

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1264

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La Costa Rickford  
Operator's Signature

10/2/02  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1264

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*10/3/03*  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1264

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/27/03

Tape Number	Side A	Side B	Meter #
2	x		19.0-end
2		x	0.00-5.5
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Keiser opened the hearing on HB 1264.

Rep. Frank Wald, District 37, introduced HB 1264, which deals with the topic of "controlled business". Last session the Insurance Department brought in a bill that made many changes in the code, doing housekeeping, so to speak, and inadvertently deleted the "controlled business insurance" portion of the legislation. For example, a contractor who pays substantial premiums may want to start an agency just for their own account. Or a large farmer might want to get a contract to write his liability insurance. That's the only business that they would write. Or a cooperative may want to start their own insurance agency. What the "controlled business" statute has done for years and years has precluded this type of thing from happening. We are asking that this "controlled business" be put back into the code.

Kent Olson, Executive Director of the ND Professional Insurance Agents, appeared in support of HB 1264. (See attached)

Page 2  
House Industry, Business and Labor Committee  
Bill/Resolution Number HB 1264  
Hearing Date 1/27/03

**Rep. Tiegan:** Must the individual in the scenarios you have described be licensed and an agent for a company? Not appointed?

**Olson:** That's almost correct. You have to be licensed and you can have an insurance producers license without having an appointment.

Appearing in opposition to HB 1264 was **Robert Fitzsimmons**, a farmer from Walhalla, ND, representing himself, who offered oral testimony to explain the situation that occurred when the local elevator closed its doors. They raised money locally to get their product that they had already purchased. The community raised 1.2 million to buy out Harvest States position. We changed to Benson Quinn for management. This economic development created 40 new jobs in our community. Our crop insurance and chemical sales keep our doors open. This is not controlled business. Be careful how you word this.

**Rep. Kasper:** You sell yourselves your crop insurance? Do you sell through a licensed agent? Do you sell to any people besides your group of partners? Crop and health insurance, and if so, what percentage is that compared to your controlled group?

**Fitzsimmons:** Our elevator manager is our agent. Some clients aren't stockholders. I don't know the percentages.

**Brian Johnson, President of Walhalla Bank:** This past year, our first year of business, we got our license the end of January or so. Crop insurance sales close on March 15. We had two non-shareholder members, accounting for 10-15% gross premiums.

**Tim Smith, Walhalla, ND,** Buying my insurance through the elevator kept my insurance dollars in town. It helps the elevator stay viable. We need this business in our town. The past three years

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date 1/27/03

have worked out well. Thanks for the opportunity to speak to this committee today. The insurance aspect is just another form of diversification.

**Rep. Kasper:** Please explain about the co-op investing \$100,000. What percentage of local farmers are members of your coop and put dollars into the elevator?

**Smith:** Anybody who does business with us is a member of the co-op. 25% of our profit is allocated to dividends. 95-100% of the local farmers are our members. We do \$2,000,000 a year in business.

**Rep. Kasper:** Is the Co-op a partner in the elevator? And almost 100% of local farmers are members of the Co-op? So 100% of the farmers are members of the elevator through the ownership of the stock by the co-op?

**Smith:** Yes, yes, and indirectly, yes.

**Rep. Boe:** Would this law, if changed, easily circumvented by partnering with some other business? Another agency, until your group could meet the 25% statute requirement?

**Smith:** I'd defer that question to Mr. Johnson.

**Johnson:** That's a tough thing to do, what agency would let you in if you're their competition?

**Rep. Johnson:** If this statute goes into place, is it retroactive, does it preclude you from doing further business?

**Johnson:** We've contacted an attorney for questions about commissions etc. and interpretation of the law. I'd ask this committee for an amendment to address the fact that if it is necessary for this committee to close this developing competitive market off, maybe you do amend the date.

**Chairman Keiser:** One of the things about insurance is that you want it to stand on its own two legs. When you sell a policy you want the company who sold it to you to be able to service the

Page 4

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date 1/27/03

account. That's a cornerstones to insurance. And that's a reason we avoid these entanglements, there's a subtle conflict. In that the people who buy the insurance also own the company and that may have an impact on premiums. What happens if the insurance side takes a huge hit?

**Johnson:** We are required to have an omissions coverage. This is a legitimate business. The patrons of the elevator aren't controlling this process, there's just another competitive player in the market. Who is this bill impacting? It is targeted at us. We're here today, not to level the playing field, but to change the rules. This same group saved this elevator from ending up like the Wimbledon situation did. This group understands the need to find a way to earn noninterest income. Harvest States controls so many small towns and limits their options. This is quite the contrary in order to help the small producer and farmer. Please do not pass this bill.

**Rep. Kasper:** The business plan was drawn up in 1998. Was insurance part of the original business plan?

**Johnson:** I don't know. I wasn't in Walhalla at that time.

**Rep. Kasper:** Was the elevator meeting its goals and projections as a business until this insurance battle came up? Were you running in the black or in the red?

**Johnson:** This year the elevator made \$200,000, half of which was generated by insurance, the other half by selling chemicals. Operating expenses run \$60,000 a month.

As there was no one else present to testify in opposition to HB 1264, the hearing was closed.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1264

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
3	X		4,554-5467
Committee Clerk Signature <i>Elizabeth R. Fier</i>			

Minutes: **CHAIR KEISER**: Opened committee work on 1264.

**REP. FROSETH**: Offered amendment to grandfather the Walhalla insurance company in to the bill.

**REP. KASPER**: Would support the amendment if there was a provision that they can not sell or expand. He does not want a loophole.

**REP. EKSTROM**: Would like to talk to Commissioner Poolman. Chair Keiser asked Rep. Ekstrom, Kasper, and Froseth to discuss and to come back later.

**REP. NOTTESTAD**: Wouldn't support without the amendment

**REP. SEVERSON**: Would also vote against currently without the amendment.

**REP. DOSCH**: What the agency did was within the law when it was done and would support if they agency was grandfathered in.

**CHAIR KEISER**: Closed committee work on 1264.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1264

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2/4/03

Tape Number	Side A	Side B	Meter #
2		x	23.0-33.5
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Keiser called for committee work on HB 1264.

