

SENATE BILL NO. 2272

Introduced by

Senators Barta, Klein, Boschee

Representatives Lefor, O'Brien, Warrey

1 A BILL for an Act to create and enact a new chapter to title 26.1 of the North Dakota Century
2 Code, relating to the North Dakota insurance incentive program; and to provide a continuing
3 appropriation.

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

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

7 **Definitions.**

8 As used in this chapter:

- 9 1. "Fund" means the North Dakota insurance incentive fund.
10 2. "Net written premiums" means the total premiums, exclusive of assessments and
11 other charges, paid by policyholders to insurers for policies that comply with this
12 chapter, minus any return premiums or other premium credits due to policyholders.
13 3. "Program" means the North Dakota insurance incentive program.

14 **North Dakota insurance incentive program creation - Administration.**

- 15 1. The North Dakota insurance incentive program is hereby created for the purpose of
16 providing grants to insurers to improve the availability and affordability of property
17 insurance in this state.
18 2. The commissioner may implement this chapter through public-private partnerships
19 executed through cooperative endeavors with authorized insurers. The endeavors
20 may include matching capital fund grants in accordance with this chapter.
21 3. The commissioner may grant matching capital funds to qualified property insurers from
22 the fund.
23 4. The commissioner shall adopt rules to administer and implement the program.

1 **North Dakota insurance incentive fund - Continuing appropriation.**

2 There is created in the state treasury an insurance incentive fund. The fund consists of all
3 money transferred or appropriated to the fund and all interest and earnings upon moneys in the
4 fund. Moneys in the fund are appropriated to the insurance department on a continuing basis for
5 the purposes of administering the provisions of this chapter, including to provide grants to
6 insurers in accordance with this chapter.

7 **Grant applications - Limitations.**

- 8 1. Upon implementation of the program, the commissioner shall issue a public invitation
9 to insurers to submit grant applications. The commissioner may not allocate an
10 individual grant of less than two million dollars, nor in excess of ten million dollars in
11 the initial applications. The commissioner shall allocate twenty percent of the total
12 amount of funds available for grants to domestic insurers.
- 13 2. If all money in the fund is not allocated in response to the first invitation for grant
14 applications, the commissioner may issue a second invitation for grant applications. In
15 the second invitation, the commissioner may not allocate an individual grant of less
16 than two million dollars, nor in excess of ten million dollars. An insurer that has been
17 allocated a grant in response to the first invitation may apply for an additional grant up
18 to the ten million dollar limit.
- 19 3. If all money in the fund is not allocated in response to the second invitation for grant
20 applications, the commissioner may issue a third invitation for grant applications. In
21 the third invitation, the commissioner may not allocate an individual grant of less than
22 two million dollars, nor in excess of ten million dollars. An insurer that has been
23 allocated a grant in response to the first or second invitation may apply for an
24 additional grant up to the ten million dollar limit.
- 25 4. The commissioner shall respond to all grant applications received under this chapter.
26 Any unexpended and unencumbered money in the fund, and any matching capital
27 grant funds that are not earned under this chapter, must revert to the state general
28 fund.
- 29 5. The total amount of funds available for this program is the amount appropriated or
30 otherwise made available to the fund by the legislative assembly. If the amount
31 requested in grant applications exceeds the amount of funds available, the

1 commissioner may prioritize and allocate funds among insurers eligible to participate
2 in the program, considering the financial strength of each insurer and the potential for
3 the insurer's business plan to improve the availability and affordability of property
4 insurance in this state.

5 **Minimum capital requirements.**

6 1. The commissioner only may award a grant to an insurer that satisfies minimum capital
7 requirements under this chapter and any rules adopted by the commissioner, which
8 must include a capital surplus exceeding ten million dollars, a stable financial condition
9 as shown by a satisfactory risk-based capital level, and an adequate risk-based
10 reinsurance program.

11 2. Matching fund grants may not exceed twenty percent of an insurer's capital and
12 surplus.

13 **Satisfactory prior experience.**

14 As determined by the commissioner, grants only may be made to insurers with satisfactory
15 prior experience in writing property insurance or to new insurers with management that has
16 satisfactory prior experience in writing property insurance.

17 **Authorized insurers.**

18 A surplus lines insurer may apply for a grant under this chapter.

19 **Matching capital fund grants.**

20 1. An insurer shall make a commitment of capital of at least two million dollars to write
21 property insurance in this state which complies with the requirements of this chapter.

22 2. Matching capital fund grants authorized under this chapter must match the newly
23 allocated insurer capital funds at a ratio of one dollar of state capital grant funds to one
24 dollar of allocated insurer capital funds.

25 **Written premium requirements.**

26 1. To comply with this chapter, new property insurance written by an insurer that received
27 a matching capital fund grant must be residential, commercial, monoline, or package
28 property insurance policies in this state, and must include coverage for wind and hail
29 with limits equal to the limits provided for other perils insured under such policies. The
30 net written premium requirements must be satisfied only by property insurance

1 coverages reported on the annual statement filed with the commissioner, under certain
2 lines, as prescribed by the commissioner.

3 2. Insurers that receive matching capital fund grants shall write property insurance that
4 complies with the requirements of this chapter with net written premiums of at least a
5 ratio of two dollars of premium for each dollar of the total of newly allocated insurer
6 capital and the matching capital fund grant.

7 3. a. The commissioner shall adopt rules to establish procedures to monitor the net
8 written premium of insurers receiving any grant under this chapter. The rules
9 must include provisions for the return of grant money to the state, on a pro rata
10 basis, for failure to meet the requirements of this chapter. Notwithstanding any
11 other provision in this chapter, the commissioner shall seek return of unearned
12 grant money from any insurer that has not complied with the provisions of this
13 chapter for five consecutive years.

14 b. Notwithstanding any other provision in this chapter, the rules adopted by the
15 commissioner must provide that grants made following a third invitation for grant
16 applications may be made to insurers providing coverage against damage to an
17 existing dwelling, but only to those policies transferred from an existing dwelling
18 to a new dwelling, provided the risk of catastrophe associated with the new
19 dwelling is equal to or greater than the level of risk of catastrophe associated with
20 the existing dwelling.

21 c. Grants also may be made to any insurer that was forced to reduce coverage, or
22 drop coverage entirely, on existing dwellings so the insurer maintains its financial
23 stability or solvency. A grant made under this subdivision is contingent on the
24 insurer reinstating the former coverage or better coverage on the existing
25 dwellings.

26 **Earned capital.**

27 1. An insurer awarded a matching capital fund grant under this chapter shall receive the
28 grant funds in the amount of twenty percent of the total awarded amount per year, for
29 each year the insurer maintains the net written premiums in accordance with this
30 chapter, for period not to exceed five years.

- 1 2. If an insurer fails to comply with the requirements of this chapter at the end of any year
2 of the grant, the commissioner may grant an extension if the insurer shows promise of
3 future compliance.
- 4 3. If the commissioner finds an insurer has failed to comply with the statutory or
5 regulatory requirements for the grant, the commissioner may declare the insurer in
6 default. An insurer in default shall repay any matching capital fund grant funds that
7 have not been earned under this section, plus legal interest from the date of the
8 commissioner's default declaration.
- 9 4. In the event of insolvency of an insurer, the North Dakota insurance guaranty
10 association does not have an obligation to repay matching capital fund grants.