

**FIRST ENGROSSMENT
with House Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2181

Introduced by

Industry, Business and Labor Committee

(At the request of the Commissioner of Insurance)

1 A BILL for an Act to amend and reenact sections 26.1-01-07, 26.1-11-06, 26.1-11-07,
2 26.1-26-02, 26.1-26-03, 26.1-26-04, 26.1-26-05, 26.1-26-08, 26.1-26-10, 26.1-26-13,
3 26.1-26-14, 26.1-26-20, 26.1-26-21, 26.1-26-22, 26.1-26-23, 26.1-26-24, 26.1-26-25,
4 26.1-26-31, 26.1-26-34, 26.1-26-37, 26.1-26-38, 26.1-26-40, 26.1-26-41, 26.1-26-46, and
5 26.1-39-09.2 of the North Dakota Century Code, relating to fees charged by commissioner,
6 reciprocal penalties of foreign insurance companies, countersignature requirements, and
7 insurance agents; and to repeal sections 26.1-26-47 and 26.1-39-09.1 of the North Dakota
8 Century Code, relating to insurance agents and property and casualty insurance programs.

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

10 **SECTION 1. AMENDMENT.** Section 26.1-01-07 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **26.1-01-07. Fees chargeable by commissioner.** The commissioner shall charge and
13 collect the following fees:

- 14 1. For filing articles of incorporation, or copies, or amendments thereof, twenty-five
15 dollars.
- 16 2. For each original certificate of authority issued upon admittance, one hundred
17 dollars and for renewal of certificate of authority, amendment to certificate of
18 authority, or certified copy thereof, fifty dollars.
- 19 3. For issuing an annual reciprocal exchange license, the same fees as those
20 applicable to the issuance of a certificate of authority in subsection 2.
- 21 4. For filing an annual report of a fraternal benefit society, and issuing a license or
22 permit to the society, and for each renewal thereof, twenty-five dollars.
- 23 5. For filing bylaws or amendments thereof, ten dollars.
- 24 6. For filing of articles of merger, or copies thereof, thirty dollars.

7. For receiving the service of process as attorney, whether the commissioner is served with the process or admits service thereon, ten dollars.
8. For filing of power of attorney by nonadmitted insurer for conduct of business in compliance with surplus lines laws of this state, ten dollars.
9. For filing an annual statement, twenty-five dollars.
10. For filing the abstract of the annual statement of an insurance company for publication, thirty dollars.
11. For an official examination, the expenses of the examination at the rate adopted by the department. The rates must be reasonably related to the direct and indirect costs of the examination, including actual travel expenses, including hotel and other living expenses, compensation of the examiner and other persons making the examination, and necessary attendant administrative costs of the department directly related to the examination and must be paid by the examined insurer together with compensation upon presentation by the department to the insurer of a detailed account of the charges and expenses after a detailed statement has been filed by the examiner and approved by the department.
12. For issuing a certificate to a domestic insurance company showing a compliance with the compulsory reserve provisions of this title and the maintenance of proper security deposits, and for any renewal of the certificate, ten dollars.
13. For a written licensee's examination administered by the office of the commissioner, with the examination not to exceed two lines of insurance at any one sitting, twenty dollars.
14. For a written licensee's examination not administered by the office of the commissioner under a contract with a testing service, the actual cost of the examination, subject to approval of the commissioner, which must be paid to the testing service.
15. For issuing and each annual renewal of ~~a resident an~~ an insurance broker's, surplus lines insurance broker's, or insurance consultant's, ~~health service corporation sales representative's, and prepaid legal services organization sales representative's~~ license, ~~or duplicate thereof~~, ten dollars.