Rep. Froseth distributed a proposed amendment relating to controlled insurance businesses.

During last session a portion of statute was repealed that is being brought back in now. Since then, at least two companies that have formed controlled insurance businesses, one organized under the umbrella of a cooperative that sells crop insurance. This amendment will be limited to businesses selling crop insurance only that were licensed prior to January 1, 2003.

Rep. Klein moved to adopt the amendments. Rep. Severson seconded the motion.

A voice vote carried the amendment.

Rep. Klein moved a Do Pass As Amended.

Rep. Tiegan seconded the motion.

Results of the roll call vote were: 13-1-0.

Rep. Kasper will carry this bill on the floor.

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*La Costa Rickford*  
Operator's Signature

*10/3/03*  
Date



2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1264

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2/05/03

Tape Number	Side A	Side B	Meter #
2		x	8.0-10.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Keiser called for committee work on HB 1264. The original proposed amendments referred to a "cooperative association" when in fact, the entity is an LLC (limited liability corporation).

Rep. Froseth moved reconsider the actions taken on 2/4/03.

Rep. Kasper seconded the motion.

Rep. Froseth: The amendment didn't specify if LLC's were included. I visited with the Insurance Commissioner, licensee will cover all types of licenses issued under the time period. We rephrased the amendment slightly, redid the language. It's limited to the owners of that licensee as of January 1, 2003.

A voice vote carried the motion to adopt the amendments.

Rep. Severson moved a Do Pass As Amended. Rep. Klein seconded the motion.

Results of a roll call vote were: 13-1-0.

Rep. Kasper will carry this bill on the floor.

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Operator's Signature

*10/3/03*  
Date

IP

**FISCAL NOTE**  
Requested by Legislative Council  
01/14/2003

Bill/Resolution No.: HB 1264

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

☒ This bill will restrict the customers to which an agent may sell insurance, but will not impact the number of agents or any fees paid by those agents.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

N/A

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

N/A

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

N/A

Name:	Charles E. Johnson	Agency:	Insurance
Phone Number:	328-2440	Date Prepared:	01/15/2003

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Operator's Signature

*Ja Costa Rickford*

Date

10/3/03

February 3, 2003

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1264**

Page 1, after line 15, insert the following:

- "c. Controlled business does not include crop insurance business sold by a licensee owned by a cooperative association organized under chapter 10-15 to the members of the cooperative association who were members as of January 1, 2003, provided the licensee was licensed prior to January 1, 2003."

Renumber accordingly

*Chuck Johnson*  
328-4984

*La Costa Rickford*  
Operator's Signature

*10/3/03*  
Date

30509.0101  
Title.0200

Adopted by the Industry, Business and Labor Committee  
February 4, 2003

VR  
2/5/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1264 IBL 2-06-03

Page 1, line 8, remove the colon

Page 1, line 9, replace "a. Insurance" with "Insurance"

Page 1, line 11, replace "b. Insurance" with "Insurance"

Page 1, line 15, after the period insert "The term does not include crop insurance sold by a licensee that is owned by a cooperative association organized under chapter 10-15, if the insurance is sold to the members of the cooperative association who were members as of January 1, 2003, and if the licensee was licensed before January 1, 2003."

Renumber accordingly

Page No. 1

30509.0101

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La Costa Rickford  
Operator's Signature

10/3/03  
Date

Date: 2/4/03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1264

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass & Amend

Motion Made By Klein Seconded By Tieman

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelser	✓		Rep.Boe		✓
Rep.Severson, Vice-Chair	✓		Rep.Ekstrom	✓	
Rep.Dosch	✓		Rep.Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep.Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓				
Rep.Tieman	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Kasper

If the vote is on an amendment, briefly indicate intent:

La Costa Rickford 10/2/03  
Operator's Signature Date

30509.0102  
Title.0300

Adopted by the Industry, Business and Labor  
Committee

February 4, 2003

VK  
2/8/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1264 IBL 2-10-03

Page 1, line 8, remove the colon

Page 1, line 9, replace "a. Insurance" with "Insurance"

Page 1, line 11, replace "b. Insurance" with "Insurance"

Page 1, line 15, after the period insert "'Controlled business" does not include a crop insurance business sold by a licensee to the owners of the licensee who were owners as of January 1, 2003, provided the licensee was licensed before January 1, 2003."

Renumber accordingly

Page No. 1

30509.0102

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*La Costa Rickford*  
Operator's Signature

*10/3/03*  
Date

February 5, 2003

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1264**

Page 1, after line 15, insert the following:

- "c. Controlled business does not include crop insurance business sold by a licensee to the owners of the licensee who were owners as of January 1, 2003, provided the licensee was licensed prior to January 1, 2003."

Renumber accordingly

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Operator's Signature

10/2/03  
Date

Date: 2/5/03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1264

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

80509.0102 / .0300

Action Taken

Do Pass As Amended

Motion Made By

Severson

Seconded By

Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelser	✓		Rep.Boe		✓
Rep.Severson, Vice-Chair	✓		Rep.Ekstrom	✓	
Rep.Dosch	✓		Rep.Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep.Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓				
Rep.Tieman	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Kasper

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE (410)**  
February 10, 2003 8:51 a.m.

Module No: HR-25-2078  
Carrier: Kasper  
Insert LC: 30509.0102 Title: .0300

**REPORT OF STANDING COMMITTEE**

**HB 1264: Industry, Business and Labor Committee (Rep. Kelsor, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1264 was placed on  
the Sixth order on the calendar.

Page 1, line 8, remove the colon

Page 1, line 9, replace "a. Insurance" with "Insurance"

Page 1, line 11, replace "b. Insurance" with "Insurance"

Page 1, line 15, after the period insert "'Controlled business" does not include a crop  
insurance business sold by a licensee to the owners of the licensee who were owners  
as of January 1, 2003, provided the licensee was licensed before January 1, 2003."

Renumber accordingly

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1264

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Operator's Signature

10/3/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1264

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-05-03

Tape Number	Side A	Side B	Meter #
1		xxxx	636-end
2	xxxx		0-3104
Committee Clerk Signature <i>Lisa Hubbard</i>			

Minutes: Chairman Mutch opened the hearing on HB 1264. All Senators were present.

