-45-05.1 of the North Dakota Century Code
23 is amended and reenacted as follows:

24 **26.1-45-05.1. Rescission Incontestability and rescission of long-term care**
25 **insurance policy or certificate.** ~~An~~ After six months from the effective date of the policy or
26 certificate, an insurer may not contest or rescind a long-term care insurance policy or certificate
27 or deny a claim on the basis of representations made by an insured on the application for
28 insurance after coverage has been in effect for six months except upon a showing by the
29 insurer that the insured knowingly and intentionally misrepresented relevant facts relating to the
30 insured's health on the application form.