

INSURANCE

CHAPTER 275

SENATE BILL NO. 2172

(Senators Klein, Larsen, Vedaa)
(Representatives Kasper, Louser)

AN ACT to create and enact a new chapter to title 26.1 of the North Dakota Century Code, relating to the interstate insurance product regulation compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 26.1 of the North Dakota Century Code is created and enacted as follows:

ARTICLE I - PURPOSES

The purposes of this compact are, through means of joint and cooperative action among the compacting states:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;
2. To develop uniform standards for insurance products covered under the compact;
3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;
4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;
5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact;
6. To create the interstate insurance product regulation commission; and
7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II - DEFINITIONS

For purposes of this compact:

1. "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more specifically defined in the rules and operating procedures of the commission.
2. "Bylaws" mean those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct.
3. "Compacting state" means any state which has enacted this compact legislation and which has not withdrawn pursuant to subsection 1 of article XIV, or been terminated pursuant to subsection 2 of article XIV.
4. "Commission" means the "interstate insurance product regulation commission" established by this compact.
5. "Commissioner" means the chief insurance regulatory official of a state including, but not limited to commissioner, superintendent, director, or administrator.
6. "Domiciliary state" means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry.
7. "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this chapter.
8. "Member" means the person chosen by a compacting state as its representative to the commission, or his or her designee.
9. "Noncompacting state" means any state which is not at the time a compacting state.
10. "Operating procedures" mean procedures promulgated by the commission implementing a rule, uniform standard, or a provision of this compact.
11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.
12. "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to article VII of this compact, designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.
13. "State" means any state, district, or territory of the United States of America.
14. "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.
15. "Uniform standard" means a standard adopted by the commission for a product line, pursuant to article VII of this compact, and shall include all of the

product requirements in aggregate; provided, that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

ARTICLE III - ESTABLISHMENT OF THE COMMISSION AND VENUE

1. The compacting states hereby create and establish a joint public agency known as the "interstate insurance product regulation commission". Pursuant to article IV, the commission will have the power to develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards, provided, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the state where filed.
2. The commission is a body corporate and politic, and an instrumentality of the compacting states.
3. The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.
4. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

ARTICLE IV - POWERS OF THE COMMISSION

The commission shall have the following powers:

1. To promulgate rules, pursuant to article VII of this compact, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact;
2. To exercise its rulemaking authority and establish reasonable uniform standards for products covered under the compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt-out of such uniform standard pursuant to article VII, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the national association of insurance commissioners' long-term care insurance model act and long-term care insurance model regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the national association of insurance commissioners' long-term care insurance model act or long-term care insurance model regulation adopted by the national association of insurance commissioners require amending of the uniform standards established by the commission for long-term care insurance products;

3. To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in the compact;
4. To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this section shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the compact;
5. To exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission;
6. To promulgate operating procedures, pursuant to article VII of this compact, which shall be binding in the compacting states to the extent and in the manner provided in this compact;
7. To bring and prosecute legal proceedings or actions in its name as the commission, provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;
8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;
9. To establish and maintain offices;
10. To purchase and maintain insurance and bonds;
11. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state;
12. To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of the compact, and determine their qualifications; and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;
13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety;

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety;
15. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
16. To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures;
17. To enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws;
18. To provide for dispute resolution among compacting states;
19. To advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact;
20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;
21. To establish a budget and make expenditures;
22. To borrow money;
23. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws;
24. To provide and receive information from, and to cooperate with, law enforcement agencies;
25. To adopt and use a corporate seal; and
26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

ARTICLE V - ORGANIZATION OF THE COMMISSION

1. Membership, voting, and bylaws.
 - a. Each compacting state shall have and be limited to one member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he or she shall be appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

- b. Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds of the members vote in favor thereof.
- c. The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the compact, including, but not limited to:
 - (1) Establishing the fiscal year of the commission;
 - (2) Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee;
 - (3) Providing reasonable standards and procedures:
 - a. For the establishment and meetings of other committees; and
 - b. Governing any general or specific delegation of any authority or function of the commission;
 - (4) Providing reasonable procedures for calling and conducting meetings of the commission that consists of a majority of commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the commission must make public:
 - a. A copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed; and
 - b. Votes taken during such meeting;
 - (5) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;
 - (6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
 - (7) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and
 - (8) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations.

d. The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.

2. Management committee, officers, and personnel.

a. A management committee comprising no more than fourteen members shall be established as follows:

(1) One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products, determined from the records of the national association of insurance commissioners for the prior year;

(2) Four members from those compacting states with at least two percent of the market based on the premium volume described above, other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and

(3) Four members from those compacting states with less than two percent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the national association of insurance commissioners as provided in the bylaws.

b. The management committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

(1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

(2) Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt-out of a uniform standard, provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee;

(3) Overseeing the offices of the commission; and

(4) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

c. The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.

d. The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to

the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

3. Legislative and advisory committees.

- a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee, provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.
- b. The commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.
- c. The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.

4. Corporate records of the commission. The commission shall maintain its corporate books and records in accordance with the bylaws.

5. Qualified immunity, defense, and indemnification.

- a. The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing in this subdivision shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.
- b. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.
- c. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such

person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

ARTICLE VI - MEETINGS AND ACTS OF THE COMMISSION

1. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
2. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.
3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

ARTICLE VII - RULES AND OPERATING PROCEDURES - RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

1. Rulemaking authority. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this chapter, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.
2. Rulemaking procedure. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the model state administrative procedure act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee(s) in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.
3. Effective date and opt-out of a uniform standard. A uniform standard shall become effective ninety days after its promulgation by the commission or such later date as the commission may determine; provided, however, that a compacting state may opt-out of a uniform standard as provided in this article. "Opt-out" shall be defined as any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.
4. Opt-out procedure.
 - a. A compacting state may opt-out of a uniform standard, either by legislation or regulation duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state

elects to opt-out of a uniform standard by regulation, it must give written notice to the commission no later than ten business days after the uniform standard is promulgated, or at the time the state becomes a compacting state and must find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this chapter and the presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product. Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this compact, prospectively opt-out of all uniform standards involving long-term care insurance products by expressly providing for such opt-out in the enacted compact, and such an opt-out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt-out shall be effective at the time of enactment of this compact by the compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

- b. In accordance with subdivision a, North Dakota opts out of all existing and prospective uniform standards involving long-term care insurance products in order to preserve North Dakota's statutory requirements governing long-term care insurance products.
5. Effect of opt-out. If a compacting state elects to opt-out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt-out until such time the opt-out legislation is enacted into law or the regulation opting out becomes effective. Once the opt-out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt-out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt-out shall have the same prospective effect as provided under article XIV for withdrawals.
6. Stay of uniform standard. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt-out is pending, the compacting state may petition the commission, at least fifteen days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt-out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety days, unless affirmatively extended by the commission, provided a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not

limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

7. Not later than thirty days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure, provided that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

ARTICLE VIII - COMMISSION RECORDS AND ENFORCEMENT

1. The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records, and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.
2. Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further provided that, except as otherwise expressly provided in this chapter, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.
3. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in article XIV.
4. The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:
 - a. With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content

of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

- b. Before a commissioner may bring an action for violation of any provision, standard, or requirement of the compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this subdivision does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

ARTICLE IX - DISPUTE RESOLUTION

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and which may arise between two or more compacting states, or between compacting states and noncompacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

ARTICLE X - PRODUCT FILING AND APPROVAL

1. Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this chapter shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.
2. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.
3. Any product approved by the commission may be sold or otherwise issued in those compacting states for which the insurer is legally authorized to do business.

ARTICLE XI - REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

1. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted

arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with subsection 4 of article III.

2. The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in subsection 1.

ARTICLE XII - FINANCE

1. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the national association of insurance commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.
2. The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.
3. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in article VII of this compact.
4. The commission shall be exempt from all taxation in and by the compacting states.
5. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.
6. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.
7. No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

ARTICLE XIII - COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a compacting state.
2. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states, provided the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than forty percent of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the national association of insurance commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.
3. Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

ARTICLE XIV - WITHDRAWAL, DEFAULT, AND TERMINATION

1. Withdrawal.
 - a. Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law.
 - b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in subdivision e.
 - c. The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.
 - d. The commission shall notify the other compacting states of the introduction of such legislation within ten days after its receipt of notice thereof.
 - e. The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective

disapproval of products or advertisement previously approved under state law.