HB 1264 relates to controlled insurance business.

**Testimony in support of HB 1264**

**Representative Frank Wald** introduced the bill. This bill is in front of you because two years ago Commissioner Pomeroy brought in a 60 some page bill to clean up the code and inadvertently section 26.1-26-38 was removed from the code.

That section of the code deals with controlled business statute. This statute is common practice in most states. Basically, the controlled business statute does is state that a person or a corporation cannot form an agency to write their own business. For example Tesoro Refinery cannot appoint a person in their agency to write for them.

**Senator Klein:** Could you address the 25% figure?

**Rep. Wald:** The percentage of commission is a bench mark that has been in the books for 26 years, until 2 years ago when it was inadvertently repealed. When I started my own agency in

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1264

Hearing Date 03-05-03

Dickinson over 30 years ago, I couldn't write commissions on just myself. It had to be over 25% of other clients. There could be conflict of interest if you just wrote for yourself.

**Kent Olson**, Executive Director, NDPIA, spoke in support of the bill. See attached. Also see handouts and illustrations.

**Senator Every:** What led to the discovery of this repealer?

**Kent:** I think it came from the industry through the crop insurance marketing plan. It changed the way crop insurance delivery is happening somewhat. There was an issue on co-op delivery.

Alternate marketing mechanisms coming forth because of innovative thinking.

**Senator Mutch:** Is there concern that this insurance group in Walhalla will not allow anyone to be an agent. They would decide who would be agents, like anybody else, wouldn't they?

**Kent:** The licenser is not the factor because anyone can get licensed. We have no problem with those who want to form a group as long as we have the controlled business statute so there is a controlled playing field. So we have the relationship between insurer and agent upfront. This still allows for the 25%.

**Senator Nething:** What is different now from this bill and the old law that was repealed?

**Kent:** Nothing, other than the addition made by the House to add the exclusion of Walhalla and anyone who is licensed before. The old bill is not retroactive.

**Senator Espegard:** I see that this limits the growth of the business.

**Kent:** I'm not too sure that it wouldn't enhance the value because if they have a system that would be desirable to market statewide.

**Rep. Glen Froseth** spoke in support of the bill. It was due to my efforts that this amendments came about. This amendment will allow that Walhalla Ins. Company to continue operating their

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1264

Hearing Date 03-05-03

insurance company. Being the controlled insurance statute is going into effect, we thought that any new companies coming in should have the 25% commission threshold.

Jim Poolman, North Dakota Insurance Commissioner, was neutral. I want to make it clear that I take full responsibility for the repealer in the bill. Had we known that the controlled business statute would cause the uproar that it has caused since the repealer, we would probably had second thoughts of whether to repeal the statute to begin with.

**Testimony in opposition of HB 1264**

Ray Grabanski, Pro Ag Systems, Inc., spoke in opposition to the bill. We work primarily with farmers on risk management. See written testimony. See attached proposed amendments.

There were no questions from the committee.

Brian Johnson, Walhalla N.D., spoke in opposition. Minnesota, South Dakota, Kansas and Iowa do not have a controlled business statute. Texas statute states that you can go up to 75%. In 1998, the elevator in Walhalla was foreclosed on by Harvest States. They were going to take over the elevator and were not going to honor equity credit or prepaid chemicals. The elevator raised over a million dollars locally to take over Harvest States and save the elevator.

Senator Mutch: Are your rates the same as everyone's?

Brian: Yes, they are regulated.

Senator Klein: You guys are only doing crop insurance. If you could separate the crop insurance from the rest would that be better?

Brian: No, we aren't looking to expand. That is not why we have crop insurance. We do not want to sell home and auto insurance.

Page 4

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1264

Hearing Date 03-05-03

Loren Ness, Minot, ND, stated for the record that he is opposed to the bill. He is an insurance writer for FARMS insurance in Minot.

Clarence Hanson, spoke in opposition as well.

Dan Skarsgard stated for the record that he is in opposition.

Hearing was closed. No action taken at this time.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1264

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-25-03

Tape Number	Side A	Side B	Meter #
1	xxx		960-2775
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the discussion on HB 1264. All Senators were present.

HB 1264 relates to a controlled insurance business.

**Senator Espegard:** This was repealed last year. Some would say it was because it wasn't needed anymore, but the agents would like it back. The amendment would exclude the Walhalla Elevator.

**Senator Klein** hands out an amendment. This amendment should allow them to continue business just as they are now. All of the groups that have started an insurance business before this would grandfather them from this law.

**Senator Espegard:** Would this allow them to expand?

**Senator Klein:** No, they have to stick with just crop insurance. They can establish more customers, but not new areas of insurance. The bill, the way it was written, would not allow them to continue to grow.

**Senator Klein** moved to adopt the amendments. Senator Espegard seconded.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1264

Hearing Date 03-25-03

Roll Call Vote: 7 yes. 0 no. 0 absent.

Senator Heitkamp proposed to amend further by changing line 23 from 25% to 50%.

Senator Heitkamp moved to adopt the amendments. Senator Every seconded.

Roll Call Vote: 5 yes. 2 no. 0 absent.

Senator Espegard moved a Do PASS AS AMENDED. Senator Klein seconded.

Roll Call Vote: 6 yes. 1 no. 0 absent.

Carrier: Senator Klein



30509.0301  
Title.

Prepared by the Legislative Council staff for  
Senator Mutch

March 3, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1264

Page 1, line 2, after "business" insert "; and to provide a penalty"

Page 1, line 6, after "determination" insert "- Civil penalty"

Page 1, line 9, replace "; or insurance covering the licensee, the" with a period

Page 1, remove lines 10 through 13

Page 1, line 14, remove "employee."

Page 1, line 17, replace "The" with "Effective January 1, 2006, the" and remove "grant,"

Page 1, line 18, after the first "license" insert "that has been in force for at least three years"

Page 1, line 19, remove "applicant or"

Page 1, after line 24, insert:

- "3. If a licensee's annual aggregate commissions earned from a controlled business exceed twenty-five percent of the aggregate commissions earned on all business written by the licensee for that calendar year, the licensee shall file a report with the commissioner before March first of the following year. The commissioner shall create and make available the necessary forms for a licensee to report under this subsection the total annual commissions earned and the percentage of total annual commissions earned for controlled business.
4. Notwithstanding section 26.1-26-50, a licensee that fails to make a report required under this section may be subject to a civil penalty that does not exceed the greater of ten thousand dollars or the licensee's total annual earned commissions. This penalty may be collected in an action brought in the name of the state. If the commissioner determines a licensee has violated this section, the commissioner may take action under section 26.1-26-42."

