

HOUSE BILL NO. 1115

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact sections 26.1-01-04, 26.1-02-11, 26.1-03.1-12, and
2 26.1-06-09, subsection 2 of section 26.1-11-12, subsection 2 of section 26.1-15.1-35, and
3 section 26.1-26-22 of the North Dakota Century Code, relating to service of process by the
4 insurance commissioner by certified mail or registered mail.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-01-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-01-04. Service of process upon commissioner - Procedure.** When a consent
9 to service of any process, notice, order, or demand upon the commissioner is provided under
10 this title, the service is to be in duplicate. The commissioner immediately shall forward one
11 copy by registered or certified mail to the person against whom the process, notice, order, or
12 demand is directed at that person's last reasonably ascertainable address and shall file the
13 other copy in the office of the commissioner. The person serving process upon the
14 commissioner shall pay the fee provided in section 26.1-01-07. The commissioner shall keep a
15 record of the date and hour of service.

16 **SECTION 2. AMENDMENT.** Section 26.1-02-11 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **26.1-02-11. Service of process - How made.** Service of process is made by
19 delivering to the secretary of state, or some person in apparent charge of the secretary of
20 state's office, two copies thereof and by payment to the secretary of state of the fee prescribed
21 by law. The secretary of state immediately shall forward by registered or certified mail one
22 copy to the defendant in a court proceeding, or to whom the process is addressed or directed in
23 an administrative proceeding, at its last reasonably ascertainable address. The secretary of
24 state shall keep a record of the date and hour of service. This service is sufficient if notice of

1 the service and a copy of the process is mailed within ten days thereafter by certified mail to the
2 defendant by the plaintiff or the plaintiff's attorney in a court proceeding, or to whom the process
3 is addressed or directed by the commissioner in an administrative proceeding, at its last
4 reasonably ascertainable address, and the defendant's receipt issued by the post office with
5 which the letter is registered or certified, showing the name of the sender of the letter and the
6 name and address of the person or insurer to whom the letter is addressed, and an affidavit of
7 mailing showing compliance herewith is filed with the clerk of the court in which the proceeding
8 is pending, or with the commissioner in an administrative proceeding. No judgment or
9 determination by default may be entered in any proceeding until the expiration of forty-five days
10 from the date of filing of the affidavit of compliance.

11 This section does not limit or affect the right to serve any process upon any person or
12 insurer in any other manner permitted by law.

13 **SECTION 3. AMENDMENT.** Section 26.1-03.1-12 of the North Dakota Century Code
14 is amended and reenacted as follows:

15 **26.1-03.1-12. Notices.** All notices by the commissioner to an insurer that may result in
16 regulatory action hereunder are effective upon dispatch if transmitted by registered or certified
17 mail, or in the case of any other transmission is effective upon the insurer's receipt of the notice.

18 **SECTION 4. AMENDMENT.** Section 26.1-06-09 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **26.1-06-09. Consent to service of process.** Every nonresident offeror who makes a
21 takeover bid is deemed to have appointed the commissioner as agent upon whom may be
22 served, in any matter arising under this chapter, any process, notice, order, or demand except
23 one issued by the commissioner. The commissioner or a designated person in the
24 commissioner's office shall serve any process, notice, order, or demand issued by the
25 commissioner by registered or certified mail addressed to the offeror at the offeror's latest
26 address on file. A foreign corporation which has a duly appointed agent for service of process
27 need not comply with this section.

28 **SECTION 5. AMENDMENT.** Subsection 2 of section 26.1-11-12 of the North Dakota
29 Century Code is amended and reenacted as follows:

1 2. A copy of the process must be sent within ten days thereafter by registered or
2 certified mail by the plaintiff or the plaintiff's attorney, to the defendant at the
3 defendant's last-known principal place of business.

4 **SECTION 6. AMENDMENT.** Subsection 2 of section 26.1-15.1-35 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 2. Service may be made only upon the commissioner or upon any person in charge of
7 the commissioner's office. It must be made in duplicate and constitutes sufficient
8 service upon the society. When legal process against a society is served upon the
9 commissioner, the commissioner shall forthwith forward one of the duplicate copies
10 by registered or certified mail, postage prepaid, directed to the secretary or
11 corresponding officer. No service may require a society to file its answer, pleading,
12 or defense in less than twenty days from the date of mailing the copy of the service
13 to a society. Legal process may not be served upon a society except in the
14 manner herein provided. At the time of serving any process upon the
15 commissioner, the plaintiff or complainant in the action shall pay to the
16 commissioner the fee specified in section 26.1-01-07.

17 **SECTION 7. AMENDMENT.** Section 26.1-26-22 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **26.1-26-22. Nonresident proceeding by commissioner - Service of process -**
20 **Procedure.** The commissioner shall serve process upon any nonresident licensee in any
21 action or proceeding instituted by the commissioner under this chapter by mailing the process
22 by registered or certified mail return receipt requested to the licensee at the licensee's
23 last-known address of record or principal place of business. Service of process under this
24 section is complete upon mailing.