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10/2/03

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1137

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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1137

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/15/03

Tape Number	Side A	Side B	Meter #
1	x		0.0-20.3
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Kelsor opened the hearing on HB 1137.

Laurie Wolf, Direct of Agent Licensing & Investigation for the ND Insurance Department, introduced the bill. (See attached)

Rep. Johnson: What problems created the need for this?

Wolf: Delays in obtaining pertinent information for proper investigation of complaints for constituents that adversely affect their livelihood or a claim that they need to find the basis for denial, it doesn't happen often. A time frame would expedite our process.

Rep. Ekstrom: Does this bill cover both in state and out of state companies?

Wolf: Yes, both domestic and out of state companies.

Rep. Ekstrom: Who causes more problems, out of state companies or ND companies?

Wolf: Most delays are from out of state companies.

Rep. Severson: Could I request an extension a of 45 days, if that's what I want?

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1/15/03
Date

Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1137
Hearing Date 1/15/03

Welf: We consider granting extensions when it's necessary in order for information to be gathered from several sources but we want to expedite activity on behalf of our consumers and trying to provide proper response for their situation.

Rep. Kasper: What is the penalty under current statute for not meeting timelines and what would be the maximum penalty if this legislation is enacted?

Welf: At present we don't have specific language for a penalty. The penalties could be up to a \$50,000 fine, maximum, based on willful and non willful language, etc. This penalty hasn't ever been imposed on a failure to respond situation though.

Rep. Ekstrom: What kind of revenues would you anticipate generating from administering fines?

Welf: That's too complicated to determine at this time.

Patrick Ward, Zuger Kirmis & Smith, representing ND Domestic Insurance Companies etc., appeared in opposition to HB 1137. (See attached)

Joel Gilbertson, Vogel Law Firm, representing American Insurance Association, appeared in opposition to HB 1137 and spoke extemporaneously against the bill. Twenty days isn't enough time to properly deal with issues, we'd be requesting extensions all the time. *Inquiry* is a broad term, I prefer the term *request for information*.

Rep. Ekstrom: Is there is a standard time frame for insurance companies nationally?

Gilbertson: I don't know. Insurance is regulated state to state.

Chairman Ketser: Is this good public policy for the Insurance Commissioner to have ability to request this information for the citizens of the state?

Gilbertson: Absolutely.

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Page 3
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1137
Hearing Date 1/15/03

Rep. Kasper: What is the current time line for response?

Gilbertson: It varies.

Dan Ulmer, Blue Cross Blue Shield, appeared in opposition to HB 1137 and presented an alternative amendment which would preserve the original intent of 26.1-04 (See attached)

Jim Peelman, ND Insurance commissioner, took the podium to answer questions and discuss the bill with the committee and attendees. ND Insurance Department recovered 2.3 million dollars for citizens of this state. We fielded 12,000 calls. We need tools and cooperation to recover claims. We are trying to be efficient. If the number of days doesn't seem appropriate, debate and decide what will work.

Rep. Kasper: Does Ulmer's amendment/suggestion give you what you need?

Peelman: I haven't seen the amendment so I can't answer that.

Rep. Therpe: Is this good for business?

Peelman: This is just common sense, if an insurance company is knowingly providing misleading or false information, shouldn't they be held accountable for that?

Red St. Aubyn, Blue Cross North Dakota, appeared in opposition to HB 1137 and spoke of BCBS' proposed amendment language. Our amendment helps companies because we are clearly defining what the commissioner office wants.

As no one else was present to testify in opposition to HB 1137, Chairman Kasper closed the hearing.

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1/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1137

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/29/03

Tape Number	Side A	Side B	Meter #
2	x		26.9-29.5
Committee Clerk Signature <i>Judith Hanna</i>			

Minutes: Chairman Kaiser called for committee work on HB 1137.

Rep. Zaiser distributed the hoghouse amendments for this legislation. He has conferred with Blue Cross and Pat Ward. Blue Cross submitted this amendment, I took it to the Insurance Commissioner's office. Poolman concurred with the 20 day requirement. Everyone is in agreement with this now.

Rep. Zaiser moved to adopt the amendments.

Rep. Ekstrom seconded the motion. A voice vote carried the motion to adopt. At this point, the amendment becomes the bill. The lobbyists didn't want this to become part of the prohibitive practices legislation.

Rep. Klein moved a Do Pass.

Rep. Zaiser seconded the motion. The roll call vote results were: 14-0-0.

Rep. Zaiser will carry this on the floor.