Page 2, line 1, replace "3." with "5."

Renumber accordingly

~~38302.0202~~  
Title.

Prepared by the Legislative Council staff for  
Senator Klein

March 18, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1284

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Renumber accordingly

page 1, line 23 replace "twenty-five" with "fifty"

Page No. 1

38302.0202

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Ja Costa Rickford  
Operator's Signature

10/3/03  
Date

30509.0302  
Title.0400

Adopted by the Industry, Business and Labor  
Committee

March 25, 2003

*JB*  
3-25-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1264

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Page 1, line 23, replace "twenty-five" with "fifty"

Renumber accordingly

Date: 3-26-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate 1264 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 3820202

Action Taken Adopt Amendments from Klein

Motion Made By Klein Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nothing	X				
Senator Heitkamp	X				
Senator Every	X				
Senator Espegard	X				

Total (Yes) ~~Click here to type Yes~~ 7 No ~~Click here to type No~~ 0

Absent 0

Floor Assignment ~~Click here to type Floor Assignment~~

If the vote is on an amendment, briefly indicate intent:

La Costa Rickford  
Operator's Signature

10/3/03  
Date

Date: 3-25-03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate 1264 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendments from Heitkamp

Motion Made By Heitkamp Seconded By Every

Senators	Yes	No	Senators	Yes	No
Mitch	X				
Klein		X			
Kriebelbach	X				
Netting		X			
Heitkamp	X				
Every	X				
Espey	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent: line 23-raise to 50%  
from 25%

La Costa Rickford  
Operator's Signature

10/3/03  
Date

Date: 3-25-03  
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate 1264 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As Amended

Motion Made By Espigard Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nething	X				
Senator Heitkamp		X			
Senator Every	X				
Senator Espigard	X				

Total (Yes) Click here to type Yes Vote 6 No Click here to type No Vote 1

Absent 0

Floor Assignment Click here to type Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

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Lu Costa Rickford  
Operator's signature

10/3/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 26, 2003 1:07 p.m.

Module No: SR-54-5806  
Carrier: Klein  
Insert LC: 30509.0302 Title: .0400

**REPORT OF STANDING COMMITTEE**

HB 1264, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1264 was placed on the Sixth order on the calendar.

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Page 1, line 23, replace "twenty-five" with "fifty"

Renumber accordingly

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1264

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La Costa Rickford  
Operator's Signature

10/3/03  
Date



2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1264

House Industry, Business and Labor Committee

☒ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter #
1	x		0.0-31.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: ~~Conference Committee Chair~~ Kasper called the meeting to order. All appointed members of the committee were present: Senators Klein, Mutch & Heltkamp and Representatives Kasper, Froseth & Boe.

Senator Klein stated that the intent of the Senate's amendments was to bring into compliance the groups that took advantage of the repealed law and allow them to continue doing business because it does appear that they adhered to the law. Since there was no law, they were grandfathered in. Additionally, we increased the controlled business percentage from 25 to 50%.

Representative Froseth: This was my amendment originally and the purpose was to allow those businesses that had legally organized within that two year time frame when this section had been repealed to continue doing business as usual. There was concern about the private insurance companies expanding, now this limits it only to crop insurance but the reason we worded it so tightly was so they could only sell to their present customer base. However, I think your Senate amendments open it up quite a bit, if a farm is sold to anyone, that new owner can

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 8, 2003

become a customer of that insurance company. And the company can expand and go beyond their base of selling insurance. I don't have a big objection anymore, after talking to people in the industry, for only crop insurance, but I do object the increase from 25 to 50%. That opens it up too much.

**Senator Mutch:** What's wrong with that? I guess it would limit competition, anybody wanting to start up an insurance agency would have to buy an existing business.

**Representative Froese:** That's detrimental to other private insurance companies. Brian Johnson, the manager in Walhalla, doesn't object to the change to 50%.

**Representative Kasper:** Here's the problem. Insurance is based upon actuarial science that assumes that you have properly evaluated risks, fairly and unbiased. It's the agent's job to gather honest information and make sure it is secure. The agent must warrant that the information is open and honest. The insurance company's underwriters will evaluate the risk and make an offer. The agent is the underwriter for the insurance company. That's the tradition of the insurance business. When you get into a controlled group, you are self dealing, and you open up fraud and unfair underwriting practices, not full disclosure. That throws the fair underwriting cycle out. If insurance companies become concerned about the veracity of the information gathered, rates could increase, insurance companies refuse to write those lines and competition is destroyed.

**Senator Heitkamp:** This becomes a buyer beware because these people have a license to do this, but it also becomes, well this bill is about fence building and about not letting businesses move forward.

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Operator's Signature

*La Costa Rickford*

10/2/03

Date

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 8, 2003

**Representative Kasper:** When people are self dealing, if the insurance company is not getting fair and open and honest information and they pay a claim they shouldn't have, the insurance company and eventually their customers are impacted.

**Representative Froseth:** Wasn't it an oversight when the section was repealed? The prime sponsor brought it in to have it restored to the Century Code. His version was to leave it at 25%, which has prevailed for 27 years. Nobody has complained about the 25%. The amendment was designed expressly for those two or three companies. The Walhalla group were working hard to save their elevator.

**Senator Klein:** The controversy on the Senate side stems from those agents who were concerned about not being amended in. There was a gentleman from Casselton who railed against the restrictive intent of this law and how it was going against federal statute etc. A lot of people aren't enthused about this controlled business. Now how would the controlled business statute apply to that elevator group? They're selling to their customers, people who do business there?

**Rep. Boe:** They aren't allowed to bring in new customers, anyone who purchased insurance had to be an existing client. You or I couldn't go up there and purchase insurance, we could only do business in the grain industry.

