NORTH DAKOTA
Insurance Department

TESTIMONY

Jon Godfread, Insurance Commissioner
Senate Industry and Business Committee
February 5, 2025

Chairman Barta and members of the committee, thank you for the opportunity to testify today. For the Record I am Jon Godfread, North Dakota Insurance Commissioner and I am here today in support of Senate Bill 2374, a bill that represents a targeted, expert-driven modernization of our state's insurance laws. This legislation is based on the recommendations of industry experts who were specifically tasked with identifying ways to make North Dakota's property insurance market more competitive, resilient, and flexible in the face of rapidly changing economic and environmental risks.

The North Dakota property insurance market is facing increasing pressures. Rising costs due to inflation, higher reinsurance rates, more frequent catastrophic weather events, and supply chain disruptions are all contributing to a tightening commercial insurance market. These challenges make it essential for our state to remain attractive to insurers while also providing commercial buyers with more tools to negotiate and secure the coverage they need.

Senate Bill 2374 seeks to achieve this by introducing reasonable, targeted regulatory flexibility—particularly for large commercial policyholders—while maintaining strong oversight where it is truly needed.

Key Provisions of Senate Bill 2374

Section 1 & 4 - 7: Recognizing Large Commercial Risks as Sophisticated Buyers

One of the key components of SB 2374 is recognizing that large commercial policyholders are fundamentally different from individual consumers or small businesses in their insurance needs, risk management expertise, and bargaining power. These policyholders typically:

- Have total insured property values of at least $5 million or annual gross revenues of at least $10 million.
- Employ dedicated risk managers or external insurance consultants to negotiate policies.
- Engage in highly customized insurance transactions that are not standardized like personal or small-business policies.

Because of these factors, overregulating their insurance transactions does not provide consumer protection—it creates unnecessary barriers and costs.

To address this, SB 2374:

This amendment will prohibit insurance producers from giving a gift of any value to insurance clients, potential clients or any other persons currently allowed to receive promotional gifts of up to $100 in value.

We have drafted both of these amendments and would appreciate the committee's consideration of these amendments.

Section 2 & 3: Updating the Insurance Holding Company Systems

The final section of SB 2374 introduces provisions allowing delegation agreements to be filed with the North Dakota Insurance Department. These updates are intended to permit a person or entity to delegate control over an insurer to one or more other persons, subject to the approval of the Insurance Commissioner.

While this provision is aimed at enhancing corporate flexibility within insurance holding company structures, it is important to note that North Dakota's Insurance Holding Company System statute is part of the National Association of Insurance Commissioners (NAIC) Accreditation Program.

The NAIC Accreditation Program was established to ensure that states adopt and enforce consistent solvency regulations for multi-state insurers across life, health, and property & casualty markets. North Dakota has maintained its Accreditation since 1992, and we are committed to preserving that status.

Potential Impact on Accreditation

There is a concern that passing Sections 2 and 3 of SB 2374 in their current form may negatively impact North Dakota's Accreditation standing. We are actively reviewing this issue to determine whether these provisions align with NAIC standards or if they could introduce inconsistencies in solvency regulation.

To ensure that we do not jeopardize our Accreditation, we have drafted an amendment to remove Sections 2 and 3 if it is determined that retaining these provisions would place our Accreditation status in question. Maintaining a strong, nationally recognized regulatory framework remains a top priority, and we will continue to work closely with stakeholders to address any concerns.

These changes align North Dakota's laws with modern industry practices while ensuring that businesses utilizing these alternative models operate within a clear and fair regulatory framework.

Sections 7 - 10: Strengthening Legal Clarity & Efficiency in Claims Handling

SB 2374 also introduces important legal clarity around arbitration, claims reopening, and bad faith litigation. These changes will help reduce costs and uncertainty for insurers, which in turn leads to more affordable coverage options for businesses and consumers alike.

are regulated primarily by the state in which they are domiciled and can operate in multiple states without needing a separate license in each one.

- RRGs are often used by industries where liability insurance is expensive or difficult to obtain, such as healthcare providers, trucking companies, and construction firms.
- Members of an RRG own and control the group, meaning the risk is shared exclusively among them.
- Because they operate under a unique regulatory framework, state laws can sometimes create confusion about whether RRGs meet statutory coverage requirements.

SB 2374 clarifies that compliant RRGs are recognized as authorized insurers, ensuring that businesses using these groups can meet legal insurance requirements without unnecessary barriers. This update provides certainty to policyholders, regulators, and insurers alike while ensuring that RRGs continue to function effectively in North Dakota.

Purchasing Group (PG)

A Purchasing Group (PG) is different from an RRG in that it does not self-insure but instead buys insurance as a group from a traditional insurer. Also established under the federal Liability Risk Retention Act, a PG consists of businesses or individuals with similar liability risks who join together to negotiate better insurance terms than they could obtain individually.

- Purchasing Groups provide greater bargaining power, allowing members to reduce costs and secure more tailored coverage.
- Unlike RRGs, a PG does not form its own insurance company; rather, it buys policies from licensed insurers on behalf of its members.

SB 2374 clarifies and strengthens the regulation of risk retention groups and purchasing groups, ensuring that businesses using these alternative risk-financing mechanisms have clear guidelines. The bill:

- Clarifies that compliant risk retention groups are treated as authorized insurers, allowing them to meet statutory coverage requirements.
- Allows purchasing groups to buy a shared aggregate limit, enabling members to pool risk efficiently.
- Ensures transparency in fees charged by purchasing groups, protecting policyholders while maintaining operational flexibility.

Chairman Barta and members of the committee, in summary SB 2375 is about:

- Recognizing the sophistication of large commercial policyholders and allowing them the flexibility to secure coverage in an increasingly complex market.
- Removing unnecessary barriers that make it harder for businesses to obtain the insurance they need.
- Keeping North Dakota competitive by ensuring our insurance laws reflect modern market realities.