

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1088

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1088
1/8/2025

A BILL for an Act to amend and reenact sections 26.1-01-033 of the North Dakota Century Code, relating to penalties for violation of the insurance title; and to provide a penalty.

10:46 a.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Restitution
- Partnership
- Penalty to fine
- Authority
- Maintain License
- State to state communicating
- Insurance trust fund
- Financially harmed
- Damages to restore

10:47 a.m. Johannes "Johnny" Palsgraff, General Counsel, ND Insurance Department testified in favor and submitted testimony #28138 on behalf of John Arnold.

11:10 a.m. John Ward, Attorney, AS Attorneys representing the Association of North Dakota Insurers, testifying in opposition.

Additional written testimony:

Phillip Arnzen, Regional Vice President - Midwest, National Association of Mutual Insurance Companies (NAMIC) submitted testimony #28144.

11:16 a.m. Chairman Warrey closed the hearing.

Diane Lillis, Committee Clerk



NORTH DAKOTA
Insurance Department

TESTIMONY

John Arnold, Deputy Commissioner

House Industry, Business and Labor Committee

January 8, 2025

Chairman Warrey and members of the House Industry, Business and Labor Committee,

First, my apologies that I am not able to attend this morning's hearing in person. I truly wanted to testify in support of House Bill 1088 in person, but I trust that Johannes (Johnny) Palsgraaf, the Department's General Counsel, will be able to answer any questions that you may have.

House Bill 1088 is fairly simple. It grants the Insurance Commissioner the ability to seek restitution for victims of persons who violate the insurance title, 26.1. Currently, §26.1-01-03.3 only provides for administrative penalties which are paid to the state and not victims. Historically, the Department has been successful in negotiating restitution in lieu of all, or a portion of, administrative fines, however the time has come for us to request formal authority to help make these victims financially whole.

The reason we are seeking this expanded authority is due to an egregious case the Department has been dealing with since the 68th Legislative Assembly. The case is still open, so I can only provide high-level details, but I believe that it is still shocking enough to illustrate why we filed House Bill 1088.

Putting it bluntly, a farmer was swindled by a bad broker and was convinced to buy a "health insurance policy" that wasn't worth the paper that it was written on. I put quotation marks around "health insurance policy" because the family was paying the broker a fee to be uninsured. The family was unaware of their lack of coverage until they experienced a medical emergency and acquired over half a million dollars in debt to a hospital. Quite literally, this family was on the brink of losing their farm.

The victims of this scheme were harmed by far more than the \$10,000 which we could attempt to use as negotiation leverage with the broker.

The farmer in this case also happens to be a veteran. Having served, he was eligible to apply for funding from a non-profit entity that aids veterans. Due to this, the medical debt has been paid to the hospital and the family is no longer at risk of losing their farm. However, now due to the bad actions of the broker, this veteran's aid non-profit has half a million less in funding to help another veteran. Frankly, I find this as egregious as the original case.

I want to stress with the committee that this is simply restitution for victims. We are not requesting *carte blanche* authority to attach subjective punitive or pain and suffering damages to any penalties. We are not seeking to grant the Commissioner authority to penalize entities that have not violated a provision in Title 26.1. We simply want to make victims financially whole.

I would appreciate your support for House Bill 1088. Johnny will be happy to answer any questions that you may have.



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January 7, 2025

North Dakota Legislature
House Industry, Business and Labor

RE: HB 1088, Penalties and Restitution for Violation of Title

Dear Representative Warrey, Chairman, Representative Ostlie, Vice-Chairman, and Honorable Committee Members,

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the January 8, 2025 public hearing on HB 1088.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 134 members who write property/casualty in the State of North Dakota, which represents 40% of the marketplace.

NAMIC is opposed to the proposed legislation for the following reasons:

- 1) **There is ambiguity in the proposed legislation** – While restitution may seem straightforward, the proposed legislation leaves critical questions unanswered. For instance, how far back would restitution claims apply? Without a defined time frame, insurers could face liability for claims spanning years. Furthermore, the legislation does not clarify who qualifies for restitution or how amounts would be calculated, taking into account factors such as interest, inflation, and other associated costs.
- 2) **Applying this uniformly may be challenging** – The legislation lacks clear guidance on how and when restitution should be applied. This ambiguity creates challenges for insurers and consumers alike. Every dispute involves unique circumstances, and the proposed language fails to address how restitution decisions would be made. During the investigation and disciplinary processes, neither insurers nor consumers will have clarity on whether restitution applies or the amount owed.
- 3) **Calculating restitution creates additional challenges** – Determining restitution presents additional difficulties. While some losses, like the cost of a new roof, are straightforward to quantify, others are far more complex. For example, valuing a family heirloom could lead to further disputes between insurers and



insureds, prolonging resolution and complicating the complaint and disciplinary process.