- f. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

2. Default.

- a. If the commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.
- b. Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subsection 1.
- c. Reinstatement following termination of any compacting state requires a reenactment of the compact.

3. Dissolution of compact.

- a. The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.
- b. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XV - SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
2. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XVI - BINDING EFFECT OF COMPACT AND OTHER LAWS**1. Other laws.**

- a. Nothing herein prevents the enforcement of any other law of a compacting state, except as provided in subdivision b.
- b. For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict:
 - (1) The access of any person to state courts;
 - (2) Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;
 - (3) State law relating to the construction of insurance contracts; or
 - (4) The authority of the attorney general of the state, including, but not limited to, maintaining any actions or proceedings, as authorized by law.
- c. All insurance products filed with individual states shall be subject to the laws of those states.

2. Binding effect of this compact.

- a. All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.
- b. All agreements between the commission and the compacting states are binding in accordance with their terms.
- c. Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.
- d. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 276

SENATE BILL NO. 2349

(Senators Klein, Lemm, Wanzek)
(Representatives Brandenburg, D. Johnson, Vigesaa)

AN ACT to create and enact a new section to chapter 26.1-02 of the North Dakota Century Code, relating to exemption from insurance regulations for nonprofit agricultural membership organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-02 of the North Dakota Century Code is created and enacted as follows:

Nonprofit agricultural membership organizations.

1. Except as provided under this section, a nonprofit agricultural membership organization is not subject to this title or the jurisdiction of the commissioner. Health care coverage provided by a nonprofit agricultural membership organization to members of the organization is not insurance regulated under this title.
2. Any risk arising out of the health care coverage provided by a nonprofit agricultural membership organization or an affiliate of the organization must be reinsured by a company authorized to conduct insurance in this state.
3. A nonprofit agricultural membership organization may not provide health care coverage under this section unless the organization has filed with the commissioner verification the organization meets the requirements of this section.
4. Health care coverage under this section may be sold only by an insurance producer who is both appointed by the nonprofit agricultural membership organization and licensed as an insurance producer to sell or solicit health insurance in this state.
5. Health care coverage under this section must provide benefits under a self-funded arrangement administered by an entity that holds a certificate of authority under section 26.1-27-03.
6. A health care coverage application for coverage under this section and any related contract provided to the member prominently must state the health care coverage is not insurance, is not provided by an insurance company, is not subject to the laws and rules governing insurance, and is not subject to the jurisdiction of the commissioner.
7. As used in this section, "nonprofit agricultural membership organization" means an organization incorporated under the laws of this state before August 1, 2023, for the purpose of promoting the interests of farmers in the state, or an affiliate of the organization, which organization or affiliate provides

health care coverage for members and the families of the members pursuant to a contract between the member and the organization or affiliate.

Approved April 13, 2023

Filed April 14, 2023

CHAPTER 277

SENATE BILL NO. 2056

(Industry and Business Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact sections 26.1-02-02, 26.1-03-11, and 26.1-36.4-06, and subsection 2 of section 26.1-36.7-05 of the North Dakota Century Code, relating to the insurance commissioner's red tape reduction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

26.1-02-02. Duty of commissioner before granting or renewing certificate of authority.

The commissioner must be satisfied by examination and evidence that an insurance company is legally qualified to transact business in this state, ~~including compliance with section 26.1-03-11,~~ before granting a certificate of authority to the company to issue policies or make insurance contracts. A certificate of authority issued under this title remains in force in perpetuity if the required renewal fee is paid by April thirtieth of each year and the commissioner is satisfied that ~~the documents required by section 26.1-03-11 have been filed,~~ the statements and evidences of investment required of the company have been furnished, the required capital or surplus or both, securities, and investments remain secure, and all other requirements of law are met. Any company which neglects to pay the renewal fee by April thirtieth forfeits twenty-five dollars for each day's neglect.

SECTION 2. AMENDMENT. Section 26.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03-11. Fire companies to report statistical data - Failure to report - Exceptions to reporting requirements - Penalty.

Each insurance company issuing fire insurance policies covering property in this state annually shall report information setting forth the amount of earned premiums in this state for policies covering insured property located in this state and the amount of claims incurred. This information is not to include personal lines or farm property insurance. This information must be reported on a form prescribed by the commissioner. ~~The company shall file the form with the commissioner or shall certify to the commissioner that the information has been reported directly to an advisory organization upon whose filings the majority of the fire insurance rates for North Dakota are based.~~ The form ~~or certification~~ must accompany the annual statement required under section 26.1-03-07. An insurance company that fails to furnish the form on or before March first is subject to a penalty of one hundred dollars per day. The commissioner may revoke or suspend the certificate of authority of an insurance company that fails to file the form required in this section. If satisfied the delay was excusable, the insurance commissioner may waive, and if paid, issue a premium tax credit in an amount up to fifty percent of the penalty ~~and interest.~~ The insurance

commissioner shall deposit in the insurance tax distribution fund monetary penalties collected under this section.

SECTION 3. AMENDMENT. Section 26.1-36.4-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.4-06. Modified community rating.

Premium rates for individual policies are subject to the following:

1. For any class of individuals, the premium rates charged during a rating period to the individuals in that class for the same or similar coverage may not vary by a ratio of more than six to one after August 1, 1995, and by a ratio of more than five to one after August 1, 1996, when age, industry, gender, and duration of coverage of the individuals are considered. Gender and duration of coverage may not be used as a rating factor for policies issued after January 1, 1997.
2. An insurer, in addition to the factors set forth in subsection 1, may use geography, family composition, healthy lifestyles, and benefit variations to determine premium rates.
3. ~~The commissioner shall design and adopt reporting forms to be used by an insurer to report information as to insurer's experience as to insurance provided under this chapter on a periodic basis to determine the impact of the reforms and implementation of modified community rating contained in this chapter.~~

SECTION 4. AMENDMENT. Subsection 2 of section 26.1-36.7-05 of the North Dakota Century Code is amended and reenacted as follows:

2. The board shall:
 - a. Formulate general policies to advance the purposes of this chapter;
 - b. ~~Schedule and approve independent biennial audits in order to:~~
 - (1) ~~Ensure claims are being processed appropriately and only include services covered by the individual health benefit plan for the contracted rates; and~~
 - (2) ~~Verify that the assessment base is accurate and that the appropriate percentage was used to calculate the assessment~~Request an audit be performed by an independent auditor or the state auditor unless an audit has been performed during the waiver period pursuant to the innovation wavier under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.];
 - c. Approve bylaws and operating rules; and
 - d. Provide for other matters as may be necessary and proper for the execution of the commissioner's and board's powers, duties, and obligations.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 278

SENATE BILL NO. 2295

(Senators Klein, Vedaa)
(Representative Louser)

AN ACT to amend and reenact subsection 2 of section 24-02-01.1 and section 26.1-25-15 of the North Dakota Century Code, relating to the unsatisfied judgment fund and the assigned risk plan; to repeal chapter 26.1-23 of the North Dakota Century Code, relating to the unsatisfied judgment fund; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 24-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The motor vehicle department and the registrar of motor vehicles, including title 39, chapter 57-40.3, and ~~sections 26.1-23-03 and section 26.1-41-02.~~

SECTION 2. AMENDMENT. Section 26.1-25-15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-25-15. Assigned risks.

Agreements

1. An agreement may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and the insurers may agree among themselves on the use of reasonable rate modifications for such insurance. ~~These agreements and rate modifications are~~ The agreement is subject to the approval of the commissioner.
2. The agreement approved in subsection 1 must be called the North Dakota automobile insurance plan. The plan may issue policies of insurance in the name of the plan for the applicants described in subsection 1, and to provide policyholder and claim-handling services.
3. A policy of insurance issued by the plan must be recognized as if issued by an insurance company authorized to issue insurance in this state. The policy also is considered proof of financial responsibility in accordance with title 39. This section does not revoke any exception granted in another section of law.
4. Every form and every modification, proposed to be used by the plan, of a policy, endorsement, rider, manual of classification, rule, rate, or rating plan, must be filed and approved by the commissioner before use.
5. An insurance company writing insurance in this state for private passenger motor vehicles, commercial motor vehicles, and other motor vehicles must be a subscriber to the plan.

