

## **SENATE BILL NO. 2078**

**Presented by:**        **John Arnold**  
                             **Deputy Insurance Commissioner**  
                             **North Dakota Insurance Department**

**Before:**                **Senate Industry, Business, and Labor Committee**  
                             **Senator Jerry Klein, Chairman**

**Date:**                  **January 12, 2021**

### **TESTIMONY**

Good afternoon Chairman Klein and members of the committee. My name is John Arnold and I am the Deputy Insurance Commissioner for the North Dakota Insurance Department. Senate Bill No. 2078, which amends several sections of code pertaining to the licensure of insurance producers, was introduced at the request of Insurance Commissioner Jon Godfread.

Perhaps the most significant change in Senate Bill 2078 is the creation of a process through which individuals with certain felony convictions may be able to become licensed producers. Under 18 United States Code §1033, an individual who is convicted of a felony involving dishonesty or a breach of trust are not eligible to become licensed producers unless their resident state issues the individual a waiver to this exemption. A list of criminal offenses that are considered to involve dishonesty or a breach of trust is included at the end of my written testimony.

The Department is asking to be given the authority to create a §1033 waiver process. This process would allow an individual who is exempt under §1033 to make an application to the Commissioner requesting written consent granting permission to participate in the business of insurance. A committee including the Deputy Commissioner, General Counsel, and the Producer Licensing Division Director will review the application and make a recommendation to the Commissioner. If the Commissioner chooses to give written consent granting permission to

participate in the business of insurance, the individual may then begin the application process in the same manner as any other candidate.

Section one of the bill establishes a \$100 fee for applying for the written consent granting permission to participate in the business of insurance. Section three removes the automatic denial language currently in code for an individual convicted of a felony involving dishonesty or breach of trust and give the Commissioner the authority to give written consent granting permission to participate in the business of insurance. Section six adds the exemption language to another section so that a conflict isn't created where an individual could have their license removed for the same offense for which the Commissioner has granted an exemption.

In addition to §1033 waivers, Senate Bill 2078 also cleans up several other areas of code related to producer licensing. To begin with, section two adds the word “producers” to the definition of “business of insurance.” The Department is requesting to clear up possible confusion between the meaning of an agent (already in the definition) and a producer.

Section four allows the Commissioner to designate another entity to collect application fees. In practice, producers pay these fees through the National Insurance Producer Registry (NIPR) which are then remitted to the Department. However, if a producer fails to pay the NIPR and the Department processes the application or renewal the NIPR has no recourse to collect the fee. Allowing the Commissioner to designate the NIPR solve this issue.

Section five allows insurance producers to update their address through the NIPR database rather than submitting a form for Department staff to update the address.

Section seven allows the Department to receive electronic notification that non-resident producers have had their resident state license revoked. This would eliminate the need for the Department to contact states and request certified copies when the documents have already been uploaded by the resident state into a secure, multi-state database.

Section eight exempts individuals who only hold a license to sell portable electronics insurance from the continuing education requirements that insurance producers normally have to meet. These are the individuals at electronics stores that offer limited coverage on items such as smart phones.

Finally, sections nine and ten pertain to self-service storage facilities and their licensed producers selling coverage on those units. When chapter 26.1-26.9 was created by the Sixty-Sixth Legislative Assembly there was no requirement that the owner of the facility name the licensed producer responsible for ensuring that all insurance laws are being followed. This would create a problem if the Department is made aware of regulatory issues but does not have a record of the individual over whom administrative action could be taken. Section nine requires that there be a supervising entity, and section ten removes the reporting of individuals over whom the Department has no regulatory authority and replaces them with the producer responsible for being the supervising entity.

Chairman Klein and members of the committee, I respectfully request a “do pass” recommendation on Senate Bill 2078 and am happy to answer any questions that you may have. Thank you.

Felony offenses that are considered to involve dishonesty or a breach of trust include:

- 1) Any type of fraud
- 2) Counterfeiting or passing counterfeit money
- 3) Bribery or bribe receipt
- 4) Any crime involving false pretenses
- 5) Money laundering
- 6) Extortion
- 7) Forgery
- 8) Embezzlement
- 9) Criminal impersonation
- 10) Theft by deception