

SENATE BILL NO. 2135

Introduced by

Senators O. Larsen, Vedaa

Representatives Kasper, Schobinger

1 A BILL for an Act to create and enact section 26.1-26-31.9 of the North Dakota Century Code,
2 relating to insurance producer and consultant continuing education; and to amend and reenact
3 sections 26.1-26-02 and 26.1-26-35 of the North Dakota Century Code, relating to definitions
4 relating to insurance producers and consultants.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-26-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-26-02. Definitions.**

9 As used in this chapter, unless the context requires otherwise:

- 10 1. "Active participation" means:
- 11 a. Attendance at a formal meeting of a professional insurance association at which
12 a formal business program is presented;
- 13 b. Service on the board of directors or a formal committee of a professional
14 insurance association and involvement in the activities of the board or committee;
15 or
- 16 c. Participation in industry, regulatory, or legislative meetings held by or on behalf of
17 a professional insurance association.
- 18 2. "Business entity" means a corporation, association, partnership, limited liability
19 company, limited liability partnership, or other legal entity.
- 20 ~~2.3.~~ "Home state" means the District of Columbia and any state or territory of the United
21 States in which an insurance producer maintains the producer's principal place of
22 residence or principal place of business and is licensed to act as an insurance
23 producer.
- 24 ~~3.4.~~ "Insurance" means any of the lines of authority in section 26.1-26-11.

- 1 ~~4-5.~~ "Insurance consultant" means a person that, for a fee, holds oneself or itself out to the
2 public as engaged in the business of offering any advice, counsel, opinion, or service
3 with respect to the benefits, advantages, or disadvantages promised under any
4 insurance policy that could be issued in this state.
- 5 ~~5-6.~~ "Insurance producer" means a person required to be licensed under the laws of this
6 state to sell, solicit, or negotiate insurance.
- 7 ~~6-7.~~ "Insurer" means all types of insurance companies as well as prepaid legal services
8 organizations and health maintenance organizations.
- 9 ~~7-8.~~ "License" means a document issued by the commissioner authorizing a person to act
10 as an insurance producer for the lines of authority specified in the document. The
11 license itself does not create any authority, actual, apparent, or inherent, in the holder
12 to represent or commit an insurance carrier.
- 13 ~~8-9.~~ "Negotiate" means the act of conferring directly with or offering advice directly to a
14 purchaser or prospective purchaser of a particular contract of insurance concerning
15 any of the substantive benefits, terms, or conditions of the contract, provided that the
16 person engaged in that act either sells insurance or obtains insurance from insurers
17 for purchasers.
- 18 ~~9-10.~~ "Person" means an individual or a business entity.
- 19 ~~10-11.~~ "Professional insurance association" means a state or national membership
20 organization that offers courses, lectures, seminars, or other instructional programs
21 certified by the commissioner as approved continuing education activities pursuant to
22 section 26.1-26-31.3; is organized as an association or corporation for the express
23 purpose of promoting the interests of insurance licensees in this state or nationally;
24 and is based on paid membership renewable annually or biennially for a membership
25 fee.
- 26 ~~12.~~ "Sell" means to exchange a contract of insurance by any means, for money or its
27 equivalent, on behalf of an insurance company.
- 28 ~~11-13.~~ "Solicit" means attempting to sell insurance or asking or urging a person to apply for a
29 particular kind of insurance from a particular company.

1 ~~12-14.~~ "Surplus lines insurance producer" means a person that sells, solicits, negotiates, or
2 procures an insurance policy from an insurer not licensed to transact business in this
3 state which cannot be procured from an insurer licensed to do business in this state.

4 ~~13-15.~~ "Terminate" means the cancellation of the relationship between an insurance producer
5 and the insurer or the termination of a producer's authority to transact insurance.

6 ~~14-16.~~ "Uniform application" means the current version of the national association of
7 insurance commissioners uniform application for resident and nonresident insurance
8 producer licensing.

9 ~~15-17.~~ "Uniform business entity application" means the current version of the national
10 association of insurance commissioners uniform business entity application for
11 resident and nonresident business entities.

12 **SECTION 2.** Section 26.1-26-31.9 of the North Dakota Century Code is created and
13 enacted as follows:

14 **26.1-26-31.9. Credit for active participation.**

15 1. For each two-year reporting period, the commissioner may approve up to six hours of
16 continuing education credit earned through active participation. Active participation
17 hours do not qualify as ethics hours required under section 26.1-26-31.1.

18 2. If an insurance producer or consultant claims continuing education hours through
19 active participation, the commissioner shall verify the claimed active participation.
20 Upon receipt of such verification the commissioner shall accept the claimed continuing
21 education hours.

22 **SECTION 3. AMENDMENT.** Section 26.1-26-35 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **26.1-26-35. Duties of consultant - Agreements.**

25 An insurance consultant shall serve with objectivity and complete loyalty the interests of the
26 consultant's client alone and to render the client such information, counsel, and service as
27 within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the
28 client's insurance needs and interests. Before rendering ~~any service set forth in subsection 4 of~~
29 ~~section 26.1-26-02~~services as an insurance consultant, an insurance consultant shall prepare a
30 written agreement on a form approved by the commissioner. The agreement must outline the
31 nature of the work to be performed by the consultant and must state the fee for the work. The

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- 1 consultant and the client shall sign the agreement. The consultant shall retain a copy of the
- 2 agreement for not less than two years after completion of the services. This copy must be
- 3 available to the commissioner.