**Representative Froseth:** When we had this bill in the house, we addressed a lot of the concerns of the private insurance industry and the Insurance Commissioner.

**Senator Mutch:** And we have to protect the public.

**Representative Kasper:** The ultimate result is that if you have unfair or fraudulent claims, premiums are increased. There is the example of Vern Hawkenson in Fargo. He violated the rebate statutes of the state of North Dakota, the insurance companies were defrauded because

Page 4

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 8, 2003

they paid out 120% commissions on the first year with no renewal premiums at all. The whole intent was to roll business over to different companies. That's what can happen when you get into a controlled environment where you are not dealing with open and fair information..

**Senator Heltkamp:** There are crooks in every business, I'm talking about controlled business settings, we want to get after them because we think they don't belong in the insurance business. So we write some amendments that hamstring anybody else from doing this, now we're saying we need to lower that percentage because we need to protect folks. The folks who are buying the insurance are happy with the insurance.

**Representative Kasper:** We're not trying to lower the percentage, we're trying to put it back to what it has been for 27 years. The Senate amendments increased it.

**Senator Mutch:** This is all for Growing North Dakota, I guess, increasing business activity.

**Representative Kasper:** I think it's doing the opposite. We have independent agents in small towns, they make their living servicing those areas with multiple lines of insurance. If we allow controlled business, we are eliminating the possibilities for those independent agents to write business and fairly compete. That will put small businesses out of business in a lot of localities in our state. In a controlled business, part of the commissions earned by an agent come back to the customer, that's a rebate. Any inducement to buy is judged to be a rebate under state law. If the statutes were to say, you can have 50% of the commission and you are not a controlled group, we're eliminating the rebating situation or potential for it. That creates another problem and wipes out competition.

**Representative Boe:** Is it against the law, if we had our own agency and sold to each other, is that illegal?

Page 5

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 8, 2003

**Representative Kasper:** With no common ownership?

**Representative Boe:** I own an agency and sell to him, and so forth, we all come in under 25%.

**Representative Kasper:** A control group is common ownership.

**Representative Froseth:** How is changing to 50% going to help the consumer?

**Senator Mutch:** How is it going to hurt?

**Representative Froseth:** The consumer will have less choices of agencies to buy from.

**Senator Heitkamp:** If we tweak this bill, it'll come back to the Senate, and it will get killed on the floor. For the insurance industry itself, if they really want this bill, they should take a close look at it and make sure it has everything they want and in two years, after some floodgates have opened, they can put a finger in the dyke.

**Representative Froseth:** What do the constituents who testified at the Senate hearings think about the change from 25 to 50%?

**Senator Mutch:** They'd be happier if the bill was killed.

**Representative Kasper:** We have to focus on what is good for public policy. 50% is not good for the public in my opinion. 25% would be better. It's worked for 27 years.

**Senator Mutch:** Would that Walhalla group gotten started selling crop insurance without this law being repealed?

**Senator Heitkamp:** Nobody has proved to me that any damage has been done by these folks buying this insurance. There is fence building going on and there is a compromise to be reached, a lot of people had concerns. Making it tighter is making it less likely that this can pass on the floor.

Page 6

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 8, 2003

**Representative Froeth:** If the Insurance Commissioner doesn't want this and the industry is opposed to it, why are we still working on it?

**Representative Kasper:** I visited with the State Farm representative and the Nodak Mutual firm has taken a stand against the 50%. I guess we're going to have to table this for a day or so.

Meeting adjourned.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1264

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date April 9, 2003

Tape Number	Side A	Side B	Meter #
1		x	1.0-30.8
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Conference Committee Chair Kasper called the meeting to order. All appointed members of the committee were present.

Senator Klein stated that NoDak Mutual is on record as being in favor of the 25% option.

Representatives from that entity are here today. Can we hear from them?

Eric Amundson, President of the ND Farm Bureau and Vice-president NoDak Mutual

Insurance, took the podium. He said that NoDak is in favor of the 25%. Sixteen insurance

companies have filed to leave the state. The property and casualty insurance industry in ND is

fragile. If State Farm had left as rumor had it, that would have caused a collapse of the property

and casual insurance industry in the state. That would have created a void too big to fill.

Companies that remain don't have the surplus to pick that business up. There was discussion in

the Insurance Commissioner's office how to institute a state program to pick up that coverage if

and when more companies leave the state. If we allow too much of the controlled business to be

written, the effect it will have, long term, is dismal. Agents are field underwriters, they are out

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 9, 2003

there assessing risk. They are the company's first line of defense against bad risk. Half the job is done by the time those applications get to the underwriters in traditional insurance markets.

There's no loyalty from the agent on behalf of that group to make sure the underwriting is done properly. It could undermine the field underwriting standards that our company maintains. It puts other companies at risk that are depending on these agents to do that job where they necessarily wouldn't if it was going to be a benefit to their group. Take it a step further into claims. Imagine what happens if some independent adjuster does some shenanigans and doesn't act within the best interests of the insurance company that holds a crop insurance policy. There's nothing to say that someone from the group couldn't be the adjuster, acting as an independent adjuster. We'd like to see it less than 25%. This could definitely do some bad damage to the industry. New businesses aren't going to come into North Dakota if this controlled business is what they have to compete with.

**Senator Mutch:** Your agents only write Farm Bureau, they don't write other lines of insurance, do they?

**Amundstad:** In the commercial lines they will. We farm some business out to commercial, but farm and ranch and hail, that's all our product.

**Senator Mutch:** So this doesn't directly affect you much, your agents are entirely writing for your company.

**Amundstad:** It could indirectly affect us by undermining the business and dissuading competition. One company can't handle all the risk, it has to be spread around. The industry has to be shored up.



Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 9, 2003

**Representative Kasper:** So the result could be, that with more controlled group underwriting, underwriters would be suspicious of potential claims and manipulation of information. Wouldn't the end result be higher premium rates?

**Amundstad:** That could be one effect but a far greater effect would be companies ceasing to write those lines.

**Representative Froseth:** I'm not totally happy with this but I will agree to it, if we can get a concession on the percentage. I think this opens it up more than I originally intended on my amendment.

