

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1138

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to create and enact section 26.1-22-21.1 of the North Dakota Century Code,
2 relating to insurance broker of record; to amend and reenact sections 26.1-22-05, 26.1-22-10,
3 and 26.1-22-21 of the North Dakota Century Code, relating to buildings insured by the state fire
4 and tornado fund, optional coverage for the state mill and elevator association, and excess loss
5 reinsurance; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-22-05 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-22-05. Public, international peace garden, and winter show buildings**
10 **insurable in fund.** The public buildings and fixtures and permanent contents therein belonging
11 to the state, the various state industries except the state mill and elevator association if the
12 association exercises the option provided in section 26.1-22-10, and the political subdivisions
13 must, and the buildings and fixtures and the permanent contents therein belonging to an
14 international peace garden or a winter show may, be insured under this chapter. No officer or
15 agent of the state or of any political subdivision, and no person having charge of any public
16 buildings belonging to the state, any state industry, or any political subdivision, may pay out any
17 public moneys or funds on account of any insurance against loss by fire, lightning, inherent
18 explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft,
19 smoke, vehicles, or any other risks of direct physical loss, or contract in any manner for, or
20 incur any indebtedness against, the state or any political subdivision on account of any such
21 insurance upon any of the buildings or fixtures and permanent contents therein belonging to the
22 state or any political subdivision, except in the manner provided in this chapter.

23 **SECTION 2. AMENDMENT.** Section 26.1-22-10 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **26.1-22-10. Commissioner to provide insurance on all buildings.** Upon application
2 the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion,
3 windstorm, cyclone, tornado and hail, explosions, riot attending a strike, aircraft, smoke,
4 vehicles, or any other risks of direct physical loss, all in the manner and subject to the
5 restrictions of the standard fire insurance policy and standard endorsement, and no other
6 hazards, in the fund, on all buildings owned by the state, state industries, political subdivisions,
7 international peace gardens, and winter shows, and the fixtures and permanent contents in
8 such buildings, to the extent of not to exceed the insurable value of such property, as the value
9 is agreed to between the commissioner and the officer or board having control of such property,
10 or, in case of disagreement, by approval through arbitration.

11 All buildings and the contents of the buildings owned by the state mill and elevator
12 association, in lieu of coverage under this chapter, may, at the option of the industrial
13 commission, be insured by private insurance companies licensed to do business in this state,
14 against at least all the types of hazards insured against by the fund. If the industrial
15 commission exercises the option provided in this section, the commission shall seek
16 competitive sealed bids, shall invite the fund to submit a bid, and may reject any or all bids
17 received.

18 All public buildings owned by a political subdivision, in lieu of coverage provided for in
19 this section, may at the option of the governing body of the political subdivision be insured on
20 the basis of competitive sealed bids, through the fund which must be invited to submit a sealed
21 bid or private insurance companies licensed to do business in this state, against damage
22 resulting from hazards, which include those types of hazards that may be insured against by
23 the fund. The governing body may reject any or all such bids.

24 All public libraries owned by the state or political subdivisions may, in addition to the
25 coverage provided for in this section, be covered against damage through vandalism. If this
26 coverage cannot be extended to the public libraries situated within this state, the libraries may
27 contract for this coverage with private insurance companies; provided, that this coverage meets
28 the recommendations of the insurance code of the American library association.

29 **SECTION 3. AMENDMENT.** Section 26.1-22-21 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **26.1-22-21. Insurance required - Excess loss reinsurance.** The commissioner shall
2 procure and shall keep in force ~~an~~ excess loss reinsurance ~~contract~~ naming the fund as the
3 reinsured. The excess loss reinsurance must be in an amount and for a period determined by
4 the commissioner to be sufficient for the fund. The reinsurance contract must ~~meet the~~
5 ~~following minimum specifications:~~

- 6 1- ~~Reimburse~~ reimburse the fund for ~~all losses in excess of one million dollars~~
7 incurred by the fund under policies issued by the fund and arising out of each
8 occurrence of a ~~peril 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 covered cause of loss and include at least 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~~ and must be assessed against the policyholders that benefit from the reinsurance.
15 ~~Excess loss reinsurance must be procured by the commissioner and the fund only through bids~~
16 ~~as hereinafter provided and~~ must be written only by a company or companies authorized to do
17 business within this state. The contract must be countersigned by a licensed North Dakota
18 resident insurance producer. ~~On or before the third Monday in June of each odd numbered~~
19 ~~year, the commissioner shall publish in the official newspaper of Burleigh County a notice that~~
20 ~~on the last Monday in June of that year the commissioner will accept bids at the commissioner's~~
21 ~~office in the state capitol. A copy of the notice must be posted at the office of the fund. A copy~~
22 ~~of the notice must be mailed to each insurance company licensed to write fire insurance in this~~
23 ~~state. On the last Monday in June of each odd numbered year prior to the expiration of the~~
24 contract, the commissioner, with the approval of the industrial commission, shall contract for the
25 excess loss reinsurance with the company or group of companies submitting the lowest and
26 best bid for the ~~two year~~ period commencing on the ensuing first day of August. The
27 commissioner, with the approval of the industrial commission, may disregard this section after
28 the commissioner and the commission have studied the available bids for the reinsurance
29 required by this section.

30 **SECTION 4.** Section 26.1-22-21.1 of the North Dakota Century Code is created and
31 enacted as follows:

1 **26.1-22-21.1. Insurance broker of record.** The fund may contract for insurance
2 broker of record services to assist in procuring excess loss reinsurance by soliciting bids. The
3 fund may award a contract to an insurance broker licensed by, and in good standing with, the
4 state to serve the interests of the fund and its policyholders under this title. The contract must
5 be for the period of a biennium. The fund may renew, renegotiate, or rebid a contract based
6 upon contract performance, cost, and the best interests of the fund and policyholders.

7 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.