- 1 16. ~~For issuing and each annual renewal of a nonresident insurance broker's, health~~
2 ~~service corporation sales representative's, prepaid legal services organization~~
3 ~~sales representative's, and insurance consultant's license, or duplicate thereof,~~
4 ~~fifteen dollars.~~
- 5 47. For issuing a license for ~~a resident~~ an agent or limited insurance representative of
6 ~~a foreign insurance company, or duplicate, ten~~ one hundred dollars.
- 7 48. ~~For issuing a nonresident insurance agent's or limited insurance representative's~~
8 ~~license, or duplicate, ten dollars.~~
- 9 49. 17. ~~For issuing a license for an agent or limited insurance representative of a domestic~~
10 ~~insurance company, county mutual insurance company, fraternal benefit society,~~
11 ~~or any other society, or duplicate, ten dollars.~~ For issuing a duplicate of any
12 license or registration issued under this title, ten dollars.
- 13 20. 18. For issuing and each annual renewal of a license to a resident agent for the
14 attorney for a reciprocal exchange, ten dollars.
- 15 24. 19. For filing of any miscellaneous documents or papers, including documents of
16 admission and those filed annually upon license renewal, ten dollars each.
- 17 22. 20. For a copy of any paper filed in the commissioner's office, twenty cents per folio.
- 18 23. 21. For affixing the commissioner's official seal on a copy of any paper filed in the
19 office and certifying the copy, ten dollars.
- 20 24. 22. For each insurance company appointment and renewal of an appointment of an
21 insurance agent or limited insurance representative, ten dollars.
- 22 25. 23. For each company application for admission, five hundred dollars, except
23 applications for admission for county mutual, fraternal benefit, and surplus lines
24 companies must be one hundred dollars.
- 25 26. 24. For issuing a license and each annual renewal of a license to an insurance
26 premium finance company, one hundred dollars.
- 27 27. 25. For examining or investigating an insurance premium finance company, the actual
28 expense and per diem incurred; but the per diem charge may not exceed fifty
29 dollars.
- 30 28. 26. For issuing and each annual renewal of a license to an advisory organization, ~~or~~
31 ~~duplicate thereof,~~ fifty dollars.

1 Nonprofit health service corporations and health maintenance organizations are subject
2 to the same fees as any other insurance company. County mutual insurance companies and
3 benevolent societies are liable only for the fees mentioned in subsections 2, 10, 11, ~~13, 19, 22,~~
4 ~~23, and 24~~ 16, 19, 20, and 21.

5 However, the commissioner may, after public notice and hearing, increase the fees
6 authorized by this section for any year if it is determined necessary to generate the revenue
7 appropriated by the legislative assembly from the insurance regulatory trust fund to fund
8 budgeted operations for the insurance department. The insurance commissioner may not
9 implement a fee increase pursuant to this section to enhance or in any manner add funds to the
10 legislative appropriation for the insurance department.

11 **SECTION 2. AMENDMENT.** Section 26.1-11-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **26.1-11-06. Reciprocal penalties - Retaliatory charges.** Whenever the laws of any
14 other state, or of any foreign country, or of any province or territory thereof, or when the rules of
15 the insurance department of that state, country, province, or territory, require any insurance
16 company, corporation, limited liability company, association, or society organized under the
17 laws of this state, ~~or of any agent thereof,~~ to deposit securities in that state, country, province,
18 or territory for the protection of policyholders or others, or any payment for taxes, fines,
19 penalties, certificates of authority, licenses, or fees, or the performance of any duties or acts
20 other than and exceeding those required by the laws of this state of a like insurance company,
21 corporation, limited liability company, association, or society, ~~or the agents thereof,~~ organized
22 under the laws of that state, country, territory, or province, while transacting business in this
23 state, then and in every such case, an insurance company, corporation, limited liability
24 company, association, or society organized in that state, country, province, or territory which
25 establishes an agency or transacts business in this state, is required to make deposits and to
26 pay to the commissioner charges, licenses, fees, taxes, fines, or penalties in the amounts
27 respectively, and to do all other acts which that other state, country, province, or territory, by
28 the laws or the rules of the insurance department thereof, requires of a like insurance company,
29 corporation, limited liability company, or society, ~~or the agents thereof,~~ organized under the
30 laws of this state when doing business in that other state, country, province, or territory. This
31 section applies regardless of the plan of assessment or collection of premiums, contributions,

or assessments adopted by the foreign company, corporation, limited liability company, association, or society.

SECTION 3. AMENDMENT. Section 26.1-11-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-11-07. Countersignature requirement - Commissions - Reciprocity.

