

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2124

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to create and enact section 26.1-03-19.8 and a new section to chapter 26.1-03
2 of the North Dakota Century Code, relating to insurance company inquiries and insurance
3 company statements; and to amend and reenact section 26.1-03-19.1 and subsection 6 of
4 section 26.1-03-19.4 of the North Dakota Century Code, relating to insurance company
5 definitions and examination records.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-03-19.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-03-19.1. Examination of companies - Definitions.**

10 In sections 26.1-03-19.1 through ~~26.1-03-19.7~~26.1-03-19.8, unless the context otherwise
11 requires:

- 12 1. "Company" means any foreign or domestic insurance company as defined in section
13 26.1-02-01.
- 14 2. "Data call" means an inquiry addressed to a company issued before, ~~during~~, or in lieu
15 of an examination under this chapter.
- 16 3. "Examiner" means any individual or firm having been authorized by the commissioner
17 to conduct an examination under this chapter.
- 18 ~~3.4.~~ "Person" means any individual, aggregation of individuals, trust, association,
19 partnership, or corporation, or any affiliate thereof.

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

3 6. All working papers, recorded information, documents, and copies thereof produced by,
4 obtained by, or disclosed to the commissioner or any other person in the course of an
5 examination made under this chapter, or in the course of analysis by the commissioner
6 of the financial condition or market conduct of the company, must be given confidential
7 treatment and are not subject to subpoena and may not be made public by the
8 commissioner or any other person, except as provided in this subsection and to the
9 extent provided in subsection 5. Access also may be granted to the national
10 association of insurance commissioners. The parties must agree in writing prior to
11 receiving the information to provide to it the same confidential treatment as required by
12 this section, unless the prior written consent of the company to which it pertains has
13 been obtained. This subsection may not be construed as prohibiting the commissioner
14 from making public aggregate or anonymized information from the materials
15 contemplated in this subsection.

16 **SECTION 3.** Section 26.1-03-19.8 of the North Dakota Century Code is created and
17 enacted as follows:

18 **26.1-03-19.8. Data calls.**

- 19 1. The commissioner or the commissioner's designated representative may issue a data
20 call under this chapter whenever the commissioner deems it appropriate. The
21 insurance company shall reply in writing to the data call within twenty days of receipt
22 of the inquiry unless within that twenty days the company requests and the
23 commissioner grants an extension of time.
- 24 2. For purposes of completing a data call under this section, the commissioner may
25 inquire into any person, or the business of any person, to the extent the inquiry or
26 investigation is, in the sole discretion of the commissioner, necessary or material to the
27 operations of the company.
- 28 3. The commissioner may designate the national association of insurance
29 commissioners or another representative as the repository for data call responses.
- 30 4. All materials, working papers, information, documents, and copies produced by,
31 obtained by, or disclosed to the commissioner or any other person in the course of a

- 1 data call made under this chapter, or in the course of analysis by the commissioner of
2 the market conduct of the company:
- 3 a. Must be given confidential treatment;
4 b. Are not subject to subpoena; and
5 c. May not be made public by the commissioner or any other person, except to the
6 extent provided in this chapter.
- 7 5. The commissioner may use the documents, materials, or other information in
8 furtherance of any regulatory or legal action brought as part of the commissioner's
9 official duties.
- 10 6. The commissioner may make the results of the data call available for public inspection
11 in an aggregate ~~and~~ anonymized format that does not disclose information or data
12 ~~call summaries of responses received from insurance companies transacting~~
13 ~~insurance business in this state~~ attributed to any specific company or person, including
14 the name of any company or person who responded to the data call.
- 15 7. The commissioner may adopt rules to administer this section.

16 **SECTION 4.** A new section to chapter 26.1-03 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Market conduct annual statement.**

- 19 1. The commissioner may require a foreign or domestic insurance company to annually
20 file a market conduct annual statement. The statement must:
- 21 a. Be filed with the commissioner, or with the commissioner's designee, on a date
22 specified by the commissioner;
- 23 b. Include the scope of information prescribed by the commissioner; and
24 c. Be in the proper form and transmitted, as prescribed by the commissioner.
- 25 2. The commissioner may, in the commissioner's discretion and for good cause, exclude
26 an insurance company from filing a statement under this section.
- 27 3. The commissioner may adopt rules to implement and administer this section.