6. The plan shall file an annual audited financial report with the commissioner promptly upon the completion of the report.
7. An applicant for a policy, any person insured under any a policy, and any insurance company affected may appeal to the commissioner from a ruling or decision of the plan. A person aggrieved by an order or act of the commissioner, within thirty days after receipt of written notice of the order or act, may file a petition in the district court of Burleigh County.
8. The plan may be managed and operated by one or more entities approved by the commissioner.
9. The commissioner may adopt rules to establish plan requirements and implement this section.

SECTION 3. REPEAL. Chapter 26.1-23 of the North Dakota Century Code is repealed.

SECTION 4. TRANSFER - UNSATISFIED JUDGMENT FUND TO STATE HIGHWAY FUND. The office of management and budget shall transfer any balance in the unsatisfied judgment fund on the effective date of this Act to the state highway fund.

Approved April 18, 2023

Filed April 19, 2023

CHAPTER 279

HOUSE BILL NO. 1094

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact section 26.1-02.1-02.2 of the North Dakota Century Code, relating to the prosecution of insurance fraud.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-02.1-02.2 of the North Dakota Century Code is created and enacted as follows:

26.1-02.1-02.2. Venue for filing criminal charges.

If a person commits a fraudulent insurance act or any crime associated with a fraudulent insurance act, the venue for charging the crime may be any county in which the offense, any element of the offense, or payment related to the offense was perpetrated, received, produced, prepared, instigated, procured, promoted, or aided. If a person commits a fraudulent insurance act and commits additional crimes in the commission of a fraudulent insurance act or as part of a scheme associated with a fraudulent insurance act, venue need only be established for one offense. All offenses associated with a fraudulent insurance act may be charged in the same venue as established in one of the counts.

Approved March 22, 2023

Filed March 23, 2023

CHAPTER 280

HOUSE BILL NO. 1429

(Representatives Novak, Koppelman, Louser, J. Olson, S. Olson, Porter, M. Ruby,
Thomas)
(Senators Elkin, Magrum, Rummel)

AN ACT to create and enact a new subdivision to subsection 7 of section 26.1-04-03 and a new section to chapter 54-06 of the North Dakota Century Code, relating to unfair discrimination in the business of insurance and the investment and management of public funds; to amend and reenact section 21-10-08.1 and subsection 10 of section 54-44.4-02 of the North Dakota Century Code, relating to the prohibition on social investments and restrictions on perpetual contracts; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 21-10-08.1 of the North Dakota Century Code is amended and reenacted as follows:

21-10-08.1. Social investment - Prohibition.

1. As used in this section, "social investment" means the consideration of socially responsible criteria and environmental, social, and governance impact criteria in the investment or commitment of public funds for the purpose of obtaining an effect other than a maximized return at a prudent level of risk to the state.
2. Except as otherwise provided in a state investment policy relating to the investment of the legacy fund and unless the state investment board, or any other state entity investing public funds, can demonstrate a social investment would provide an equivalent or superior rate of return compared to a similar investment that is not a social investment and has a similar time horizon and risk, the state investment board, or other state entity, may not invest state funds for the purpose of social investment.

SECTION 2. A new subdivision to subsection 7 of section 26.1-04-03 of the North Dakota Century Code is created and enacted as follows:

Refusing to insure or charging a different rate solely in consideration of the risk's environmental, social, and governance criteria; diversity, equity, and inclusion policies; or political and ideological factors, unless the refusal or different rate is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

SECTION 3. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Proxy voting.

1. Proxy votes made on behalf of state funds or the funds of political subdivisions which receive investment management services from the state must be made in accordance with the requirements provided in section 21-10-08.1.
2. A state entity may not adopt a practice of following the recommendations of a proxy advisory firm or other service provider unless the proxy advisory firm's or the service provider's voting guidelines comply with the requirements of section 21-10-08.1.

¹⁶¹ **SECTION 4. AMENDMENT.** Subsection 10 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

10. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services. Nothing in this subsection may be construed to allow an agency to create or renew a contract perpetually and without limitation.

SECTION 5. BANK OF NORTH DAKOTA STUDY - ENVIRONMENTAL, SOCIAL, AND GOVERNANCE TRENDS - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2023-24 interim, the Bank of North Dakota shall study environmental, social, and governance trends, laws, and policies that impact businesses and industries of this state. The study must include input from representatives from state government and industry with expertise in the areas of energy, agriculture, investment, insurance, economic development, finance, procurement, and contracting, and laws related to these areas.
2. The study must identify laws and regulations enacted by the federal government and other state governments related to environmental, social, and governance policies and trends which impact the state's energy and production agriculture industries. The study also must examine corporate environmental, social, and governance policies and trends impacting the state's energy and production agriculture industries, including finance, lending, insurance, and boycotts of energy or production agriculture commodities.
3. The study must identify a strategy to make the delivery of investment reports relating to state funds available and readily consumable to the public.
4. The study may identify industry-specific public policy strategies for immediate and long-term implementation to help the state continue to be a global leader in energy and agriculture. Strategies may include marketing and advocacy for state industries, exploration of emerging technology and practices, and examination of investment policy.
5. Before June 1, 2024, the Bank of North Dakota shall provide a report of its findings and recommendations to the legislative management, together with

¹⁶¹ Section 54-44.4-02 was also amended by section 3 of Senate Bill No. 2042, chapter 512.

any legislation and appropriation requests required to implement the recommendations.

Approved April 26, 2023

Filed April 27, 2023

CHAPTER 281

HOUSE BILL NO. 1189

(Representatives Louser, Ista, Klemin, Roers Jones)
(Senator Hogue)

AN ACT to amend and reenact sections 26.1-19-03 and 26.1-43-03 of the North Dakota Century Code, relating to legal expense insurance plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-19-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-19-03. Exceptions.

This chapter does not apply to:

1. Commercial insurers licensed or authorized to do business in this state or to any nonadmitted insurers.
2. Retainer contracts made by attorneys with individual clients with fees based upon an estimate of the nature and amount of services to be provided to a specific client and similar contracts made with a group of clients involved in the same or closely related legal matters.
3. Plans providing no benefits other than consultation with and advice by an attorney in connection or combination with referral services.
4. The furnishing of legal services on an informal basis, involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship.
5. Employee welfare benefit plans as defined by the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829].
6. Prepaid legal services plans that pay only an administrative fee to an attorney. Under this subsection, the payment of only an administrative fee to an attorney is not considered payment for or reimbursement of the cost of legal services and related expenses and court costs.

SECTION 2. AMENDMENT. Section 26.1-43-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-43-03. Legal plans and contracts excepted from insurance code.

Unless otherwise provided, this title does not apply to:

1. Plans licensed under chapter 26.1-19.
2. Retainer contracts made by attorneys with individual clients with fees based upon an estimate of the nature and amount of services to be provided to a

specific client and similar contracts made with a group of clients involved in the same or closely related legal matters.

3. Employee welfare benefit plans as defined by the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829].
4. Plans that do not include the assumption of risk or obligation to pay or reimburse for specified legal services or specified legal expenses. Under this subsection, the payment of only an administrative fee to an attorney is not considered reimbursement of the beneficiary or on behalf of the beneficiary for all or a portion of the beneficiary's fees, costs, or expenses related to or arising out of services by or under the supervision of an attorney licensed to practice law in this state.

Approved March 29, 2023

Filed March 30, 2023

CHAPTER 282

SENATE BILL NO. 2055

(Industry and Business Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact section 26.1-26-13.5 of the North Dakota Century Code, relating to the withdrawal of producer licensing applications; to amend and reenact sections 26.1-26-30, 26.1-26-33, subsection 1 of section 26.1-26-52, subdivision a of subsection 1 of section 26.1-26.8-06, subdivision a of subsection 2 of section 26.1-26.8-09, and subsections 7 and 8 of section 26.1-33.4-02 of the North Dakota Century Code, relating to the contents of producer licenses, producer notification of electronic mail address changes, automobile rental company staff soliciting insurance, and the renewal of public adjuster and life settlement licenses; and to repeal sections 26.1-26-37 and 26.1-26-46 of the North Dakota Century Code, relating to physical copies of a producer's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-26-13.5 of the North Dakota Century Code is created and enacted as follows:

26.1-26-13.5. Application deemed withdrawn.