Notwithstanding any other provision of this title or policy forms to the contrary, ~~except as provided in section 26.1-39-09.1,~~ there may not be any requirement that an agent resident in this state sign or countersign an insurance policy covering a subject of insurance resident, located, or to be performed in this state. However, if the laws or rules of another state require a signature or countersignature by an agent resident in that state on an insurance policy written by a nonresident agent or nonresident broker of that state, then any insurance policy written by an agent resident of that state licensed as a nonresident agent in this state covering a subject of insurance resident, located, or to be performed in this state must be signed or countersigned in writing by an agent resident in this state. An insurance policy may not be deemed invalid because of the absence of the required signature or countersignature. If the laws or rules of another state require an agent resident in that state to retain a portion of the commission paid on a like insurance policy written, countersigned, or delivered by the agent in that state at the request of a nonresident agent or nonresident broker of that state, then the agent resident in this state who signed or countersigned an insurance policy written by a resident of that state licensed as a nonresident agent in this state covering a subject of insurance resident, located, or to be performed in this state shall retain an equal pro rata portion of any commission on the insurance policy.

SECTION 4. AMENDMENT. Section 26.1-26-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-02. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Insurance" includes annuities.
2. "Insurance agent" means an individual, partnership, limited liability partnership, corporation, or limited liability company appointed by an insurer to solicit applications for an insurance policy or to negotiate a policy on its behalf.

- 1 3. "Insurance broker" means any individual, partnership, limited liability partnership,
2 corporation, or limited liability company which, for compensation, not being a
3 licensed agent for the insurer in which an insurance policy is placed, acts or aids in
4 any manner in negotiating insurance contracts or placing risks of effecting
5 insurance for a party other than oneself or itself.
- 6 4. "Insurance consultant" means an individual, partnership, limited liability
7 partnership, corporation, or limited liability company that, for a fee, holds oneself or
8 itself out to the public as engaged in the business of offering any advice, counsel,
9 opinion, or service with respect to the benefits, advantages, or disadvantages
10 promised under any insurance policy that could be issued in this state.
- 11 5. "Limited insurance representative" means an individual, partnership, limited liability
12 partnership, corporation, or limited liability company authorized by the
13 commissioner to solicit or negotiate contracts for a particular line of insurance
14 which the commissioner may by rule deem essential for the transaction of
15 business in this state and which does not require the professional competency
16 demanded for a license as an insurance agent or insurance broker.
- 17 6. "Surplus lines insurance broker" means an individual, partnership, limited liability
18 partnership, corporation, or limited liability company which solicits, negotiates, or
19 procures an insurance policy from an insurer not licensed to transact business in
20 this state which cannot be procured from an insurer licensed to do business in this
21 state.

22 **SECTION 5. AMENDMENT.** Section 26.1-26-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **26.1-26-03. Acting as agent, broker, consultant, or limited representative without**
25 **license prohibited - Penalty.** No person may act as or hold oneself out to be an insurance
26 agent, insurance broker, insurance consultant, limited insurance representative, or surplus lines
27 insurance broker unless licensed under this chapter. No insurance agent, insurance broker,
28 limited insurance representative, or surplus lines insurance broker may apply for, procure,
29 negotiate for, or place for others, any policy for any line of insurance as to which that person is
30 not then qualified and licensed under this chapter. ~~No insurance agent or limited insurance~~
31 ~~representative may place an insurance policy with any insurer as to which that person does not~~

~~then hold a license as an insurance agent or limited insurance representative under this chapter.~~ Any person willfully violating this section is guilty of a class C felony.

SECTION 6. AMENDMENT. Section 26.1-26-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-04. Payment to or acceptance by unlicensed person of commission prohibited - When payment or assignment of commissions permitted. No insurer, insurance agent, insurance broker, limited insurance representative, or surplus lines insurance broker may pay, directly or indirectly, any commission, brokerage, or other valuable consideration to any person for services as an insurance agent, insurance broker, limited insurance representative, or surplus lines insurance broker within this state, unless that person held at the time the services were performed a valid license for that line of insurance as required by the laws of this state; nor may any person, other than a person licensed by this state as an insurance agent, insurance broker, limited insurance representative, or surplus lines insurance broker at the time the services were performed, accept any such commission, brokerage, or other valuable consideration. In the case of an insurance agent, the agent must also be properly appointed under this chapter before the insurer may pay, or the agent may accept, any commission or other valuable consideration for services as an insurance agent. However, any person licensed under this chapter may pay or assign that person's commissions, or direct that the commissions be paid, to a partnership or limited liability partnership of which that person is a member, employee, or agent, to a corporation of which that person is an officer, employee, or agent, or to a limited liability company of which that person is a manager, employee, or agent. This section does not prevent payment or receipt of renewal or other deferred commissions to or by any person entitled thereto under this section.