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1/29/03
Date

38116.0101
Title.0200

Prepared by the Legislative Council staff for
Representative Zaiser
January 27, 2003

VK
1/30/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1137 IEL 1-31-03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 26.1-02-03 of the North Dakota Century Code, relating to requirements for an insurance company to do business in this state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-02-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-02-03. Inquiry into condition of company - Information supplied to commissioner - Penalty. The commissioner may address to any insurance company doing or applying for permission to do business in this state any inquiries in relation to the company's activities, condition, or any other matter connected with the company's transactions. The company shall reply to the inquiries promptly and in writing to such an inquiry within twenty days of receipt of the inquiry unless within that twenty days the company requests and the commissioner grants an extension of time. It is a violation of this title for a person to knowingly supply the commissioner with false, misleading, or incomplete information."

Renumber accordingly

Date: 1/29/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1137

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38116-0101/.0200

Action Taken Do Pass As Amended

Motion Made By Klein Seconded By Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	/		Rep.Boe	/	
Rep. Sevenson, Vice-Chair	/		Rep. Ekstrom	/	
Rep. Dosch	/		Rep. Thorpe	/	
Rep. Froseth	/		Rep. Zaiser	/	
Rep. Johnson	/				
Rep. Kasper	/				
Rep. Klein	/				
Rep. Nottelstad	/				
Rep. Ruby	/				
Rep. Tieman	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Zaiser

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

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1/29/03
Date

REPORT OF STANDING COMMITTEE (410)
January 31, 2003 11:24 a.m.

Module No: HR-19-1427
Carrier: Zaleer
Insert LC: 38116.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1137: Industry, Business and Labor Committee (Rep. Kelsor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1137 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 26.1-02-03 of the North Dakota Century Code, relating to requirements for an insurance company to do business in this state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-02-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-02-03. Inquiry into condition of company - Information supplied to commissioner - Penalty. The commissioner may address to any insurance company doing or applying for permission to do business in this state any inquiries in relation to the company's activities, condition, or any other matter connected with the company's transactions. The company shall reply to the inquiries promptly and in writing to such an inquiry within twenty days of receipt of the inquiry unless within that twenty days the company requests and the commissioner grants an extension of time. It is a violation of this title for a person to knowingly supply the commissioner with false, misleading, or incomplete information.

Renumber accordingly

Deanna Hall
Operator's Signature

10/2/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

ED 1137

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10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1137

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-05-03

Tape Number	Side A	Side B	Meter #
Committee Clerk Signature <i>Lisa Van Berkom</i>			

Minutes: Chairman Mutch opened the hearing on HB 1137. All Senators were present.

HB 1137 relates to requirements for an insurance company to do business in this state; and to provide a penalty.

Testimony in support of HB 1137

Laurie A. Wolf, Director of Agent Licensing and Investigations of the North Dakota Insurance Department, introduced the bill. See attached testimony.

Senator Klein: Currently the agents are required to provide information within 20 days, and now you are asking the companies that they represent to also provide that information within 20 days.

Laurie: That is correct. We are simply trying to mirror the requirements of agents.

Senator Espeland: What was changed from the original bill to this amended version?

Laurie: On the House side, there were concerns from some of the companies that it would be moved out of the primitive practices act section because there are some penalties in there that

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10/2/03
Date

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1137

Hearing Date 03-05-03

there is a willful violation that can be deemed with significant penalties, so it was moved out of that section and into inquiry position of the company, which is just a general provision statute.

Senator Mutch: What is the time line now?

Laurie: There isn't one. We ask for a response time of 10 -20 days so we can timely respond.

We just need a reasonable time frame.

Senator Krebsbach: You indicate that the reason for the change of sections was because of the penalty or criminal action. Now it says in violation. What would be your recourse if this were to be violated?

Laurie: The maximum penalty is \$10,000. We have never fined anyone as of yet.

Senator Krebsbach: My point is that you still have teeth.

Laurie: Yes, we do.

End Testimony- tape 1, side A Meter 3960

Rep St. Aubyn, Blue Cross Blue Shield, spoke in support of the bill as amended. We were opposed to the original, but as amended, we support the bill.

No opposition.

Hearing was closed.

Senator Klein moved a DO PASS. Senator Krebsbach seconded.

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

Carrier: Senator Klein

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Date: 3-06-03
Roll Call Vote #: 1

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

Senate 1137 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nothing	X				
Sen. Hotkamp	X				
Sen. Every	X				
Sen. Espogard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Klein

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

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10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 5, 2003 2:10 p.m.

Module No: SR-39-4010
Carrier: Klein
Insert LG: Title: .

REPORT OF STANDING COMMITTEE
HB 1137, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEARS, 0 DAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1137 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-39-4010

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10/2/03
Date

1003 TESTIMONY

MB 1137

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10/2/03
Date

1/15/03
#B 1137
Dan Oliver

26.1-02-03. Inquiry into condition of company. The commissioner may address to any insurance company doing or applying for permission to do business in this state any inquiries in relation to its activities, condition, or any other matter connected with its transactions. The company shall reply to the inquiries promptly and in writing within twenty days of receipt of the inquiry unless within the twenty days an extension of time has been requested and granted by the commissioner. Knowingly supplying the commissioner with false, misleading, or incomplete information is a violation of this title.