An application for a license under this chapter may be deemed withdrawn if the commissioner contacts an applicant in writing regarding an incomplete application and the commissioner does not receive a response from the applicant within twenty days of the date of the written communication. A withdrawn application under this section is not a refusal to issue a producer license and is not an administrative action. All fees accompanying the application for license are not refundable.

SECTION 2. AMENDMENT. Section 26.1-26-30 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-30. Contents of license.

The license ~~shall~~must state the name, address, ~~social security number, personal identification number, or internal revenue service identification number~~ of the licensee, date of issue, and the line or lines of insurance covered by the license, and any other information the commissioner determines to be proper for inclusion in the license.

SECTION 3. AMENDMENT. Section 26.1-26-33 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-33. Notification of address change - Duty of licensee.

Every licensee shall notify the commissioner of any change in the licensee's residential or business address, electronic mail address, or legal name within thirty days of the change. Notification may occur through the insurance producer database maintained by the national association of insurance producers, its affiliates, or subsidiaries. Any licensee who ceases to maintain residency in this state shall deliver

~~the insurance license to notify the commissioner by personal delivery or, by mail, or by electronic mail within thirty days after terminating residency.~~

SECTION 4. AMENDMENT. Subsection 1 of section 26.1-26-52 of the North Dakota Century Code is amended and reenacted as follows:

1. The automobile rental company is appropriately licensed in this state under subsection 24 of section 26.1-26-13.3 or is affiliated with an appropriately licensed North Dakota insurance producer.

SECTION 5. AMENDMENT. Subdivision a of subsection 1 of section 26.1-26.8-06 of the North Dakota Century Code is amended and reenacted as follows:

- a. Has paid the business entity licensing fee, not to exceed ~~one hundred fifty~~ dollars, prescribed by the commissioner; and

SECTION 6. AMENDMENT. Subdivision a of subsection 2 of section 26.1-26.8-09 of the North Dakota Century Code is amended and reenacted as follows:

- a. A business entity public adjuster license expires on the last day of the month following the two-year anniversary of issuance of a license by the commissioner.

¹⁶² **SECTION 7. AMENDMENT.** Subsection 7 of section 26.1-33.4-02 of the North Dakota Century Code is amended and reenacted as follows:

7. Licenses may be renewed annually on ~~the anniversary date or before April thirtieth~~ upon payment of the periodic renewal fee. As specified in subsection 2, the renewal fee for a provider may not exceed a reasonable fee. Failure to pay the fee within the terms prescribed results in the automatic revocation of the license requiring periodic renewal. A license issued after January first is not required to renew until April thirtieth of the following calendar year. A license issued between May 1, 2023, and July 31, 2023, is not required to be renewed until April 30, 2025.

¹⁶³ **SECTION 8. AMENDMENT.** Subsection 8 of section 26.1-33.4-02 of the North Dakota Century Code is amended and reenacted as follows:

8. The term of provider license must be equal to that of a domestic stock life insurance company and the term of a broker license must be equal to that of an insurance producer license. Licenses requiring periodic renewal may be renewed on ~~their anniversary date or before April thirtieth~~ upon payment of the periodic renewal fee as specified in subsection 2. Failure to pay the fees before the expiration of the renewal date results in expiration of the license. A license issued after January first is not required to be renewed until April thirtieth of the following calendar year. A license issued between May 1, 2023, and July 31, 2023, is not required to be renewed until April 30, 2025.

SECTION 9. REPEAL. Sections 26.1-26-37 and 26.1-26-46 of the North Dakota Century Code are repealed.

¹⁶² Section 26.1-33.4-02 was also amended by section 8 of Senate Bill No. 2055, chapter 282.

¹⁶³ Section 26.1-33.4-02 was also amended by section 7 of Senate Bill No. 2055, chapter 282.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 283

SENATE BILL NO. 2135

(Senators Lee, Bekkedahl, Mathern)
(Representatives Ista, Rohr, Satrom)

AN ACT to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to assignment of dental insurance benefits; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Dental insurance - Assignment.

An individual or group insurance policy covering dental services may not be issued or renewed unless the policy authorizes the insured or beneficiary to assign reimbursement for health or dental care services directly to the provider of services. Under this assignment, the insurer, if authorized by the insured or beneficiary, shall pay directly to the provider the amount of the claim under the same criteria and payment schedule as would have been reimbursed directly to the insured.

SECTION 2. APPLICATION. This Act applies to insurance policies issued or renewed on or after the effective date of this Act.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 284

HOUSE BILL NO. 1416

(Representatives Kiefert, K. Anderson, Rohr, M. Ruby, Tveit, Vigesaa, Weisz)
(Senators Conley, Wobbema)

AN ACT to create and enact section 26.1-36-12.7 of the North Dakota Century Code, relating to freedom of choice for health care services; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-36-12.7 of the North Dakota Century Code is created and enacted as follows:

26.1-36-12.7. Freedom of choice for health care services.

1. As used in this section:
 - a. "Health benefit plan" has the same meaning as provided in section 26.1-36.3-01.
 - b. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
 - c. "Integrated delivery network" means a system of health care providers and facilities which offer both health care services and health benefit plans.
2. A health insurer, including the Medicaid program, which is part of an integrated delivery network may not obstruct patient choice by excluding a health care provider licensed under the laws of this state from participating on the health insurer's panel of providers if the provider is located within the geographic coverage area of the health benefit plan and is willing and fully qualified to meet the terms and conditions of participation, as established by the health insurer.

SECTION 2. APPLICATION. This Act applies to health benefit plans offered or sold on or after December 31, 2024.

Approved April 19, 2023

Filed April 20, 2023

CHAPTER 285

HOUSE BILL NO. 1095

(Representative Weisz)

AN ACT to create and enact chapter 26.1-36.11 of the North Dakota Century Code, relating to the inclusion of comprehensive medication management services in health benefit plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-36.11 of the North Dakota Century Code is created and enacted as follows:

26.1-36.11-01. Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. a. "Comprehensive medication management" means medication management pursuant to a standard of care that ensures each enrollee's medications, both prescription and nonprescription, are individually assessed to determine each medication is appropriate for the enrollee, effective for the medical condition, and safe, given the comorbidities and other medications being taken and able to be taken by the enrollee as intended. Services provided in comprehensive medication management are, as follows:
 - (1) Performing or obtaining necessary assessments of the enrollee's health status;
 - (2) Formulating a medication treatment plan;
 - (3) Monitoring and evaluating the enrollee's response to therapy, including safety and effectiveness;
 - (4) Performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;
 - (5) Providing verbal or written, or both, counseling, education, and training designed to enhance enrollee understanding and appropriate use of the enrollee's medications;
 - (6) Providing information, support services, and resources designed to enhance enrollee adherence with the enrollee's therapeutic regimens;
 - (7) Coordinating and integrating medication therapy management services within the broader health care management services being provided to the enrollee;
 - (8) Initiating or modifying drug therapy under a collaborative agreement with a practitioner in accordance with section 43-15-31.4;

- (9) Prescribing medications pursuant to protocols approved by the state board of pharmacy in accordance with subsection 24 of section 43-15-10;
 - (10) Administering medications in accordance with requirements in section 43-15-31.5; and
 - (11) Ordering, performing, and interpreting laboratory tests authorized by section 43-15-25.3 and North Dakota Administrative Code section 61-04-10-06.
- b. This subsection may not be construed to expand or modify pharmacist scope of practice.
2. "Enrollee" means an individual covered under a health benefit plan.
3. "Health benefit plan" has the same meaning as provided in section 26.1-36.3-01, whether offered on a group or individual basis.
4. "Health carrier" or "carrier" has the same meaning as provided in section 26.1-36.3-01.

26.1-36.11-02. Required coverage for comprehensive medication management services.