SECTION 7. AMENDMENT. Section 26.1-26-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-05. Unlicensed person - Effect - Agent for insurer. A person not licensed as an insurance agent, insurance broker, limited insurance representative, or surplus lines insurance broker who solicits an insurance policy on behalf of an insurer is an insurance agent within the intent of this chapter, and is liable for all the duties, requirements, liabilities, and penalties to which an insurance agent of the insurer is subject, ~~and the~~. An insurer by compensating that accepting business from an unlicensed person through any of its officers,

agents, or employees ~~for soliciting insurance policies~~ thereby ~~accepts and~~ acknowledges that person as its agent in the transaction. A person not licensed as an insurance broker, but who solicits an insurance policy on behalf of others or transmits for others an application for an insurance policy to or from an insurer, or offers or assumes to act in the negotiations of such insurance, is an insurance broker within the intent of this chapter, and is liable for all the duties, requirements, liabilities, and penalties to which licensed brokers are subject.

SECTION 8. AMENDMENT. Section 26.1-26-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-08. Licensing of partnership, limited liability partnership, corporation, or limited liability company - Notice of change of individuals. A partnership, limited liability partnership, corporation, or limited liability company engaging in the activities of an insurance agent, insurance broker, limited insurance representative, or surplus lines insurance broker must be licensed as such. Every member of the partnership or limited liability partnership, every officer, director, stockholder, and employee of the corporation, and every manager, governor, member, and employee of the limited liability company ~~personally engaged in this state in soliciting or negotiating policies of insurance~~ must be registered with the commissioner; ~~and each member, officer, director, stockholder, manager, governor, or employee must also be licensed. Within a reasonable time after the transfer of ownership of a partnership, corporation, or limited liability company or after receipt of a properly completed application from a partnership, corporation, or limited liability company for a license as an insurance agent, insurance broker, limited insurance representative, or surplus lines insurance broker, the commissioner may conduct investigations and propound interrogatories to satisfy the commissioner that the owners, stockholders, partners, or members of the partnership, corporation, or limited liability company are competent, trustworthy, financially responsible, and of good personal and business reputation.~~ The required license fee must be paid for the partnership, limited liability partnership, corporation, or limited liability company ~~and for each individual registered.~~ The partnership, limited liability partnership, ~~corporate corporation~~, or limited liability company licensee shall within ten business days notify the commissioner of every change relative to the individuals registered under the partnership, corporation, or limited liability company. This section does not apply to a management association, partnership, limited liability partnership, corporation, or limited liability company whose operations do not

entail the solicitation of insurance from the public. Every partnership or corporation subject to this section must be licensed by January 1, 1994.

SECTION 9. AMENDMENT. Section 26.1-26-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-10. Consultant - Exceptions to licensing requirement. ~~No~~ An individual, partnership, limited liability partnership, corporation, or limited liability company may not act as an insurance consultant until licensed as such by the commissioner. However, a license as an insurance consultant is not required of:

1. An attorney licensed to practice law in this state acting in the attorney's professional capacity.
2. A licensed insurance agent, insurance broker, or surplus lines insurance broker.
3. A trust officer of a bank acting in the normal course of the trust officer's employment.
4. An actuary or a certified public accountant who provides information, recommendations, advice, or services in the actuary's or the certified public accountant's professional capacity.