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1/15/03
Date

HOUSE BILL NO. 1137

Presented by: Laurie A. Wolf
Director of Agent Licensing and Investigations
North Dakota Insurance Department

Before: Industry, Business and Labor Committee
Representative George Kelser, Chairman

Date: January 15, 2003

TESTIMONY

Mr. Chairman and members of the committee:

Good morning, my name is Laurie Wolf, Director of Agent Licensing and Investigations with the North Dakota Insurance Department. I stand before you today to introduce House Bill No. 1137.

This bill adds a new subsection to the Prohibited Practices Act for a company's failure to respond to a Department inquiry. The company must supply documents requested by the Commissioner within 20 days unless an extension of time has been granted by the Commissioner and it also adds a section for knowingly supplying the Commissioner with false and misleading or incomplete information.

Essentially, this section is being added to include the same statutory time frames for companies to respond as the current statute sets out for agents to respond to requests from the Commissioner.

If there are any questions, I would be happy to answer them.

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Testimony of Patrick Ward in Opposition to HB 1137

My name is Patrick Ward. I am an attorney with the law firm of Zuger Kirmis & Smith of Bismarck. I represent the North Dakota Domestic Insurance Companies and other property and casualty insurers in opposition to HB 1137.

28.1-04-03, N.D. Cent. Code is the unfair claims practices statute in North Dakota. It provides which practices are considered unfair methods of competition or prohibited practices in the business of insurance.

The Domestic Insurance Companies object to adding subsections 20 and 21 to the Unfair Claims Practices Act because such provisions would be overbroad and vague.

With regard to paragraph 20, an amendment adding the words "without good cause or excuse" after failing to respond in the first line would be more acceptable.

The primary objection to paragraph 21 is that the language "false, misleading, or incomplete" is vague, ambiguous, and subject to broad interpretation. It has no place in the unfair claims practices statute.

We urge a Do Not Pass recommendation from this Committee.

P:\PWAND\Legislature 2003\HB 1137 Testimony.doc

Testimony on HB 1137
House Industry Business and Labor Committee
January 15, 2002

Mister chairman and committee members, for the record I am Dan Ulmer, representing Blue Cross Blue Shield of North Dakota. We are basically neutral on this bill, but would like to offer an alternative, which will actually accomplish just what was intended in this bill. We feel that placing this within the section entitled "Unfair methods of competition and unfair or deceptive acts or practices defined." is inappropriate for the intent of that section. Section 26.1-04 was geared to be consumer protection legislation. This bill would erode the purpose of that section. There already exists a section dealing with inquiries of a company. We would like to offer that you substitute this bill with the following language. The penalties afforded by the title would be identical to the original bill*. However, with our substitution, the original intent of 26.1-04 would be preserved. We would suggest that the entire bill be substituted with the following language:

26.1-02-03. Inquiry into condition of company. The commissioner may address to any insurance company doing or applying for permission to do business in this state any inquiries in relation to its activities, condition, or any other matter connected with its transactions. The company shall reply to the inquiries promptly and in writing within twenty days of receipt of the inquiry unless within the twenty days an extension of time has been requested and granted by the commissioner. Knowingly supplying the commissioner with false, misleading, or incomplete information is a violation of this title.

* Note the following penalties are applicable to this substitution:

26.1-01-03.3. Penalty for violation of title. Unless otherwise provided by law, a person who violates this title is subject, after hearing by the commissioner, to payment of an administrative monetary penalty of up to ten thousand dollars.

26.1-01-10. General penalty. For a violation of any provision of this title, when no penalty is provided specifically, the offender is guilty of an infraction.

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1/12/03
Date

ENGROSSED HOUSE BILL NO. 1137

Presented by: Laurie A. Wolf
Director of Agent Licensing and Investigations
North Dakota Insurance Department

Before: Industry, Business and Labor Committee
Senator Duane Mutch, Chairman

Date: March 5, 2003

TESTIMONY

Mr. Chairman and members of the committee:

Good morning, my name is Laurie Wolf, Director of Agent Licensing and Investigations with the North Dakota Insurance Department. I stand before you today to introduce Engrossed House Bill No. 1137.

This bill adds new language to N.D. Cent. Code § 26.1-02-03 which sets forth a timeline for companies to respond to requests for information from the Commissioner. The company shall supply documents requested by the Commissioner within 20 days unless an extension of time has been granted by the Commissioner and it also adds language for knowingly supplying the Commissioner with false and misleading or incomplete information.

Essentially, this section is being added to include the same statutory time frames for companies to respond as the current statute sets out for agents to respond to requests from the Commissioner.

If there are any questions, I would be happy to answer them.

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Duane Mutch
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