1. A health carrier shall provide coverage for licensed pharmacists to provide comprehensive medication management to eligible enrollees who elect to participate in a comprehensive medication management program.
2. At least annually, the health carrier shall provide, in print, or electronically under the provisions of section 26.1-02-32, notice of an enrollee's eligibility to receive comprehensive medication management services from a pharmacist, delivered to the eligible enrollee and the enrollee's designated primary care provider, if applicable, and if at least one of the following criteria are met:
- a. The enrollee is taking five or more chronic medications;
 - b. The enrollee was admitted to a hospital with one of the following diagnoses:
 - (1) Heart failure;
 - (2) Pneumonia;
 - (3) Myocardial infarction;
 - (4) Mood disorder; or
 - (5) Chronic obstructive pulmonary disorder; or
 - c. The enrollee has active diagnosis of comorbid diabetes and:
 - (1) Hypertension; or
 - (2) Hyperlipemia.

3. Comprehensive medication management services may be provided via telehealth as defined in section 26.1-36-09.15 and may be delivered into an enrollee's residence.
4. The health carrier shall include an adequate number of pharmacists in the carrier's network of participating pharmacy providers.
 - a. The participation of pharmacists and pharmacies in the health carrier network's or health carrier's affiliate network's drug benefit does not satisfy the requirement that health benefit plans include pharmacists in the health benefit plan's networks of participating pharmacy providers.
 - b. For health benefit plans issued or renewed after December 31, 2024, health carriers that delegate credentialing agreements to contracted health care facilities shall accept credentialing for pharmacists employed or contracted by those facilities. Health carriers shall reimburse facilities for covered services provided by network pharmacists within the pharmacists' scope of practice per negotiations with the facility.
5. The health carrier shall post electronically a current and accurate directory of pharmacists who are participating pharmacy providers and eligible to provide comprehensive medication management.
 - a. In making the directory available electronically, the health carrier shall ensure the general public is able to view all of the current providers for a plan through a clearly identifiable link or tab and without creating or accessing an account or entering a policy or contract.
 - b. The health carrier shall ensure that one hundred percent of provider directory entries are audited annually for accuracy and retain documentation of the audit to be made available to the commissioner upon request.
 - c. The health carrier shall provide a print copy of current electronic directory information upon request of an enrollee or a prospective enrollee.
 - d. The electronically posted directory must include search functionality that enables electronic searches by each of the following:
 - (1) Name;
 - (2) Participating location;
 - (3) Participating facility affiliations, if applicable;
 - (4) Languages spoken other than English, if applicable; and
 - (5) Whether accepting new enrollees.
6. The requirements of this section apply to all health benefit plans issued or renewed after December 31, 2024.

26.1-36.11-03. Comprehensive medication management advisory committee.

1. The commissioner shall establish and facilitate an advisory committee to implement the provisions of this chapter. The advisory committee shall

develop best practice recommendations for the implementation of comprehensive medication management and on standards to ensure pharmacists are adequately included and appropriately utilized in participating provider networks of health benefit plans. In developing these standards, the committee also shall discuss topics as they relate to implementation, including program quality measures, pharmacist training and credentialing, provider directories, care coordination, health benefit plan data reporting requirements, billing standards, and potential cost-savings and cost increases to consumers.

2. The commissioner or the commissioner's designee shall create an advisory committee, including representatives of the following stakeholders:
 - a. The commissioner or designee;
 - b. The state health officer or designee;
 - c. An organization representing pharmacists;
 - d. An organization representing physicians;
 - e. An organization representing hospitals;
 - f. A community pharmacy with pharmacists providing medical services;
 - g. The two largest health carriers in the state based upon enrollment;
 - h. The North Dakota state university school of pharmacy;
 - i. An employer as a health benefit plan sponsor;
 - j. An enrollee;
 - k. An organization representing advanced practice registered nurses; and
 - l. Other representatives appointed by the insurance commissioner.
3. No later than June 30, 2024, the advisory committee shall present initial best practice recommendations to the insurance commissioner and the department of health and human services. The commissioner or department of health and human services may adopt rules to implement the standards developed by the advisory committee. The advisory committee shall remain intact to assist the insurance commissioner or department of health and human services in rulemaking. Upon completion of the rulemaking process, the committee is dissolved.

26.1-36.11-04. Rulemaking authority.

The commissioner may adopt reasonable rules for the implementation and administration of the provisions of this chapter.

Approved April 7, 2023

Filed April 10, 2023

CHAPTER 286

HOUSE BILL NO. 1440

(Representatives D. Ruby, Kasper, Ostlie, Schobinger, Tveit, Vigesaa)
(Senators Klein, Luick, Rust, Wobbema)

AN ACT to create and enact chapter 26.1-40.2 and a new section to chapter 39-34 of the North Dakota Century Code, relating to delivery network company insurance and classifying a transportation network company driver as an independent contractor; and to amend and reenact subsection 3 of section 26.1-40.1-01, section 26.1-40.1-03, subsection 1 of section 26.1-40.1-04, and sections 39-34-01, 39-34-02, 39-34-04, and 39-34-06 of the North Dakota Century Code, relating to transportation network company insurance and transportation and delivery company networks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 26.1-40.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Engaged stage" means the time period from the moment a participating driver accepts a ride request on the transportation network company's online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later passengers on-board stage begins.

SECTION 2. AMENDMENT. Section 26.1-40.1-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40.1-03. Coverage insurance coverage required when transportation network company application is engaged until completion of ride when during the passenger has exited the vehicle on-board stage.

4. A transportation network company and any participating driver shall maintain transportation network company insurance that provides for the following requirements that apply to transportation network company insurance during the engaged stage and during the passenger on-board stage.

- a. 1. Transportation network company liability insurance is primary and in the amount of one million dollars for death, bodily injury, and property damage. The requirements for the coverage required by this subdivisionsubsection may be satisfied by any of the following:

(1) a. Transportation network company insurance maintained by a participating driver.

(2) b. Transportation network company insurance maintained by a transportation network company.

(3) c. Any combination of paragraphs 1 and 2 subdivisions a and b.

- b-2. Transportation network company insurance coverage provided under this section for uninsured motorist coverage must meet the requirements under section 26.1-40-15.2, which is primary coverage.
- e-3. Transportation network company insurance coverage provided under this section for underinsured motorist coverage must meet the requirements under section 26.1-40-15.3, which is primary coverage.
- d-4. Transportation network company insurance coverage must provide primary personal injury protection to drivers, passengers, and pedestrians under chapter 26.1-41.
- e-5. The primary insurer, in the case of insurance coverage provided under ~~subdivision~~ subsection 1, has the sole duty to defend and indemnify the insured.
- f-6. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.
- g-7. If transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

SECTION 3. AMENDMENT. Subsection 1 of section 26.1-40.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. During the application on stage and during the engaged stage, the transportation network company insurance must include:
 - a. Motor vehicle liability coverage that is primary coverage. The coverage must include at least fifty thousand dollars per person and one hundred thousand dollars per incident for death and bodily injury and at least twenty-five thousand dollars for property damage.
 - b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary coverage.
 - c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary coverage.
 - d. Personal injury protection under chapter 26.1-41 which is primary coverage.

SECTION 4. Chapter 26.1-40.2 of the North Dakota Century Code is created and enacted as follows:

26.1-40.2-01. Definitions.

1. "Delivery available period" means the period when a driver:
 - a. Has logged on to a digital network and is available to receive requests to provide delivery services from a delivery network company.

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- b. Is operating a personal vehicle; and
- c. Is not providing delivery services or operating in the delivery service period.
2. "Delivery network company" means a corporation, partnership, sole proprietorship, or other entity that operates in the state and uses a digital network to connect a delivery network company customer to a delivery network driver to provide delivery services. A delivery network company may not be deemed to control, direct, or manage the personal vehicle or delivery network drivers that connect to the delivery network company's digital network, unless agreed to by written contract.
3. "Delivery network company customer" means a person that orders the delivery of goods, where the delivery network driver delivers the goods at the direction of the delivery network company customer.
4. "Delivery network driver" means an individual who provides delivery services through a delivery network company's digital network using a personal vehicle.
5. "Delivery service period" means the period:
- a. Beginning when a driver starts operating a personal vehicle en route to pick up a good for a delivery as documented via a digital network controlled by a delivery network company;
- b. Continuing while the driver transports the requested delivery; and
- c. Ending upon delivery of the requested good to:
- (1) The delivery network company customer or the last delivery network company customer in a series of deliveries; or
- (2) A location designated by the delivery network company, including for purposes of returning the good.
6. "Delivery services" means the fulfillment of delivery requests made by a delivery network company customer through a digital network, including the pickup of any good and the delivery of the good to a delivery network company customer by a delivery network driver. Delivery services may include a series of deliveries to different customers.
7. "Digital network" means any online-enabled application, software, website, or system offered or used by a delivery network company which enables deliveries with delivery network drivers.
8. "Personal injury protection" means basic no-fault benefits as defined under section 26.1-41-01.
9. "Personal vehicle" means a vehicle that is:
- a. Used by a delivery network driver to provide delivery services via a digital network; or

- b. Owned, leased, or otherwise authorized for use by the delivery network driver.