SECTION 10. AMENDMENT. Section 26.1-26-13 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-13. Agent or limited representative - Application - Age - Appointment by insurer. Every applicant for a license as an insurance agent or limited insurance representative, except a partnership, limited liability partnership, corporation, or limited liability company, must be eighteen years or more of age. The application for a license as an insurance agent or limited insurance representative must be accompanied by a written appointment. The appointment must be made by an officer of the insurer designating the applicant as an insurance agent or limited insurance representative for the lines of insurance the applicant will be authorized to write for the insurer. An insurance agent or limited insurance representative may represent as many insurers as may appoint the agent or representative. All appointments for any licensee must be submitted on behalf of the appointing insurer, on a form prescribed by the commissioner, and unless terminated remain in force until 12:01 a.m. on the annual renewal date. An insurer accepting business from unappointed agents with a frequency indicating a general business practice will be deemed to have violated this section. An

1 insurance agent who holds a valid license may solicit applications for insurance on behalf of an
2 admitted insurer with which the insurance agent does not have a valid appointment on file with
3 the commissioner if the insurance agent has permission from the insurer to solicit insurance on
4 the insurer's behalf and if the insurer upon receipt of the application for insurance submits a
5 written notice of appointment to the commissioner accompanied by the insurer's check payable
6 in the amount of the appointment fee prescribed in subsection 24 of section 26.1-01-07. The
7 notice of appointment must be on a form prescribed by the commissioner.

8 **SECTION 11. AMENDMENT.** Section 26.1-26-14 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **26.1-26-14. ~~Consultant~~– Investigation by commissioner.** Within a reasonable time
11 after receipt of a properly completed application for a license ~~as an insurance consultant~~ under
12 this chapter, the commissioner may conduct investigations and propound interrogatories
13 concerning the applicant's qualifications, residence, business affiliations, and any other matter
14 which the commissioner believes necessary or advisable to determine compliance with this
15 chapter or for the protection of the public.

16 **SECTION 12. AMENDMENT.** Section 26.1-26-20 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **26.1-26-20. Nonresident license - Must hold like license elsewhere.** An applicant
19 may qualify for a nonresident license if the applicant holds a like resident license from a state,
20 province of Canada, or other foreign country. A license issued to a nonresident of this state
21 grants the same rights and privileges afforded a resident licensee, ~~except as provided in~~
22 ~~section 26.1-26-47.~~

23 **SECTION 13. AMENDMENT.** Section 26.1-26-21 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-26-21. ~~Nonresident~~ Agents to designate commissioner as attorney for**
26 **service of process - Fee.** The commissioner may not issue a license to any ~~nonresident~~
27 applicant until the applicant files with the commissioner a designation of the commissioner and
28 the commissioner's successors in office, as the applicant's true and lawful attorney, upon whom
29 may be served all lawful process in any action or proceeding instituted by or on behalf of any
30 interested person arising out of the applicant's insurance business in this state. The

1 designation constitutes an agreement that the service of process is of the same legal force and
2 validity as personal service of process in this state upon the person.

3 **SECTION 14. AMENDMENT.** Section 26.1-26-22 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **26.1-26-22. Nonresident proceeding by commissioner - Service of process -**
6 **Procedure.** The commissioner shall serve process upon any nonresident licensee in any
7 action or proceeding instituted by the commissioner under this chapter by mailing the process
8 by registered mail return receipt requested to the licensee at the licensee's last known address
9 of record or principal place of business. Service of process under this section is complete upon
10 mailing.

11 **SECTION 15. AMENDMENT.** Section 26.1-26-23 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **26.1-26-23. Examination of individuals.** Except as provided in section 26.1-26-25,
14 the commissioner shall subject each applicant for a license as an insurance agent, insurance
15 broker, insurance consultant, limited insurance representative, ~~or~~ surplus lines insurance
16 broker, health service corporation sales representative, or prepaid legal services organization
17 sales representative to a written examination as to competence to act as a licensee.

18 **SECTION 16. AMENDMENT.** Section 26.1-26-24 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **26.1-26-24. Examination when partnership, limited liability partnership,**
21 **corporation, or limited liability company is applicant.** If an applicant is a partnership,
22 limited liability partnership, corporation, or limited liability company, each at least one individual
23 who is to be registered with the ~~corporate~~ corporation, partnership, limited liability partnership,
24 or limited liability company license must be designated as the company's principal agent. The
25 individual designated as the principal agent of the partnership, limited liability partnership,
26 corporation, or limited liability company, shall take the examination required by 26.1-26-23.
27 The partnership, limited liability partnership, corporation, or limited liability company, may only
28 be initially licensed and continue to maintain a license for those lines of insurance in which one
29 or more of its principal agents is licensed. The partnership, limited liability partnership,
30 corporation or limited liability company, shall inform the commissioner within ten working days
31 of any change in status of its principal agent or agents.