For these reasons, we respectfully request the committee vote “No” on HB 1088.

Respectfully,
Phillip Arnzen

Phillip Arnzen
Regional Vice President—Midwest
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2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1088
1/14/2025

A BILL for an Act to amend and reenact sections 26.1-01-033 of the North Dakota Century Code, relating to penalties for violation of the insurance title; and to provide a penalty.

11:02 a.m. Chairman Warrey opened the hearing.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Fines per violation
- Restitution for the victim
- Repeat offenders
- Shown financial harm
- Rebating statue
- Revocation hearing
- Negotiated restitution

11:04 a.m. Representative Schauer proposed an Amendment to add language in section 26.1-01-03.3, the last sentence reads: In addition to our in lieu of a monetary fine, the commissioner may require restitution in the amount of direct financial loss be made to any person directly harmed by a violation of this title.

11:15 a.m. John Godfread, North Dakota Insurance Commissioner, testified in favor.

11:34 a.m. Representative Schauer moved to Amend by adding language in section 26.1-01-03.3, the last sentence to read: In addition to our in lieu of a monetary fine, the commissioner may require restitution in the amount of direct financial loss be made to any person directly harmed by a violation of this title.

11:34 a.m. Representative Vollmer seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jorin Johnson	Y

Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	Y
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

11:39 a.m. Motion passed 14-0-0.

11:39 a.m. Representative Schauer moved a Do Pass as Amended.

11:39 a.m. Representative Christy seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	Y
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

11:40 a.m. Motion passed 14-0-0

11:40 a.m. Representative Johnson will carry the bill.

11:41 a.m. Chairman Warrey closed the hearing.

Diane Lillis, Committee Clerk

January 14, 2025

RS 1/14/25

1 of 1

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1088

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

- 1 A BILL for an Act to amend and reenact section 26.1-01-03.3 of the North Dakota Century
2 Code, relating to penalties for violation of the insurance title; and to provide a penalty.

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

- 4 **SECTION 1. AMENDMENT.** Section 26.1-01-03.3 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **26.1-01-03.3. Penalty for violation of title.**

- 7 Unless otherwise provided by law, a person who violates this title is subject, after hearing by
8 the commissioner, to payment of an administrative monetary ~~penalty~~fine of up to ten thousand
9 dollars for each violation. In addition to or in lieu of a monetary fine, the commissioner may
10 require restitution in the amount of direct financial loss be made to any person directly harmed
11 by a violation of this title.

**REPORT OF STANDING COMMITTEE
HB 1088**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **AMENDMENTS (25.8131.01001)** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1088 was placed on the Sixth order on the calendar.

2025 SENATE INDUSTRY AND BUSINESS

HB 1088

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1088
2/19/2025

A bill relating to penalties for violation of the insurance title; and to provide a penalty.
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10:00 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Restitution authority
- Administrative penalty structure
- Financially harmed ND consumers
- Violations of multiple sections
- Fine application per violation
- Frequency of issue
- Policies sold in bad faith and self-funded policies
- National Association of Mutual Insurance Companies (NAMIC)
- Language and statute broadness
- Future Insurance Commissioners and policy decisions
- Current fraud statutes and definition of fraud
- Dictation of coverage under policies
- Discretionary authority of the regulator
- Errors and omissions policies

10:00 a.m. John Arnold, Deputy Commissioner for the ND Insurance Department, testified in favor and submitted testimony #38019.

10:21 a.m. Philip Barnes, lobbyist on behalf of the National Association of Mutual Insurance Companies, testified in opposition.

10:29 a.m. John Ward, on behalf of the Association of ND Insurers, testified in opposition.

10:42 a.m. Kristi Schloscher-Carlson, Farmers Union Insurance Company, testified in opposition.

10:47 a.m. Megan Hruby, Blue Cross Blue Shield, testified in neutral.

10:50 a.m. John Arnold, Deputy Commissioner for the ND Insurance Department, answered the committee's questions.

10:58 a.m. Chairman Barta closed the hearing.

Senate Industry and Business Committee

HB 1088

2/19/25

Page 2

Audrey Oswald, Committee Clerk



NORTH DAKOTA
Insurance Department

TESTIMONY SUPPORTING HB 1088

John Arnold, Deputy Commissioner

Senate Industry and Business Committee

February 19, 2025

Chairman Barta and members of the Senate Industry and Business Committee,

House Bill 1088 is fairly simple. It grants the Insurance Commissioner the ability to seek restitution for victims of persons who violate the insurance title, 26.1. Currently, §26.1-01-03.3 only provides for administrative penalties which are paid to the state and not victims. Historically, the Department has been successful in negotiating restitution in lieu of all, or a portion of, administrative fines, however the time has come for us to request formal authority to help make these victims financially whole.

