

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1138
(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

All public buildings owned by a political subdivision, in lieu of coverage provided for in this section, may at the option of the governing body of the political subdivision be insured on the basis of competitive sealed bids, through the fund which must be invited to submit a sealed bid or private

insurance companies licensed to do business in this state, against damage resulting from hazards, which include those types of hazards that may be insured against by the fund. The governing body may reject any or all such bids.

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

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

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

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

~~The cost of the excess loss reinsurance must be paid out of the premium income of the fund.—This excess and must be assessed against the policyholders that benefit from the reinsurance. Excess loss reinsurance must be procured by the commissioner and the fund only through bids as hereinafter provided and must be written only by a company or companies authorized to do business within this state. The contract must be countersigned by a licensed North Dakota resident insurance producer. On or before the third Monday in June of each odd numbered year, the commissioner shall publish in the official newspaper of Burleigh County a notice that on the last Monday in June of that year the commissioner will accept bids at the commissioner's office in the state capitol. A copy of the notice must be posted at the office of the fund. A copy of the notice must be mailed to each insurance company licensed to write fire insurance in this state. On the last Monday in June of each odd numbered year prior to the expiration of the contract, the commissioner, with the approval of the industrial commission, shall contract for the excess loss reinsurance with the company or group of companies submitting the lowest and best bid for the two year period commencing on the ensuing first day of August. The commissioner, with the approval of the industrial commission, may disregard this section after the commissioner and the commission have studied the available bids for the reinsurance required by this section.~~

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1138 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 91 Nays 0 Absent 3

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 44 Nays 1 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State