1 **SECTION 17. AMENDMENT.** Section 26.1-26-25 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **26.1-26-25. Exceptions from examination.** The requirement for a written
4 examination is subject to the following exceptions:

- 5 1. An applicant for a license covering the same line or lines of insurance for which the
6 applicant was licensed under a like resident license in this state, other than a
7 temporary license, within the twelve months next preceding the date of application,
8 unless the previous license was suspended or revoked by the commissioner.
- 9 2. A nonresident applicant may be licensed without examination if the ~~commissioner~~
10 ~~of the public official having supervision of insurance in the~~ state of the applicant's
11 residence certifies, by facsimile signature and seal, that the applicant has passed a
12 similar written examination, or has been a continuous holder prior to the time the
13 written examination was required, of a license like the license being applied for in
14 this state.
- 15 3. An applicant who has been licensed under a like license in another state within
16 twelve months prior to the application for a license in this state, and who files with
17 the commissioner the certificate of the public official having supervision of
18 insurance in the other state, by facsimile signature and seal, as to the applicant's
19 license and good standing in such state; provided, however, that the applicant
20 shall take that portion of the examination pertaining to state laws and rules.
- 21 4. An applicant who has attained the designation of chartered life underwriter is only
22 required to take that portion of the examination for lines one and eighteen
23 pertaining to state laws and rules.
- 24 5. An applicant who has attained the designation of chartered property and casualty
25 underwriter is only required to take that portion of the examination for lines two
26 through seventeen pertaining to state laws and rules.
- 27 6. An applicant ~~for a license to act as a limited insurance representative~~ may be
28 licensed without examination ~~in one or more of the following lines:~~
 - 29 a. ~~Any ticket selling agent of a common carrier who acts thereunder only with~~
30 ~~reference to the issuance of insurance on personal effects carried as~~
31 ~~baggage, in connection with the transportation provided by the common~~

1 ~~carrier, or an applicant selling limited travel accident insurance in~~
2 ~~transportation terminals.~~

3 b. ~~Any other lines that~~ to market a specific product type if the commissioner
4 finds by rule ~~de the specific product type does~~ not require the professional
5 competency demanded for ~~a license as an agent or broker~~ other product
6 types.

7 **SECTION 18. AMENDMENT.** Section 26.1-26-31 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-26-31. Term of license.** A license issued under this chapter continues in force in
10 perpetuity unless:

- 11 1. The license is suspended, revoked, or refused by the commissioner;
- 12 2. The licensee voluntarily consents to the suspension, revocation, or refusal of the
13 license;
- 14 3. The licensee dies or in the case of a corporation, partnership, limited liability
15 partnership, or limited liability company, the licensee is dissolved, consolidated,
16 merged, or otherwise has ceased to exist;
- 17 4. The licensee no longer meets the residence requirements of section 26.1-26-19;
- 18 5. The insurance agent or limited insurance representative is terminated or
19 nonrenewed by all appointing insurers;
- 20 6. The insurance broker or surplus lines insurance broker has failed to maintain a
21 bond as required by section 26.1-26-18, has failed to maintain a resident or
22 nonresident license as an insurance agent as required by section 26.1-26-16, or
23 has failed to pay the annual renewal fee to the commissioner; or
- 24 7. The insurance consultant has failed to pay the annual renewal fee to the
25 commissioner.

26 **SECTION 19. AMENDMENT.** Section 26.1-26-34 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **26.1-26-34. Termination reports by insurer - Duty of insurer - Information**
29 **furnished privileged in civil action.** If an appointment is terminated for any of the grounds
30 listed in this chapter, or for cause as defined by the insurer involved, the insurer shall promptly
31 give written notice of the termination and the effective date of the termination to the

commissioner and to the licensee where reasonably possible. The commissioner may require the insurer to demonstrate that the insurer has made a reasonable effort to notify the licensee.

All notices of termination must be filed in due course on forms prescribed by the commissioner stating the grounds and circumstances of termination.