**Senator Klein:** The Senate felt that those guys did it under good terms, there wasn't a law against it, they could continue their little business. The hang-up here is the percentage issue. The 25% is hard to sell. The Insurance Industry might have to get over here and lobby my colleagues for it or the bill will be lost.

**Representative Kasper:** Isn't public policy what we are all about here? As a committee and our respective chambers, we make decisions for what is best for industries that we need to protect. We can't build gates that are overprotective, we don't want that either. The key is competition. Controlled groups limit competition.

**Representative Froseth** moved that the Senate recede from their amendments and that the conference committee further amend HB 1264 thus: p.1, line 14 remove a. and p.1, line 15, replace with licensee and remove line 16. (See attached proposed amendments)

**Representative Kasper:** We'll adopt the senate amendments on those lines regarding the grandfathering in and then keep the percentage at 25%.

**Senator Klein** seconded the motion.

Page 4

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1264

Hearing Date April 9, 2003

Results of the roll call vote were: 3-3. The motion failed.

Senator Klein moved to recede from their amendments and further amend the percentage to 35%.

Senator Heltkamp seconded the motion.

Results of the roll call vote were 6-0. The motion carried.

Representative Kasper adjourned the conference committee meeting.

30509.0304  
Title.0500

Prepared by the Legislative Council staff for  
Senator Klein

April 9, 2003

**Conference Committee Amendments to Engrossed HB 1264 - 04/09/2003**

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 1045 of the Senate Journal and that Engrossed House Bill No. 1264 be amended as follows:

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Page 1, line 23, replace "twenty-five" with "thirty-five"

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE) - 420

07398

(Bill Number) HB 1264 (, as (re)engrossed):

Your Conference Committee

For the Senate:	<u>4/8</u>	<u>4/9</u>	<u>1st</u>	<u>2nd</u>	For the House:	<u>4/8</u>	<u>4/9</u>	<u>1st</u>	<u>2nd</u>
<u>Sen Klein</u>	P	P	Y	Y	<u>Rep Kasper</u>	P	P	Y	Y
<u>Mitch</u>	P	P	N	Y	<u>Wooten</u>	P	P	Y	Y
<u>Heitkamp</u>	P	P	N	Y	<u>Boe</u>	P	P	N	Y

☒ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
the (Senate/House) amendments on (S/H) page(s) 1189 - 1189

☐ and place \_\_\_\_\_ on the Seventh order.

☒ , adopt (further) amendments as follows, and place  
HB 1264 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed.

((Re)Engrossed) 1264 was placed on the Seventh order of business on the  
calendar.

DATE: 4/10/03  
CARRIER: Kasper  
LC NO. 30509 . 0304 of amendment . 0500  
LC NO. \_\_\_\_\_ of engrossment  
Emergency clause added or deleted \_\_\_\_\_  
Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

La Costa Rickford  
Operator's Signature

10/3/03  
Date

**REPORT OF CONFERENCE COMMITTEE (420)**  
April 10, 2003 2:50 p.m.

Module No: HR-65-7366

Insert LC: 30509.0304

**REPORT OF CONFERENCE COMMITTEE**

**HB 1264, as engrossed:** Your conference committee (Sens. Klein, Mutch, Heltkamp and Reps. Kasper, Froseth, Boe) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1189, adopt amendments as follows, and place HB 1264 on the Seventh order:

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 1045 of the Senate Journal and that Engrossed House Bill No. 1264 be amended as follows:

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Page 1, line 23, replace "twenty-five" with "thirty-five"

Renumber accordingly

Engrossed HB 1264 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

HB 1264

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La Costa Rickford  
Operator's Signature

10/3/03  
Date

Attachment 1

**RE: HB 1264**

**From: Kent Olson, Executive Director, NDPIA**

**Position: SUPPORT**

Issue History: The "controlled business" statute affecting licensed insurance agents had been in the ND Century Code (26.1-26-38) since at least 1985. It was inadvertently repealed in the last legislative session by SB 2144.

The purpose of the "controlled business" statute is to limit (25%) a licensed insurance agent from obtaining a license to insure his own interests. A licensed insurance agent represents the insurance company usually by an appointment and a contract.

The Problem: When an licensed insurance producer insures property which he has an interest therein, the interest of the company to which the licensee is contracted with, becomes adverse. The binding authority, the field underwriting by the agent and the claims handling serves the best interests of the licensee---adverse to the company whom he is representing on behalf of other insureds. The "controlled business" licensee has a financial conflict of interest.

Recent Problems: With the passage last session of SB 2144, a person can hold an insurance license without being appointed by a company. Therefore companies cannot identify or control the adverse licensee as easily as prior. The USDA Federal Multi Peril crop insurance program has established very clear rules on licensed agents who insure their own property or their immediate family. There must be an ANNUAL AUDIT of that licenses business written and adjusted. In addition, a company adjuster can only work the claim for the licensee once in a life time. There must be a new adjuster on EVERY new annual loss.

Re Enactment of the "controlled business" statute is needed to give the ND Insurance Commissioner the authority and tools to look out for the best interests of all consumers and not provide an opportunity for the adverse interest of the licensee.

# SENATE BILL 2144

## "Licensing of Insurance Producers"

### (A Model Act)

### Passed Last Session

Fifty-seventh  
Legislative Assembly

- 1           1. A purchasing group may not purchase insurance from a risk retention group that is  
2           not chartered in a state or from an insurer not admitted in the state in which the  
3           purchasing group is located, unless the purchase is effected through a licensed  
4           ~~agent or broker~~ insurance producer acting pursuant to the surplus lines laws and  
5           regulations of such state.

6           **SECTION 134. AMENDMENT.** Subsection 2 of section 26.1-46-08.1 of the North  
7           Dakota Century Code is amended and reenacted as follows:

- 8           2. Paid first by such insurance source, and if not by such source, by the ~~agent or~~  
9           ~~broker~~ insurance producer for the purchasing group, and if not by such ~~agent or~~  
10          ~~broker~~ insurance producer, then by the purchasing group, and if not by such  
11          purchasing group, then by each of its members.