26.1-40.2-02. Required disclosures.

A delivery network company shall disclose in writing or electronic form to a participating delivery network driver, as part of the delivery network company's agreement with the driver:

1. The insurance coverage, including the types of coverage and the limits for each coverage, the delivery network company provides while the driver uses a personal vehicle in connection with a delivery network company's digital network; and
2. That the driver's automobile insurance policy might not provide any coverage during the delivery available period, if it applies, or the delivery service period.

26.1-40.2-03. Insurance requirements - Delivery network companies and delivery network company drivers.

1. A delivery network company shall ensure that during the delivery available period, if it applies, and during the delivery service period, primary automobile liability insurance is in place which recognizes the driver is a delivery network driver or that does not exclude coverage for use of a personal vehicle to provide deliveries.
2. During the delivery service period and delivery available period, the delivery network driver, delivery network company, or any combination of the two shall maintain:
 - a. Insurance that insures the driver for liability to third parties of not less than fifty thousand dollars for damages arising out of bodily injury sustained by any one person in an accident, of not less than one hundred thousand dollars for damages arising out of bodily injury sustained by all persons injured in an accident, and of not less than twenty-five thousand dollars for all damages arising out of damage to or destruction of property in an accident;
 - b. Uninsured motorist coverage under section 26.1-40-15.2;
 - c. Underinsured motorist coverage under section 26.1-40-15.3; and
 - d. Personal injury protection under chapter 26.1-41.
3. If the insurance coverage maintained by a delivery network driver under subsections 1 and 2 has lapsed or does not provide the required coverage, insurance maintained by the delivery network company must provide the coverage required by subsections 1 and 2 beginning with the first dollar of a claim and the insurance maintained by the delivery network company has the duty to defend the claim.
4. Coverage under an automobile insurance policy maintained by the delivery network company may not be dependent on another motor vehicle liability insurer first denying a claim, or on another motor vehicle liability insurance policy being required to first deny a claim.

5. Insurance coverage required by this section may be obtained from an insurance company duly licensed to transact business under title 26.1 or by an eligible surplus lines broker.
6. During a claim coverage investigation, a delivery network company or a delivery network company's insurer shall cooperate with all insurers involved in the claim coverage investigation to facilitate the exchange of information and shall immediately provide upon request by directly involved parties or any insurer the precise times a delivery network driver began and ended the delivery available period and delivery service period on the delivery network company's digital network in the twelve-hour period immediately preceding the accident and in the twelve-hour period immediately following the accident. An insurer potentially providing the coverage required in this section shall disclose upon request by any other insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained to satisfy the requirements of this section.
7. The insurer of a delivery network company providing coverage under subsections 1 and 2 shall assume primary liability for a claim when a dispute exists as to when the delivery available period and the delivery service period began or ended and the delivery network company does not have available, did not retain, or fails to provide the information required by subsection 6.

26.1-40.2-04. Exclusions in motor vehicle liability insurance policies.

1. An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any injury or loss occurring during the delivery available period and the delivery service period, including:
 - a. Liability coverage for bodily injury and property damage;
 - b. Personal injury protection coverage under chapter 26.1-41;
 - c. Uninsured and underinsured motorist coverage;
 - d. Medical payments coverage;
 - e. Comprehensive physical damage coverage; and
 - f. Collision physical damage coverage.
2. This chapter does not:
 - a. Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles used for delivery or for any business use.
 - b. Invalidate, limit, or restrict an insurer's ability to underwrite any insurance policy.
 - c. Invalidate, limit, or restrict an insurer's ability to cancel and nonrenew policies.

3. A motor vehicle liability insurer that defends or indemnifies a claim against a delivery network driver who is excluded under the terms of the insurer's policy may seek recovery against the insurer providing coverage under subsections 1 and 2 of section 26.1-40.2-03 if the claim:
 - a. Occurs during the delivery available period or the delivery service period; and
 - b. Is excluded under the terms of its policy.

26.1-40.2-05. Proof of insurance.

1. A delivery network driver shall carry proof of insurance required at all times while using a personal vehicle in connection with a digital network. If an accident occurs, a delivery network driver shall, upon request, provide insurance coverage information to a directly interested party, automobile insurer, and investigating law enforcement officer.
2. The insurance coverage information may be displayed or provided in either paper or electronic form. A delivery network driver shall, upon request, disclose to a directly interested party, automobile insurer, and investigating law enforcement officer whether the driver was operating during the delivery available period or the delivery service period at the time of the accident.

26.1-40.2-06. Authorized or eligible carrier.

Insurance coverage required by this chapter may be obtained from an insurance company licensed to transact business under title 26.1.

26.1-40.2-07. Interaction with other law.

This chapter does not limit the scope of federal or state law regarding delivery or transport of goods. A delivery made under this chapter which is subject to such other law also must comply with the requirements of that law. If there is a conflict between this chapter and another law dealing with the delivery or transport of goods, the other law prevails.

SECTION 5. AMENDMENT. Section 39-34-01 of the North Dakota Century Code is amended and reenacted as follows:

39-34-01. Agent.

The transportation network company or delivery network company must maintain a registered agent with the secretary of state for service of process in this state.

SECTION 6. AMENDMENT. Section 39-34-02 of the North Dakota Century Code is amended and reenacted as follows:

39-34-02. Fare or fee charged for services.

The transportation network company or delivery network company shall provide passengers or customers with the applicable rates being charged and the option to receive an estimated fare or fee before the passenger enters the transportation network company driver's vehicle or before the customer finalizes the delivery request.

SECTION 7. AMENDMENT. Section 39-34-04 of the North Dakota Century Code is amended and reenacted as follows:

39-34-04. Personally identifiable information.

A transportation network company or delivery network company may not disclose any personally identifiable information of a transportation network company passenger or delivery network company customer, except pursuant to the publicly disclosed terms of the transportation network company's or delivery network company's privacy policy. For any other disclosure not governed by the privacy policy, the transportation network company or delivery network company must obtain the passenger's consent before the company may disclose the passenger's or customer's personally identifiable information.

SECTION 8. AMENDMENT. Section 39-34-06 of the North Dakota Century Code is amended and reenacted as follows:

39-34-06. Controlling authority.

1. Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter, chapter 26.1-40.1, and any rules adopted consistent with this chapter and adopted by the insurance commissioner under chapter 26.1-40.1.
2. A political subdivision may not impose a tax on, or require a license for, a transportation network company ~~or a~~ transportation network company driver, delivery network company, or a delivery network company driver or subject a transportation network company or delivery network company to the political subdivision's rate, entry, operational, or other requirements.
3. This chapter may not be construed to limit the ability of a commercial service airport or the governing body of a commercial service airport to enter an operating agreement with a transportation network company which authorizes operational access to the commercial service airport. An operating agreement entered under this subsection may provide guidelines for entry, pick-up, drop-off, fees, and other airport operational procedures required by the commercial service airport for the transportation network company to be allowed operational access to the commercial service airport. As used in this subsection, "commercial service airport" means a public airport that has at least two thousand five hundred passenger boardings per calendar year and receives scheduled passenger aircraft service.

SECTION 9. A new section to chapter 39-34 of the North Dakota Century Code is created and enacted as follows:

Delivery network driver - Independent contractor.