~~If the termination is for any of the grounds listed in this chapter, the insurer shall so notify the commissioner.~~ Any information, document, record, or statement provided pursuant to this section may be used by the commissioner in any action taken pursuant to sections 26.1-26-42, 26.1-26-43, and 26.1-26-50; however, the information is privileged in any civil action between the reporting insurer and the terminated licensee.

SECTION 20. AMENDMENT. Section 26.1-26-37 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-37. Lost, stolen, or destroyed license - Issuance of duplicate. ~~The~~ Upon payment of the fee for a duplicate license under section 26.1-01-07, the commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this chapter upon an affidavit of the licensee, as prescribed by the commissioner, concerning the facts of the loss, theft, or destruction.

SECTION 21. AMENDMENT. Section 26.1-26-38 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-38. Controlled business prohibited - Definition - Formula for determination. The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being or will be used by the applicant or licensee for the purpose of writing controlled business. Controlled business means insurance written on the interests of the licensee, or those of the licensee's immediate family or of the licensee's employer; or insurance covering the licensee or members of the licensee's immediate family or a corporation, limited liability company, limited liability partnership, association, or partnership, or the officers, directors, substantial stockholders, partners, or employees of such a corporation, limited liability company, limited liability partnership, association, or partnership of which the licensee or a member of the licensee's immediate family is an officer, director, substantial stockholder, partner, associate, or employee. A license is deemed to have been, or intended to be, used for the purpose of writing controlled business if the commissioner finds that during any twelve-month period the aggregate commissions

1 earned from such controlled business has exceeded twenty-five percent of the aggregate
2 commissions earned on all business written by the licensee during the same period. This
3 section does not apply to insurance written in connection with credit transactions.

4 **SECTION 22. AMENDMENT.** Section 26.1-26-40 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **26.1-26-40. Refusal of initial license - Notice - Hearing.** If the commissioner refuses
7 to issue a license to an applicant ~~not previously licensed in this state~~, the notice to the applicant
8 as provided in section 26.1-26-39 must state that the applicant may request a hearing within
9 thirty days from the date of issuance of the notice. The commissioner shall hold a hearing, if
10 requested by the applicant, within thirty days of the receipt of the request for a hearing and
11 upon ten days' written notice to the applicant.

12 **SECTION 23. AMENDMENT.** Section 26.1-26-41 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **26.1-26-41. Prohibited activities by consultants.** No licensed consultant may
15 employ, be employed by, or be in partnership, limited liability partnership, or ~~in a~~ limited liability
16 company with nor receive any remuneration whatsoever from any licensed insurance agent,
17 insurance broker, limited insurance representative, surplus lines insurance broker, or insurer
18 arising out of activities as a consultant. No person may concurrently hold a consultant's license
19 and a license as an insurance agent, insurance broker, limited insurance representative, or
20 surplus lines insurance broker in any line.

21 **SECTION 24. AMENDMENT.** Section 26.1-26-46 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **26.1-26-46. License suspension, or revocation, ~~or refusal~~ - Duty of licensee.**
24 Upon suspension, or revocation, ~~or refusal~~ of a license, the licensee shall forthwith deliver it to
25 the commissioner by personal delivery or by mail.

26 **SECTION 25. AMENDMENT.** Section 26.1-39-09.2 of the North Dakota Century Code
27 is amended and reenacted as follows:

28 **26.1-39-09.2. Suspension or revocation of certificate or license for**
29 **noncompliance or for acceptance of a reduced service fee.** The commissioner shall
30 suspend or revoke the certificate of authority of any insurer who intentionally fails to comply
31 with section 26.1-11-07 ~~or 26.1-39-09.1. The commissioner may suspend or revoke the license~~

1 ~~of any resident agent or broker who agrees to accept or who accepts a service fee in an~~
2 ~~amount less than the service fee provided for in section 26.1-39-09.1 and may suspend or~~
3 ~~revoke the license of any nonresident agent who seeks to induce or who induces any resident~~
4 ~~agent into accepting a service fee in an amount less than the service fee provided for in section~~
5 ~~26.1-39-09.1.~~

6 **SECTION 26. REPEAL.** Sections 26.1-26-47 and 26.1-39-09.1 of the North Dakota
7 Century Code are repealed.