12          **SECTION 135. AMENDMENT.** Section 26.1-46-11 of the North Dakota Century Code  
13          is amended and reenacted as follows:

- 14          **26.1-46-11. Duty of ~~agents or brokers~~ insurance producers to obtain license.** Any  
15          person acting, or offering to act, as an ~~agent or broker~~ insurance producer for a risk retention  
16          group or purchasing group, which solicits members, sells insurance coverage, purchases  
17          coverage for its members located within the state, or otherwise does business in this state,  
18          shall, before commencing any such activity, obtain a license from the commissioner. This  
19          section does not apply to any person acting as an ~~agent or broker~~ insurance producer for a risk  
20          retention group doing business in this state which has fewer than twenty-six resident members  
21          or insureds.

22          **SECTION 136. REPEAL.** Sections 26.1-26-08, 26.1-26-12, 26.1-26-13, 26.1-26-15.1,  
23          26.1-26-16, 26.1-26-16.1, 26.1-26-16.2, 26.1-26-18, 26.1-26-23, 26.1-26-24, 26.1-26-28,  
24          26.1-26-29, and 26.1-26-38 of the North Dakota Century Code are repealed.

Page No. 68

18171.0200



Attachment #1  
Kent Olson

Minnesota Statutes 2002, 60K.46

Subd. 2. **Fees for services.** No person shall charge a fee for any services rendered in connection with the solicitation, negotiation, or servicing of any insurance contract unless:

(1) before rendering the services, a written statement is provided disclosing:

(i) the services for which fees are charged;

(ii) the amount of the fees;

(iii) that the fees are charged in addition to premiums;  
and

(iv) that premiums include a commission; and

(2) all fees charged are reasonable in relation to the services rendered.

Subd. 3. **Commissions or compensation.** A duly licensed producer may pay commissions or assign or direct that commissions be paid to a partnership of which the producer is a member, employee, or agent, or to a corporation of which the producer is an officer, employee, or agent.

<http://www.revisor.leg.state.mn.us/stats/60K/46.html>

**RE: HB 1264**

**From: Kent Olson, Executive Director, NDPIA**

**Position: SUPPORT**

**Issue History:** The "controlled business" statute affecting licensed insurance agents had been in the ND Century Code (26.1-26-38) since 1975. It was inadvertently repealed in the last legislative session with passage of SB 2144—the "Producer's Model Act".

The purpose of the "controlled business" statute is to limit a licensed insurance agent from obtaining a license to insure more than 25% of his own interests. A licensed insurance agent represents the insurance company which he places risk with usually by an appointment or contract.

**The Problem:** When a licensed insurance producer insures property which he has an interest therein, the interest of the company to which the licensee is contracted with, becomes adverse. The binding authority, the field underwriting authority, and the claims handling authority of the agent serves the best interests of the licensee—adverse to the company whom he is representing on behalf of other insureds. The "controlled business" licensee has a financial conflict of interest.

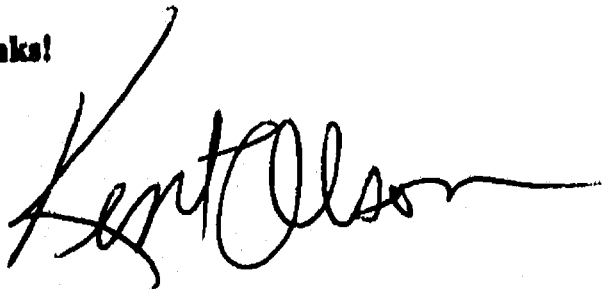
**The Resolve:** The USDA Federal Multi Peril crop insurance program has established a very clear set of rules on licensed agents who insure their own property or their immediate family. There must be an ANNUAL AUDIT of the licensee's business written on his interests or claims adjustments. In addition, a company adjuster can only work the claim for the licensee once in a LIFETIME. There must be a new adjuster on EVERY new annual loss.

In North Dakota, HB 1264 provides for state control of the problem.

Sound regulation of the business of insurance and good public policy requires protection for both the consumer and the insurer. Fair market practices, sound agent licensing, and company solvency are required. The duties of the Insurance Commissioner address all of these. Re-Enactment of the "controlled business" statute is needed to give the ND Insurance Department the authority and tools to look out for the best interest of consumers and not provide an opportunity for the adverse "special interests" of the licensee.

The members of the North Dakota PIA respectfully ask for your "DO PASS" of HB 1264.

Thanks!



