

INSURANCE

CHAPTER 270

H. B. No. 140
(Lang, Metzger)

NONLIABILITY FOR DISCLOSING REASONS FOR CANCELLATION OF INSURANCE

AN ACT

To amend and reenact section 26-02-35 of the North Dakota Century Code, relating to nonliability of parties for disclosure of reasons for cancellation or nonrenewal of insurance policies.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Section 26-02-35 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-02-35. Nonliability of Parties.) The specific reason for cancellation or nonrenewal which is furnished to the insured, shall not constitute grounds for any cause of action against the insurer or his authorized representative, or its agents or employees, or any firm, person or corporation who in good faith furnishes to the insurer the information upon which the reasons for cancellation or nonrenewal are based.

Approved March 8, 1969.

CHAPTER 271

S.B. No. 133
(Holand)

NOTIFICATION OF DEFAULT OF PUBLIC EMPLOYEE

AN ACT

To amend and reenact section 26-23-11 of the North Dakota Century Code, relating to commissioner to notify state auditor of default of public employee and duty of state auditor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Section 26-23-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-11. Commissioner to Notify State Auditor of Default of Public Employee—Duty of State Auditor.) If any public employee shall default or create a liability against the fund, the commissioner shall notify the state auditor, who immediately shall check the accounts of such public employee and file a report with the commissioner stating the amount, if any, due from the fund because of such default or wrongful act. For such service, the auditor shall be paid out of the fund the same fees as he is paid for auditing the accounts of county officers.

Approved February 22, 1969.

CHAPTER 272

S. B. No. 129
(Holand)

EXAMINATION IN REGARD TO DEFAULTING
PUBLIC EMPLOYEE

AN ACT

To amend and reenact section 26-23-17 of the North Dakota Century Code, relating to insurance commissioner to make examinations, request for accounting and report of defaulting employee to governor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Section 26-23-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-17. Commissioner May Make Examinations—Request for Accounting—Report of Defaulting Employee to Governor.) If the commissioner shall be of the opinion at any time that the interests of the fund are jeopardized by the misconduct or inefficiency of any public employee, he shall make, or request the state auditor to make, an examination, and, if necessary, he shall cause an action for an accounting to be instituted against such public employee for the purpose of requiring a complete disclosure of the business of the office of which such public employee is an incumbent. Such action shall be brought in the name of the commissioner as plaintiff, and the court in such action may interplead all parties concerned. Whenever the commissioner deems it advisable, he shall make a complaint to the governor requesting the governor to institute an investigation with the purpose of removing from office any defaulting public employee or any public employee who so conducts the affairs of his office as to endanger the fund.

Approved February 22, 1969.

CHAPTER 273

S.B. No. 324

(Melland, Nething, Torgerson)

**ESTABLISHING PRIMARY AND EXCESS
AUTOMOBILE LIABILITY COVERAGE**

AN ACT

Establishing a primary and excess insurance on automobile liability policies for anyone in the business of selling, repairing, servicing, storing, leasing, or parking of motor vehicles.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Establishment of Primary and Excess Automobile Liability Coverages in Certain Instances.) When an automobile liability insurance policy is in force for anyone engaged in the business of selling, repairing, servicing, storing, leasing, or parking motor vehicles and the owner of said vehicle loans, rents, or leases a vehicle to any other person or organization and the vehicle is involved in an accident out of which bodily injury or property damage arises, the following automobile insurance policies shall be applicable:

1. In the event no other automobile liability insurance policy is in force at the time of the accident for the person or organization to whom the vehicle was loaned, rented, or leased, the coverage provided by the motor vehicle owner's automobile liability policy shall extend to the borrower, rentee, or lessee in the event the owner's automobile liability insurance policy extends coverage to said borrower, rentee, or lessee.
2. In the event that another automobile liability insurance policy is in force for the person or organization to whom the vehicle was loaned, rented, or leased, any coverage provided by the motor vehicle owner's automobile liability insurance policy shall be excess coverage only but limited, however, by the terms of the owner's applicable automobile liability insurance policy. The limits of liability in the policy afforded the person or organization to whom the vehicle was loaned, rented, or leased shall be primary.

Section 2. Enactment Prospective Only—Interpretation of Policies.) The provisions of this Act shall apply only to policies and renewals having effective dates subsequent to the effective date of this Act.

Any policy provisions used by automobile insurance writing companies in this state, subsequent to the effective date of this Act, at variance with this Act, are to be interpreted as to comply with the above section 1.

Approved March 13, 1969.

