

SENATE BILL NO. 2221

Introduced by

Senator Mutch

Representative Berg

1 A BILL for an Act to create and enact three new sections to chapter 26.1-12.1 of the North
2 Dakota Century Code, relating to foreign mutual insurance holding companies; and to amend
3 and reenact sections 26.1-12.1-01 and 26.1-12.1-09 of the North Dakota Century Code, relating
4 to definitions and approval of a reorganization by eligible members of a domestic mutual
5 insurance company.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-12.1-01 of the 1997 Supplement to the
8 North Dakota Century Code is amended and reenacted as follows:

9 **26.1-12.1-01. Definitions.** As used in this chapter, unless the context or subject matter
10 otherwise requires:

- 11 1. "Commissioner" means the commissioner of insurance.
- 12 2. "Domestic mutual insurance company" or "mutual insurance company" means a
13 mutual insurance company incorporated under the laws of this state pursuant to
14 chapter 26.1-12 or other prior provisions of this title.
- 15 3. "Domestic mutual insurance holding company" or "mutual insurance holding
16 company" means a company formed under section 26.1-12.1-02.
- 17 4. "Eligible member" means a policyholder whose policy is in force as of the record
18 date or member as defined under the bylaws or articles of incorporation of the
19 reorganizing insurer. Unless otherwise provided in the reorganization plan, a
20 person insured under a certificate issued under a group policy is not an eligible
21 member.
- 22 5. "Foreign mutual insurance company" means a mutual insurance company
23 incorporated under the laws of another state.

- 1 6. "Foreign mutual insurance holding company" means a company formed under
2 provisions of the laws of another state similar to those contained in this chapter.
- 3 ~~3.~~ 7. "Membership interest" means all interests of eligible members of the reorganizing
4 insurer, including rights to vote and to participate in any distribution of surplus,
5 whether or not incident to the company's liquidation. It does not include the
6 contractual rights remaining with the reorganized insurance company.
- 7 ~~4.~~ "Mutual insurance company" means a mutual insurance company incorporated
8 under the laws of this state pursuant to chapter 26.1-12 or other prior provisions of
9 this title.
- 10 ~~5.~~ "Mutual insurance holding company" means a company formed under section
11 ~~26.1-12.1-02.~~
- 12 ~~6.~~ 8. "Plan of reorganization" means a plan to engage or participate in a reorganization
13 subject to this chapter.
- 14 ~~7.~~ 9. "Policy" means a policy or contract of insurance issued by a mutual insurance
15 company, including an annuity contract.
- 16 ~~8.~~ 10. "Record date" means the date the reorganizing insurer's board of directors adopts
17 a plan of reorganization or some other date specified as the record date in the plan
18 of reorganization and approved by the commissioner.
- 19 ~~9.~~ 11. "Reorganization" means any plan or transaction described in section 26.1-12.1-02
20 or 26.1-12.1-03, or section 3 of this Act, or any change in the reorganized insurer's
21 articles of incorporation or bylaws which is a material change to the plan of
22 reorganization filed and approved by the commissioner affecting the ability of the
23 reorganizing insurer to meet the standards described in section 26.1-12.1-06.
- 24 ~~10.~~ 12. "Reorganized insurance company" means a mutual insurance company that has
25 completed a reorganization to a stock company that is subject to this chapter. A
26 domestic or foreign mutual insurance company that has completed a
27 reorganization to a stock company may retain the word "mutual" in its name so
28 long as it is clearly identified with its name that it is a stock insurance subsidiary of
29 a domestic or foreign mutual insurance holding company.

1 ~~44.~~ 13. "Reorganizing insurer" means a mutual insurance company, whether domestic or
2 foreign, seeking to participate, or participating, in merger or other reorganization as
3 defined in this chapter.