March 5, 2003

**PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL NO. 1264**

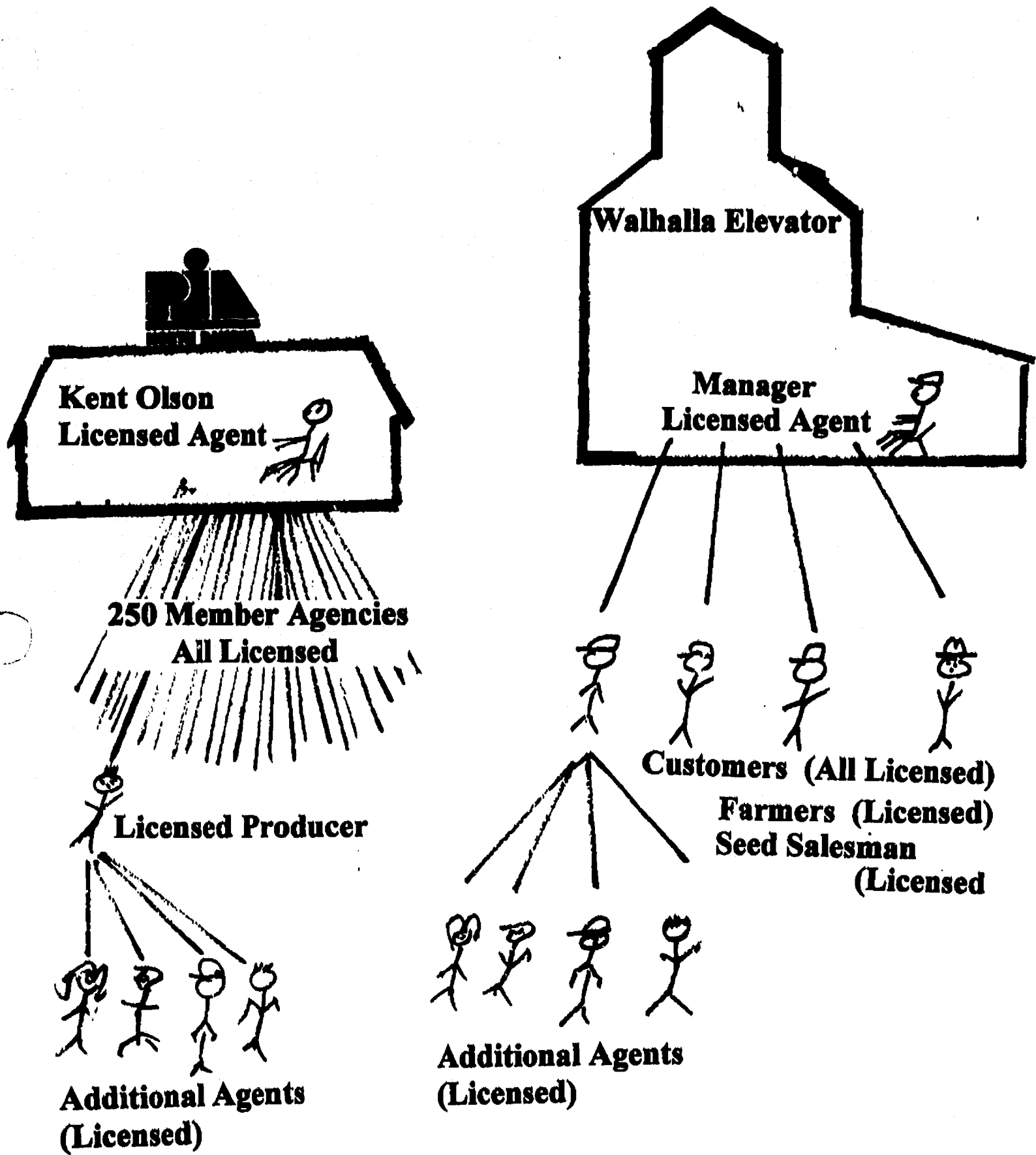
Page 1, line 14, remove "a"

Renumber accordingly

*Submitted by Kent Olson*

*La Costa Rickford*  
Operator's Signature

*10/3/03*  
Date



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La Costa Rickford  
Operator's Signature

10/3/03  
Date

March 4, 2003

Proposed Amendment — *Brian Johnson*  
House Bill 1264

Line 14

"Controlled business" does not include crop insurance business sold by a licensee  
provided the licensee was licensed before January 1, 2003.

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*La Costa Rickford*  
Operator's Signature

*10/3/03*  
Date

Mr Chairman and members of the Senate IBL Committee:

My name is Ray Grabanski, President of Pro Ag. Pro Ag Systems, Inc. is a insurance agency in ND who contracts with 15-20 insurance agents in ND, SD, and MN. We also provide risk management, marketing and financial consulting to farmers across primarily these 3 states but also nationally.

House Bill 1264 is a bad bill for ND consumers, a bad bill for those enforcing the ND Insurance Laws, and a bad bill for the ND court system and will stand in the way of progress in the ND insurance industry. It's a good bill for insurance agents and lawyers, as it will restrict the number of insurance agents, and also employ more attorneys as we try to figure out just what this bill means.

We introduce these amendments to improve this bill to allow normal, average citizens to develop an insurance agency without breaking the law. The language in 1.b., line 11-15 is way too broad in language and is ripe for misinterpretation by licensed agents, the insurance department, and private attorneys. This bill is by far the most restrictive bill of its kind in the US, and makes it difficult for a newly licensed agent to comply with (who usually will first sell insurance to family members, friends, and relatives). Because of its broad language, many insurance companies will tell you this law is violated over and over again, often times by members of the PIA and IAA themselves (the state agent organizations).

The most important drawback of this language is that it restricts agent licenses to people with ties to well established agencies, and unduly restricts the licensing/training process of new insurance agents. This bill is all about building higher fences around insurance agents to protect their interests. It has very little to do with protecting the consumer or the insurance companies. We would encourage a DO NOT PASS of House Bill 1264. At minimum we propose these amendments to make this bill more understandable and enforceable in practice.

The amendments we propose include limiting the controlled business definition to interests of the licensee, licensee's immediate family, or the licensee's employer. That certainly is broad enough language to incorporate the intent to prevent people from selling only to themselves or their immediate contacts. Placing further restrictions just makes the bill that much more unenforceable by the insurance department except to those agents that PIA members jointly and loudly complain about.

What do you think the other language means in the bill? Does it restrict a small town, closely held bank agency from selling insurance? Is the FCS, Farm Bureau, Farmers Union, or any Farmer's Elevator restricted from selling crop insurance? How restricted is a marketing club in selling crop insurance? Any organization with multiple owners? How about stock companies who have multiple owners? What exactly does 'substantial stockholder' mean? If you became a licensed agent tomorrow, would you be able to comply with this bill or would it restrict your marketing and success, too?

We propose a 3 year requirement and reporting mechanism to also help the insurance department to track and punish those who violate the

controlled business definition, but still allow a reasonable amount of time for a honest, hardworking person to develop their own agency. How many people have had their licenses taken away (the only punishment now for violating this law) in the past 10 years the bill was in effect? Who has been affected by this law in the past? I believe it has been used as an intimidation tactic in the past to prevent new agents from going into insurance selling.

We find HB 1264 to be all about protecting agents, and not at all about protecting consumers. There is no benefit whatsoever to consumers in this bill, and I doubt any consumers or companies are testifying in favor of HB 1264. With our proposed amendments, we find this bill less objectionable and an improvement over the existing bill. But without these amendments this bill is far too broad and vague in language, and is unenforcable by the insurance department. The penalties applied to violaters is so little relative to the benefit, and there is no real way for the insurance department to track whether new licensee's (or old ones) are complying with this statute. Anyway, lets not be fooled by the real purpose of this bill. Its not about protecting consumers, its about protecting agents from competition. Its about building higher fences. Pro Ag encourages you to kill this bill now and make a statement that the ND legislature is not going to help build fences around any profession to protect it from fair, honest, and beneficial competition.

Thank You.

LaCosta Rickford  
Operator's Signature

10/3/03  
Date