

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2187

Introduced by

Senator Klein

Representative Keiser

1 A BILL for an Act to amend and reenact sections 26.1-44-06.1 and 26.1-44-08 of the North
2 Dakota Century Code, relating to surplus lines insurance filings; to provide a penalty; to provide
3 an effective date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 26.1-44-06.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-44-06.1. Reports –~~Summary of exported business.~~**

8 1. If the insured's home state is this state, ~~on or before April first~~March second of each
9 year, each surplus lines producer shall file with the commissioner on forms prescribed
10 by the commissioner ~~a verified report~~an annual tax statement of all surplus lines
11 insurance transacted during the preceding calendar year, including:

12 ~~1-a.~~ 1-a. Aggregate gross premiums written;

13 ~~2-b.~~ 2-b. Aggregate return premiums;

14 ~~3-c.~~ 3-c. Amount of aggregate tax remitted to this state; and

15 ~~4-d.~~ 4-d. Amount of aggregate tax due or remitted to each other state for which an
16 allocation is made pursuant to section 26.1-44-03.1.

17 2. ~~A verified report~~An annual tax statement is not required to be filed when a surplus
18 lines producer has transacted no surplus lines insurance during the preceding
19 calendar year.

20 **SECTION 2. AMENDMENT.** Section 26.1-44-08 of the North Dakota Century Code is
21 amended and reenacted as follows:

1 **26.1-44-08. Civil penalty for failure to file statement report of placement and affidavit,**
2 **file annual tax statement, and pay tax - Action for recovery - Revocation of license -**
3 **Conditions prerequisite to reissuance - Hearing procedure and judicial review.**

4 1. ~~Every~~A surplus lines producer ~~who fails~~ is liable for a fine of twenty-five dollars for each
5 day of delinquency if the producer:

6 a. Fails or refuses to file the report of placement or affidavit within sixty days as
7 required under section 26.1-44-02;

8 b. Fails or refuses to file the endorsement, audit, or cancellation within sixty days
9 after any change to the initial placement which changes the insurance premium
10 amount, except a surplus lines producer that is able to provide written proof of
11 the date the producer obtained knowledge of the change to the initial placement
12 which changes the insurance premium amount has sixty days from the date the
13 producer obtained knowledge of this change;

14 c. Fails or refuses to make and file the verified report annual tax statement required
15 by under section 26.1-44-06.1, and; or

16 d. Fails or refuses to pay the taxes required to be paid ~~prior to~~before the ~~first~~second
17 day of May~~March~~ after such tax is due, ~~is liable for a fine of twenty-five dollars for~~
18 ~~each day of delinquency.~~

19 2. The tax and fine may be recovered in an action to be instituted by the commissioner in
20 the name of the state, the attorney general representing the commissioner, in any
21 court of competent jurisdiction, and the fine, when so collected, must be paid to the
22 state treasurer and placed to the credit of the general fund. The commissioner, if
23 satisfied that the delay in filing the ~~verified report annual tax statement,~~ report of
24 placement, endorsement, audit cancellation, or affidavit and the payment of the tax
25 was excusable, may waive all or any part of the fine. The commissioner may revoke or
26 suspend the surplus lines producer's license if any surplus lines producer fails to make
27 and file the ~~verified report annual tax statement~~ and pay the taxes, or refuses to allow
28 the commissioner to inspect and examine the producer's records of the business
29 transacted by the producer pursuant to this chapter, or fails to keep the records in the
30 manner required by the commissioner, or falsifies the affidavit referred to in section
31 26.1-44-02.

1 3. If the license of a surplus lines producer is revoked, whether by the action of the
2 commissioner or by judicial proceedings, another license may not be issued to that
3 surplus lines producer until two years have elapsed from the effective date of the
4 revocation, nor until all taxes and fines are paid, nor until the commissioner is satisfied
5 that full compliance with this chapter will be had.

6 **SECTION 3. EFFECTIVE DATE.** This Act becomes effective June 1, 2015.

7 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.