1. As used in this chapter:
 - a. "Delivery network company" has the same meaning as provided under section 26.1-40.2-01.
 - b. "Delivery network driver" has the same meaning as provided under section 26.1-40.2-01.
2. A delivery network driver is an independent contractor and not an employee of a delivery network company if the delivery network company:

- a. Enters an agreement with the delivery network driver that the delivery network driver is an independent contractor and not an employee of the delivery network company;
 - b. Does not unilaterally prescribe specific hours during which the delivery network driver must be available to accept service requests submitted through the delivery network company's digital network;
 - c. Does not prohibit the delivery network driver from engaging in outside employment or performing services through other delivery network companies except while the delivery network driver is engaged in performing services through the delivery network company's digital network; and
3. A delivery network company may not terminate the contract of the delivery network company driver for a driver's refusal to accept a specific delivery request.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 287

SENATE BILL NO. 2305

(Senators Klein, Burckhard, Vedaa)

AN ACT to create and enact section 26.1-44-03.3 of the North Dakota Century Code, relating to surplus lines insurance diligent search requirements; and to amend and reenact sections 26.1-44-02 and 26.1-44-08 of the North Dakota Century Code, relating to surplus lines insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-44-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-02. Duty to file evidence of insurance and signed statement.

1. Each surplus lines producer, after the placing of any surplus lines insurance if the insured's home state is this state, shall execute and file a report of placement, no later than March first for the quarter ending the preceding December thirty-first, June first for the quarter ending the preceding March thirty-first, September first for the quarter ending the preceding June thirtieth, and December first for the quarter ending the preceding September thirtieth of each year, regarding the insurance which must be kept confidential by the commissioner. The report of placement must include:
 - a. The name and address of the insured;
 - b. The identity of the insurer or insurers;
 - c. The amount of premium charged for the insurance;
 - d. The amount of premium tax; and
 - e. Any other pertinent information as the commissioner may reasonably require; and
 - f. ~~A signed statement certifying under penalty of law in the form prescribed by the commissioner as to the diligent efforts to place the coverage with admitted insurers and the results of that effort. The signed diligent search statement must be open to public inspection. The signed diligent search statement must affirm that the insured was expressly advised in writing before placement of the insurance that:~~
 - (1) ~~The surplus lines insurer with which the insurance was to be placed is not licensed in this state and is not subject to the state's supervision; and~~
 - (2) ~~In the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.~~

2. A surplus lines producer seeking to place nonadmitted insurance for an exempt commercial purchaser is not required to make a due diligence search or to file the signed diligent search statement in subdivision f of subsection 1 if the surplus lines producer has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight and the exempt commercial purchaser has subsequently requested in writing the surplus lines producer to procure or place such insurance from a nonadmitted insurer.

SECTION 2. Section 26.1-44-03.3 of the North Dakota Century Code is created and enacted as follows:

26.1-44-03.3. Exemption from diligent search requirements.

A licensed surplus line producer may procure a surplus line insurance contract from an eligible surplus lines insurer without making the required diligent search to procure the insurance from authorized insurers as specified under subsection 3 of section 26.1-44-03, if the risk was referred to the surplus line producer by an insurance producer licensed in this state.

SECTION 3. AMENDMENT. Section 26.1-44-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-08. Civil penalty for failure to file report of placement and signed statement, endorsement, audit, cancellation, file annual tax statement, and pay tax - Action for recovery - Revocation of license - Conditions prerequisite to reissuance - Hearing procedure and judicial review.

1. A surplus lines producer is liable for a fine up to twenty-five dollars for each day of delinquency, not to exceed the sum of five hundred dollars for each failure or refusal to file, if the producer:
 - a. Fails or refuses to file the report of placement ~~or signed diligent search statement~~ as required under section 26.1-44-02;
 - b. Fails or refuses to file the endorsement, audit, or cancellation as required under section 26.1-44-06.1; or
 - c. Fails or refuses to make and file the annual tax statement or pay the tax no later than March first as required under section 26.1-44-06.1.
2. The tax and fine may be recovered in an action to be instituted by the commissioner in the name of the state, the attorney general representing the commissioner, in any court of competent jurisdiction, and the fine, when so collected, must be paid to the state treasurer and placed to the credit of the general fund. The commissioner, if satisfied that the delay in filing the annual tax statement, report of placement, endorsement, audit cancellation, ~~or signed diligent search statement~~ or the payment of the tax was excusable, may waive all or any part of the fine. The commissioner may revoke or suspend the surplus lines producer's license if any surplus lines producer fails to make and file the annual tax statement and pay the taxes, refuses to allow the commissioner to inspect and examine the producer's records of the business transacted by the producer pursuant to this chapter, ~~or fails to keep the records in the manner required by the commissioner, or falsifies or provides~~

~~false information in the signed diligent search statement referred to in section 26-1-44-02.~~

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

Approved March 27, 2023

Filed March 28, 2023

CHAPTER 288

SENATE BILL NO. 2173

(Senators Klein, Burckhard, Larsen)
(Representatives Kasper, Louser)

AN ACT to create and enact chapter 26.1-58 of the North Dakota Century Code, relating to the sale and regulation of travel insurance; and to amend and reenact section 26.1-26-54 of the North Dakota Century Code, relating to the licensing of limited lines travel insurance producers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-26-54 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-54. Insurance licenses for limited lines travel insurance producers.

1. Travel insurance, as that term is defined in this section, is a limited line of insurance.
2. As used in this section:
 - a. "Limited lines travel insurance producer" means a:
 - (1) Licensed ~~managing general agent or~~ third-party administrator; ~~or~~
 - (2) Licensed insurance producer, including a limited lines producer, ~~designated by an insurer as the travel insurance supervising entity as set forth under subsection 9; or~~
 - (3) Travel administrator, as defined in section 26.1-58-02.
 - b. "Offer and disseminate" means to provide general information, including a description of the coverage and price, as well as to process the application, collect premiums, and perform other nonlicensable activities permitted by the state.
 - c. "Travel insurance" means insurance coverage for personal risks incident to planned travel, including interruption or cancellation of a trip or event; ~~;~~ loss of baggage or personal effects; ~~;~~ damages to accommodations or rental vehicles; ~~or~~; sickness, accident, disability, or death occurring during travel; emergency evacuation; repatriation of remains; or any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner. The term does not include a major medical plan that provides comprehensive medical protection for an individual on a trip lasting at least six months, including an individual working or residing overseas as an expatriate, or any other product that requires a specific insurance producer license.

- d. "Travel retailer" means a business entity that makes, arranges, or offers travel services and which may offer and disseminate travel insurance as a service to customers on behalf of and under the direction of a limited lines travel insurance producer.
3. Notwithstanding any other provision of law:
- a. The commissioner may issue a limited lines travel insurance producer license to an individual or business entity that files an application with the commissioner in a form and manner prescribed by the commissioner. A licensed limited lines travel insurance producer may sell, solicit, or negotiate travel insurance through a licensed insurer. A person may not act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered.
- b. A travel retailer may offer and disseminate travel insurance, if under a limited lines travel insurance producer business entity license only if the following conditions are met:
- (1) The limited lines travel insurance producer or travel retailer provide/provides to purchasers of travel insurance:
- (a) TheA description of the material terms or the actual material terms of the insurance coverage;
- (b) A description of the claim filing process;
- (c) A description of the policy review or cancellation process for the travel insurance policy; and
- (d) The identity and contact information of the insurer and limited lines producer.
- (2) At the time of licensure, the limited lines travel insurance producer establishes and maintains a register of each travel retailer that offers insurance on the behalf of the producer. The register must be on a form prescribed by the commissioner. Annually, the register must be updated by the limited lines travel insurance producer. The register must include the name, address, and contact information of the travel retailer and a person that controls the travel retailer's operations. The register must include the travel retailer's federal tax identification number. Upon request, the limited lines travel insurance producer shall submit the register to the insurance department. The limited lines producer shall certify that the travel retailer registered complies with the Violent Crime and Law Enforcement Act of 1994 [Pub. L. 103-322; 108 Stat. 1796; 18 U.S.C. 1033 et seq.]. The grounds for the suspension, revocation, and penalties applicable to resident insurance producers under this chapter, must be applicable to limited lines travel insurance producers and travel retailers.
- (3) The limited lines travel insurance producer designates one of the producer's licensed insurance employees as the individual responsible for the compliance with the state's travel insurance laws, rules, and regulations.