CHAPTER 274

S. B. No. 374
(Nothing)

REGULATION OF CREDIT LIFE,
ACCIDENT, AND HEALTH INSURANCE

AN ACT

To provide for the regulation of credit life insurance and credit accident and health insurance, and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Purpose.) The purpose of this Act is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this Act is intended to prohibit or discourage reasonable competition. The provisions of this Act shall be liberally construed.

Section 2. Citation and Scope.)

1. This Act may be cited as "The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance".
2. All life insurance and all accident and health insurance in connection with loans or other credit transactions shall be subject to the provisions of this Act, except such insurance in connection with a loan or other credit

transactions of more than ten years' duration; nor shall insurance be subject to the provisions of this Act where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

Section 3. Definitions.) For the purpose of this Act:

1. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;
2. "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;
3. "Creditor" means the lender of money or vendor or lessor of goods, services, or property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them;
4. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction;
5. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction;
6. "Commissioner" means the commissioner of insurance.

Section 4. Forms of Credit Life Insurance and Credit Accident and Health Insurance.) Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

1. Individual policies of life insurance issued to debtors on the term plan;

2. Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;
3. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;
4. Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

Section 5. Amount of Credit Life Insurance and Credit Accident and Health Insurance.)

1. Credit life insurance:

- a. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.
- b. Notwithstanding the provisions of subdivision a, insurance on agricultural credit transaction commitments, not exceeding one year in duration may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.
- c. Notwithstanding the provisions of subdivisions a or b, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

2. Credit accident and health insurance:

The total amount of periodic indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity

payment shall not exceed the original indebtedness divided by the number of periodic installments.

Section 6. Term of Credit Life Insurance and Credit Accident and Health Insurance.) The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than thirty days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 9.

Section 7. Provisions of Policies and Certificates of Insurance—Disclosure to Debtors.)

1. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.
2. Each individual policy or group certificate of credit life insurance or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home-office address of the insurer, the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor, the premium or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and health insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or ex-

tinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

3. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.
4. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home-office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and health insurance, the amount, term, and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within thirty days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificates of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 6.
5. If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home-office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.

Section 8. Filing, Approval and Withdrawal of Forms.)

1. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner.
2. The commissioner shall, within thirty days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance laws or of any rule or regulation promulgated thereunder.
3. If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued or used until the expiration of thirty days after it has been so filed, unless the commissioner shall give his prior written approval thereto.
4. The commissioner may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection 2 above. The written notice of such hearing shall state the reason for the proposed withdrawal.
5. It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.
6. If a group policy of credit life insurance or credit accident and health insurance

- a. has been delivered in this state before the effective date of this Act, or
- b. has been or is delivered in another state before or after the effective date of this Act,

the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in subsections 2 and 4 of section 7 of this Act and such forms shall be approved by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner; provided, however, the premium rate in effect on existing group policies may be continued until the first policy anniversary date following the effective date of this Act.

7. Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

Section 9. Premiums and Refunds.)

1. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.
2. Each individual policy, or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.
4. The amount charged to a debtor for any credit life or credit health and accident insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.
5. Nothing in this Act shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

Section 10. Issuance of Policies.) All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner.

Section 11. Claims.)

1. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.
2. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.
3. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks

in payment of claims due to the group policyholder subject to audit and review by the insurer.

Section 12. Existing Insurance—Choice of Insurer.) When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.

Section 13. Enforcement.) The commissioner may, after notice and hearing, issue such rules and regulations as he deems appropriate for the supervision of this Act. Whenever the commissioner finds that there has been a violation of this Act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction. The provisions of sections 6, 7, 8 and 9 of this Act shall not be operative until ninety days after the effective date of this Act, and the commissioner in his discretion may extend by not more than an additional ninety days the initial period within which the provisions of said sections shall not be operative.

Section 14. Judicial Review.) Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review by following the procedure set forth in chapter 28—32.

Section 15. Penalties.) In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of North Dakota a sum not to exceed two hundred fifty dollars, which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed one thousand dollars. The commissioner, in

his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in section 14 of this Act.

Section 16. Separability Provision.) If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to any person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Approved March 29, 1969.

CHAPTER 275

S.B. No. 383
(Longmire)

INSURANCE COMMISSIONER TO STUDY COORDINATION OF BENEFITS

AN ACT

To direct a study of coordination of benefits provisions in health insurance policies.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Study by Insurance Commissioner.) The commissioner of insurance is hereby directed to study during the 1969-71 biennium the problem of pro rata liability provisions, otherwise known as coordination of benefits provisions, of group and individual health insurance policies and non-profit medical and hospital service plans. The commissioner shall report his findings and recommendations to the forty-second legislative assembly.

Approved March 28, 1969.