The reason we are seeking this expanded authority is due to an egregious case the Department has been dealing with since the 68th Legislative Assembly. The case is still open, so I can only provide high-level details, but I believe that it is still shocking enough to illustrate why we filed House Bill 1088.

Putting it bluntly, a broker sold a farm family a “health insurance policy” that wasn’t worth the paper that it was written on. I put quotation marks around “health insurance policy” because the family was paying the broker a fee to be uninsured. The family was unaware of their lack of coverage until they experienced a medical emergency and acquired over half a million dollars in debt to a hospital. Quite literally, this family was on the brink of losing their farm.

The victims of this scheme were harmed by far more than the \$10,000 which we could attempt to use as negotiation leverage with the broker.

The farmer in this case also happens to be a veteran. Having served, he was eligible to apply for funding from a non-profit entity that aids veterans. Due to this, the medical debt has been paid to the hospital and the family is no longer at risk of losing their farm. However, now due to the bad actions of the broker, this veteran’s aid non-profit has half a million less in funding to help another veteran. Frankly, I find this as egregious as the original case.

I want to stress with the committee that this is simply restitution for victims. We are not requesting *carte blanche* authority to attach subjective punitive or pain and suffering damages to any penalties. We are not seeking to grant the Commissioner authority to penalize entities that have not violated a provision in Title 26.1. We simply want to make victims financially whole.

Lastly, I would like to briefly address any concern that may exist over the addition of the words “for each violation” found on line 9. The Department has long understood, under numerous Commissioners, that the administrative fine could be applied per violation. On rare occasion, however, we do run into companies that attempt to make the argument that the Department is incorrect in that understanding. Upon explaining the history of how these fines are applied, no company has further challenged the practice. However, since we were amending §26.1-01-03.3 we felt the time as appropriate to add the clarification.

I would appreciate your support for House Bill 1088, and I am happy to answer any questions that you may have.

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1088
3/12/2025

A bill relating to penalties for violation of the insurance title; and to provide a penalty.
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9:30 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Blue Cross Blue Shield
- Administrative fines and restitution
- Coverage disputes and determination
- Consumer protection agency and the ND Insurance Department
- Contract interpretation and administrative action
- Adjudication of coverage claims
- Administrative hearings and court hearings
- Immunity from damage in a civil action
- Direct financial loss definition
- Restitution under the fraud chapter
- Dictation of coverage and language
- Qualifications for estimations

9:31 a.m. John Arnold, Deputy Insurance Commissioner, ND Insurance Department, discussed the proposed amendment breaking Section 26.1-01-03.3.3 into 2 subsections relating to fines and restitution.

9:39 a.m. Megan Hruby, Blue Cross Blue Shield ND, answered the committee's questions.

9:40 a.m. John Ward, Association of ND Insurers, discussed the proposed amendment.

9:59 a.m. John Arnold, Deputy Insurance Commissioner, ND Insurance Department, discussed the proposed amendment.

10:08 a.m. John Ward, Association of ND Insurers, discussed the proposed amendment.

10:10 a.m. Senator Klein moved to adopt the amendment LC# 25.8131.02001.

10:14 a.m. John Arnold, Deputy Insurance Commissioner, ND Insurance Department, discussed the proposed amendment.

10:15 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

10:16 a.m. Senator Klein moved a Do Pass As Amended.

10:16 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

Chairman Barta will carry the bill.

10:16 a.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

CO
3/12/25
1041

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1088

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

- 1 A BILL for an Act to amend and reenact section 26.1-01-03.3 of the North Dakota Century
2 Code, relating to penalties for violation of the insurance title; and to provide a penalty.

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

- 4 **SECTION 1. AMENDMENT.** Section 26.1-01-03.3 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **26.1-01-03.3. Penalty for violation of title.**

- 7 1. Unless otherwise provided by law, a person who violates this title is subject, after
8 hearing by the commissioner, to payment of an administrative monetary ~~penalty~~ fine of
9 up to ten thousand dollars for each violation.-
- 10 2. In addition to or in lieu of a monetary fine, the commissioner, after a hearing, may
11 require restitution in the amount of direct financial loss be made to any person directly
12 harmed by a violation of this title. The commissioner may not determine or adjudicate
13 whether an obligation is owed under a policy or contract of insurance, or require a
14 person to pay a claim or an amount claimed owed under a policy or contract of
15 insurance.

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1088**

Industry and Business Committee (Sen. Barta, Chairman) recommends **AMENDMENTS** ([25.8131.02001](#)) and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1088 was placed on the Sixth order on the calendar. This bill does not affect workforce development.