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Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1189

Introduced by

Representatives Louser, Ista, Klemin, Roers Jones

Senator Hogue

A BILL for an Act to amend and reenact sections 26.1-19-03 and 26.1-43-03 of the North Dakota Century Code, relating to legal expense insurance plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-19-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-19-03. Exceptions.

This chapter does not apply to:

1. Commercial insurers licensed or authorized to do business in this state or to any nonadmitted insurers.
2. Retainer contracts made by attorneys with individual clients with fees based upon an estimate of the nature and amount of services to be provided to a specific client and similar contracts made with a group of clients involved in the same or closely related legal matters.
3. Plans providing no benefits other than consultation with and advice by an attorney in connection or combination with referral services.
4. The furnishing of legal services on an informal basis, involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship.
5. Employee welfare benefit plans as defined by the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829].
6. Prepaid legal services plans that pay only an administrative fee to an attorney. Under this subsection, the payment of only an administrative fee to an attorney is not considered payment for or reimbursement of the cost of legal services and related expenses and court costs.

SECTION 2. AMENDMENT. Section 26.1-43-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-43-03. Legal plans and contracts excepted from insurance code.

Unless otherwise provided, this title does not apply to:

1. Plans licensed under chapter 26.1-19.
2. Retainer contracts made by attorneys with individual clients with fees based upon an estimate of the nature and amount of services to be provided to a specific client and similar contracts made with a group of clients involved in the same or closely related legal matters.
3. Employee welfare benefit plans as defined by the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829].
4. Plans that do not include the assumption of risk or obligation to pay or reimburse for specified legal services or specified legal expenses. Under this subsection, the payment of only an administrative fee to an attorney is not considered reimbursement of the beneficiary or on behalf of the beneficiary for all or a portion of the beneficiary's fees, costs, or expenses related to or arising out of services by or under the supervision of an attorney licensed to practice law in this state.