4 **SECTION 2. AMENDMENT.** Section 26.1-12.1-09 of the 1997 Supplement to the
5 North Dakota Century Code is amended and reenacted as follows:

6 **26.1-12.1-09. Approval by eligible members.** The plan of reorganization must be
7 adopted upon receiving the affirmative vote of a majority of the votes cast by eligible members.
8 Eligible members may vote in person or by proxy. The form of any proxy along with a copy or
9 summary of the plan which accompanied the notice to eligible members must be filed with and
10 approved by the commissioner. The number of votes each eligible member may cast must be
11 determined by the ~~converting~~ reorganizing insurer's domestic mutual insurance company's
12 bylaws. If the bylaws are silent, each eligible member may cast one vote. The plan must be
13 approved as follows:

- 14 1. In the case of formation of a mutual insurance holding company under section
15 26.1-12.1-02, the reorganization plan must be approved by the affirmative vote of a
16 majority of the votes cast by no less than ten percent of the eligible members of the
17 reorganizing ~~insurer~~ domestic mutual insurance company; and
- 18 2. In the case of a merger under section 26.1-12.1-03, the reorganization plan must
19 be approved by an affirmative vote of a majority of the votes cast by no less than
20 ten percent of the eligible members of the reorganizing ~~insurer~~ domestic mutual
21 insurance company and by an affirmative vote of a majority of the votes cast by no
22 less than ten percent of the eligible members of the mutual insurance holding
23 company into which the policyholders' membership interests are to be merged,
24 provided that the vote of the eligible members of the mutual insurance holding
25 company may not be required if the commissioner determines that the merger
26 would not be material to the financial condition of the mutual insurance holding
27 company.

28 **SECTION 3.** Three new sections to chapter 26.1-12.1 of the North Dakota Century
29 Code are created and enacted as follows:

30 **Foreign mutual insurance holding company - Reorganization.** A domestic mutual
31 insurance company may reorganize with a foreign mutual insurance holding company that is

1 created or exists under the laws of another state by complying with chapter 26.1-12.1. The
2 commissioner may waive any provision of chapter 26.1-12.1 if the commissioner determines the
3 provision to be unnecessary for the protection of eligible members.

4 A plan of reorganization under this section must comply with the requirements and
5 standards of section 26.1-12.1-06 and be approved by the eligible members of the domestic
6 mutual insurance company as a reorganizing insurer in accordance with subsection 1 of section
7 26.1-12.1-09. A domestic mutual insurance company seeking to reorganize under this section
8 may at the same time redomesticate to another state by complying with section 26.1-05-07.3
9 and the applicable requirements of the state to which it seeks to transfer domicile.

10 **Existing domestic mutual insurance holding company - Reorganization.** An
11 existing domestic mutual insurance holding company, with the prior approval of the
12 commissioner pursuant to, and under the provisions of section 26.1-12.1-06, may:

- 13 1. Acquire direct or indirect ownership of a foreign mutual insurance company as a
14 reorganizing insurer in compliance with the laws of its state of domicile; and
- 15 2. Grant membership interest and equity rights in the domestic mutual insurance
16 holding company to eligible members of a foreign mutual insurance company as a
17 reorganizing insurer that merges with a direct or indirect domestic or foreign
18 subsidiary of the domestic mutual insurance holding company, or is otherwise
19 acquired by the domestic mutual insurance holding company.

20 The commissioner shall consider the fairness of the terms and conditions of the transaction,
21 whether the interests of the eligible members of the domestic mutual insurance holding
22 company that is a party to the transaction are protected in accordance with this chapter. A plan
23 of reorganization under this section must be approved by the eligible members of the domestic
24 mutual insurance holding company in accordance with subsection 2 of section 26.1-12.1-09.

25 **Concurrent reorganization - Domestic or foreign.** The concurrent reorganization of
26 a domestic mutual insurance company with one or more mutual insurance companies, whether
27 domestic or foreign, into a single mutual insurance holding company structure, whether
28 domestic or foreign, may be accomplished by a joint application and a joint plan of
29 reorganization and may be approved by complying with the requirements and standards of
30 section 26.1-12.1-06 by the commissioner following a hearing as provided for in this chapter.

- 1 The commissioner may allow such other procedures to avoid unnecessary or duplicative costs
- 2 and efforts in satisfying the requirements of this chapter and effectuating the reorganization.