- (4) The designated employee, president, secretary, treasurer, or any other individual who controls the producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.
 - (5) The limited lines travel insurance producer pays all applicable licensing fees as set forth in state law.
 - (6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer, who offer and disseminate travel insurance, to receive training. ~~The commissioner may review the training procedures, which is subject, at the discretion of the commissioner, to review and approval.~~ The training material must contain instructions on the type of insurance offered, ethical sales practices, and required disclosures to prospective customers, ~~and upon request must be provided to the commissioner for inspection.~~
- ~~4. The limited lines travel insurance producer and any travel retailer and the travel retailer's employees offering and disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of chapters 26.1-04 and 26.1-26.~~
 - ~~5. The travel retailer and its employees act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer.~~
 6. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee has violated any provision of this chapter or any other provision of this title, the commissioner may:
 - a. Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer; or
 - b. Revoke the authorization of the travel retailer to transact travel insurance on behalf of the limited lines travel insurance producer under its license and direct the limited lines travel insurance producer to remove the travel retailer's name from its register.
- ~~7.5.~~ If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this chapter or any other provision of this title, the commissioner may:
- a. Suspend or revoke the license of the limited lines travel insurance producer;
 - b. Issue a cease and desist order against the license of the limited lines travel insurance producer; and
 - c. Impose a monetary fine on the limited lines travel insurance producer.
- ~~8.6.~~ Limited lines travel insurance producers, and those registered under the producer's license, are exempt from continuing education requirements.

- 9-7. A travel retailer shall make brochures or other written materials that have been approved by the travel insurer available to prospective purchasers which, The materials must include information that, at a minimum:
- a. ~~Provide~~Provides the identity and contact information of the insurer and the limited lines travel insurance producer;
 - b. ~~Explain~~Explains the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and
 - c. ~~Explain~~Explains an unlicensed travel retailer may provide only general information about the insurance offered by the travel retailer, including a description of the coverage and price. An unlicensed travel retailer ~~may not~~ is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or evaluate the adequacy of existing insurance coverage.
- ~~10-8.~~ An unlicensed employee or authorized representative of a travel retailer may not:
- a. Evaluate or interpret the technical terms, benefits, or conditions of the offered travel insurance coverage;
 - b. Evaluate or advise a prospective purchaser regarding existing insurance coverage;
 - c. Be held out as a licensed insurer, licensed producer, or insurance expert; or
 - d. Be directly paid a commission or any other compensation by an insurer for the sale of insurance, except in accordance with this chapter and chapter 26.1-58.
- 11-9. Notwithstanding any other provision of law, a travel retailer ~~who is in compliance with all requirements of this section may receive fair compensation for offering and disseminating travel insurance~~whose insurance-related activities, and those of the travel retailer's employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions in this section, is authorized to receive related compensation, upon registration by the limited lines travel insurance producer as described in paragraph 2 of subdivision b of subsection 3.
- ~~12-10.~~ Travel insurance may be provided under an individual policy or under a group or ~~master~~blanket policy.
- ~~13-11.~~ The limited lines travel insurance producer is responsible for the acts of the travel retailer. The limited lines travel insurance producer shall ensure the travel retailer complies with this chapter and chapter 26.1-58.
12. A person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

SECTION 2. Chapter 26.1-58 of the North Dakota Century Code is created and enacted as follows:

26.1-58-01. Scope.

1. This chapter applies to travel insurance that covers any resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and certificates delivered or issued for delivery in this state. This chapter does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this chapter.
2. All other applicable provisions of this state's insurance laws continue to apply to travel insurance, except the specific provisions of this chapter supersede any general provisions of law that otherwise would be applicable to travel insurance.

26.1-58-02. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.
2. "Blanket travel insurance" means a policy of travel insurance issued to an eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.
3. "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and the supplier's customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.
4. "Eligible group", solely for purposes of travel insurance, means two or more persons that are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including any of the following:
 - a. An entity engaged in the business of providing travel or travel services, including tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers or the operator, owner, or lessor of a means of transportation of passengers, including airlines, cruise lines, railroads, steamship companies, and public bus carriers, under which with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to the travel;
 - b. A college, school, or other institution of learning, covering students, teachers, employees, or volunteers;
 - c. An employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests;

- d. A sports team, camp, or sponsor of a sports team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;
 - e. A religious, charitable, recreational, educational, or civic organization, or branch thereof, covering any group of members, participants, or volunteers;
 - f. A financial institution or financial institution vendor; parent holding company, trustee, or agent of the financial institution or vendor; or parent holding company, trustee, or agent designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;
 - g. An incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of the association covering the association's members;
 - h. A trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the commissioner permitting the use of a trust and the state premium tax in section 26.1-58-03 of one or more associations meeting the requirements of subdivision g;
 - i. An entertainment production company covering a group of participants, volunteers, audience members, contestants, or workers;
 - j. A volunteer fire department, ambulance, rescue, police, court, or first aid, civil defense, or other such volunteer group;
 - k. Preschools, day care institutions for children or adults, and senior citizen clubs;
 - l. An automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by the individuals' travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies; or
 - m. Any other group for which the commissioner has determined the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and issuance of the policy would not be contrary to the public interest.
5. "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.
6. "Group travel insurance" means travel insurance issued to an eligible group.
7. "Limited lines travel insurance producer" has the same meaning as provided in section 26.1-26-54.

8. "Offer and disseminate" has the same meaning as provided in section 26.1-26-54.
9. "Primary certificate holder", specific to section 26.1-58-03, means an individual who elects and purchases travel insurance under a group policy.
10. "Primary policyholder", specific to section 26.1-58-03, means an individual who elects and purchases individual travel insurance.
11. "Travel administrator" means a person that directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance, except a person is not considered a travel administrator if that person's only actions that would otherwise cause the person to be considered a travel administrator are among the following:
 - a. A person working for a travel administrator to the extent the person's activities are subject to the supervision and control of the travel administrator;
 - b. An insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license;
 - c. A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this chapter;
 - d. An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage; or
 - e. A business entity affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.
12. "Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and for which providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. The term includes security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any other service furnished in connection with planned travel. Travel assistance services are not insurance.
13. "Travel insurance" has the same definition as provided in section 26.1-26-54.
14. "Travel protection plan" means a plan that provides one or more of the following:
 - a. Travel insurance.

- b. Travel assistance services.
 - c. Cancellation fee waivers.
15. "Travel retailer" has the same definition as provided in section 26.1-26-54.

26.1-58-03. Travel protection plans.

Travel protection plans may be offered for one price for the combined features the travel protection plan offers in this state if:

1. The travel protection plan clearly discloses to the consumer, at or before the time of purchase, that the plan includes travel insurance, travel assistance services, and cancellation fee waivers as applicable, and provides information and an opportunity, at or before the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and
2. The fulfillment materials:
 - a. Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and
 - b. Include the travel insurance disclosures and the contact information for persons providing travel assistance services, and cancellation fee waivers, as applicable.

26.1-58-04. Sales practices.

1. A person offering travel insurance to residents of this state is subject to chapter 26.1-04, except as otherwise provided in this section. In the event of a conflict between this chapter and other provisions of title 26.1 regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter control.
2. Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under chapter 26.1-04.
3.
 - a. All documents provided to consumers before the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, must be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.
 - b. For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions must be provided any time before the time of purchase, and in the coverage's fulfillment materials.
 - c. The fulfillment materials and the information described in paragraph 1 of subdivision b of subsection 3 of section 26.1-26-54 must be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a

travel protection plan until at least fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail, or ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail. For purposes of this section, "delivery" means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

- d. The company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.
- e. Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it is not an unfair trade practice or other violation of law if an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.
4. It is an unfair trade practice to market blanket travel insurance coverage as free.
5. Where a consumer's destination jurisdiction requires insurance coverage, it is not an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:
 - a. Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or
 - b. Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.

26.1-58-05. Travel administrators.

1. Notwithstanding any other provisions of title 26.1, a person may not act or represent itself as a travel administrator for travel insurance in this state unless that person:
 - a. Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license; or
 - b. Holds a valid third-party administrator license in this state.
2. An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, and is responsible for ensuring the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the commissioner upon request.

26.1-58-06. Policy.

1. Notwithstanding any other provision of title 26.1, travel insurance must be classified and filed for purposes of rates and forms under an inland marine line of insurance.

2. Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet the state's underwriting standards for inland marine.

26.1-58-07. Rules.

The commissioner may adopt rules to implement this chapter.

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