

**FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2089**

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact subsection 1 of section 26.1-02-31 and subsection 6 of  
2 section 26.1-03-19.4 of the North Dakota Century Code, relating to confidentiality of insurance  
3 department records.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 26.1-02-31 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 1. A document, material, or other information, including the contents of a claim file, which  
8 is provided to, obtained by, created by, or disclosed to the commissioner in response  
9 to a consumer assistance request or a complaint is confidential and not subject to  
10 section 44-04-18, a subpoena to the department, or discovery request or admissible  
11 as evidence in a private civil action. ~~However, the commissioner may disclose the~~  
12 ~~subject matter of the assistance request or complaint, provide a general description of~~  
13 ~~the disposition of the request or complaint, and~~The commissioner may use the  
14 document, material, or other information for a regulatory or legal action brought as a  
15 part of the official duties of the commissioner. This section does not preclude the  
16 commissioner from publishing orders resulting from administrative action taken by the  
17 commissioner or providing the general description of the disposition of the consumer  
18 assistance request or complaint.

19 **SECTION 2. AMENDMENT.** Subsection 6 of section 26.1-03-19.4 of the North Dakota  
20 Century Code is amended and reenacted as follows:

21 6. All working papers, recorded information, documents, and copies thereof produced by,  
22 obtained by, or disclosed to the commissioner or any other person in the course of an

1 examination made under this chapter, or in the course of analysis by the commissioner  
2 of the financial condition or market conduct of the company, must be given confidential  
3 treatment and are not subject to subpoena and may not be made public by the  
4 commissioner or any other person, except to the extent provided in subsection 5.  
5 Access also may be granted to the national association of insurance commissioners.  
6 The parties must agree in writing prior to receiving the information to provide to it the  
7 same confidential treatment as required by this section, unless the prior written  
8 consent of the company to which it pertains has been obtained. Disclosure of  
9 documents, materials, or information to the commissioner under this section, or as a  
10 result of sharing as authorized in subdivision b of subsection 5, does not waive an  
11 existing privilege or claim of confidentiality.