

**FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2124**

Introduced by

Industry and Business Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to create and enact section 26.1-03-19.8 and a new section to chapter 26.1-03  
2 of the North Dakota Century Code, relating to insurance company inquiries and insurance  
3 company statements; and to amend and reenact section 26.1-03-19.1 and subsection 6 of  
4 section 26.1-03-19.4 of the North Dakota Century Code, relating to insurance company  
5 definitions and examination records.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-03-19.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **26.1-03-19.1. Examination of companies - Definitions.**

10 In sections 26.1-03-19.1 through ~~26.1-03-19.7~~26.1-03-19.8, unless the context otherwise  
11 requires:

- 12 1. "Company" means any foreign or domestic insurance company as defined in section  
13 26.1-02-01.
- 14 2. "Data call" means an inquiry addressed to a company issued before, during, or in lieu  
15 of an examination under this chapter.
- 16 3. "Examiner" means any individual or firm having been authorized by the commissioner  
17 to conduct an examination under this chapter.
- 18 ~~3.4.~~ "Person" means any individual, aggregation of individuals, trust, association,  
19 partnership, or corporation, or any affiliate thereof.

20 **SECTION 2. AMENDMENT.** Subsection 6 of section 26.1-03-19.4 of the North Dakota  
21 Century Code is amended and reenacted as follows:

1           6. All working papers, recorded information, documents, and copies thereof produced by,  
2           obtained by, or disclosed to the commissioner or any other person in the course of an  
3           examination made under this chapter, or in the course of analysis by the commissioner  
4           of the financial condition or market conduct of the company, must be given confidential  
5           treatment and are not subject to subpoena and may not be made public by the  
6           commissioner or any other person, except as provided in this subsection and to the  
7           extent provided in subsection 5. Access also may be granted to the national  
8           association of insurance commissioners. The parties must agree in writing prior to  
9           receiving the information to provide to it the same confidential treatment as required by  
10          this section, unless the prior written consent of the company to which it pertains has  
11          been obtained. This subsection may not be construed as prohibiting the commissioner  
12          from making public aggregate or anonymized information from the materials  
13          contemplated in this subsection.

14          **SECTION 3.** Section 26.1-03-19.8 of the North Dakota Century Code is created and  
15          enacted as follows:

16          **26.1-03-19.8. Data calls.**

- 17          1. The commissioner or the commissioner's designated representative may issue a data  
18          call under this chapter whenever the commissioner deems it appropriate. The  
19          insurance company shall reply in writing to the data call within twenty days of receipt  
20          of the inquiry unless within that twenty days the company requests and the  
21          commissioner grants an extension of time.
- 22          2. For purposes of completing a data call under this section, the commissioner may  
23          inquire into any person, or the business of any person, to the extent the inquiry or  
24          investigation is, in the sole discretion of the commissioner, necessary or material to the  
25          operations of the company.
- 26          3. The commissioner may designate the national association of insurance  
27          commissioners or another representative as the repository for data call responses.
- 28          4. All materials, working papers, information, documents, and copies produced by  
29          obtained by, or disclosed to the commissioner or any other person in the course of a  
30          data call made under this chapter, or in the course of analysis by the commissioner of  
31          the market conduct of the company:

- 1           a. Must be given confidential treatment;
- 2           b. Are not subject to subpoena; and
- 3           c. May not be made public by the commissioner or any other person, except to the
- 4                 extent provided in this chapter.
- 5        5. The commissioner may use the documents, materials, or other information in
- 6           furtherance of any regulatory or legal action brought as part of the commissioner's
- 7           official duties.
- 8        6. The commissioner may make public aggregate or anonymized data call summaries of
- 9           responses received from insurance companies transacting insurance business in this
- 10           state.
- 11        7. The commissioner may adopt rules to administer this section.

12        **SECTION 4.** A new section to chapter 26.1-03 of the North Dakota Century Code is created  
13 and enacted as follows:

14        **Market conduct annual statement.**

- 15        1. The commissioner may require a foreign or domestic insurance company to annually
- 16           file a market conduct annual statement. The statement must:
  - 17           a. Be filed with the commissioner, or with the commissioner's designee, on a date
  - 18                 specified by the commissioner;
  - 19           b. Include the scope of information prescribed by the commissioner; and
  - 20           c. Be in the proper form and transmitted, as prescribed by the commissioner.
- 21        2. The commissioner may, in the commissioner's discretion and for good cause, exclude
- 22           an insurance company from filing a statement under this section.
- 23        3. The commissioner may adopt rules to implement and administer this section.