

Introduced by

Representatives Keiser, Kasper

1 A BILL for an Act to create and enact section 26.1-26-04.1 of the North Dakota Century Code,  
2 relating to fees for insurance services.

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

4 **SECTION 1.** Section 26.1-26-04.1 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **26.1-26-04.1. Fees for services - Rules.**

7 1. Notwithstanding any other provision of this title, an insurance producer may charge a  
8 fee for any services rendered in connection with the sale, solicitation, negotiation,  
9 placement, or servicing of an insurance contract, if the following conditions are met:

10 a. The fees may not be charged on a personal lines account, such as personal  
11 homeowners and automobile, personal life, and health insurance.

12 b. Before rendering the services and accepting any payment, a written disclosure  
13 must be provided to the party to be charged on a form approved by the  
14 commissioner disclosing:

15 (1) The nature of the services for which the fees will be charged along with a  
16 separate itemization of the amount of the fees;

17 (2) That the fees are charged in addition to any premiums paid;

18 (3) That if the insurance producer is also an appointed agent of an insurer with  
19 which coverage is being considered for placement, a statement that the  
20 insurance producer also represents the insurer in the transaction and owes  
21 a duty of loyalty to the insurer; and

22 (4) That if the insurance producer is to receive a commission from the sale of  
23 an insurance policy related to the services rendered, a statement clearly  
24 and completely disclosing that the:

- 1                   (a) Insurance producer will receive a commission from the insurer which  
2                   is paid from the premiums owed for the insurance; and
- 3                   (b) Amount of commission received by the insurance producer may differ  
4                   depending on the product sold and the insurer.
- 5                   c. The disclosure required by this section must be signed and dated by both the  
6                   producer and the party to be charged.
- 7                   d. The producer shall retain the signed disclosure required by this section for not  
8                   less than five years following the completion of the service. A copy of the signed  
9                   disclosure must be available to the commissioner for inspection upon request.
- 10                  e. The insurance producer may not pay or return, or offer to pay or return, all or part  
11                  of a fee charged as an inducement to purchase a specific policy, or coverage  
12                  within a policy, or coverage from a particular insurer.
- 13                  f. Any fee charged under this section must bear a reasonable relationship to the  
14                  services provided and may not be discriminatory.
- 15                  2. An insurance producer charging a fee for services rendered for risk management  
16                  services under this section owes the person to be charged a higher standard of care  
17                  than the ordinary standard of care otherwise owed by an insurance producer to fully  
18                  advise the party to be charged as to the party's insurance needs, including the duty to  
19                  inform the person to be charged as to a potential source of risk and to recommend, if  
20                  available, insurance coverage for that risk.
- 21                  3. An insurance producer may charge an individual, for personal or commercial lines, a  
22                  fee for paying agency-billed premiums and fees by credit card or other electronic  
23                  means, if the fee is disclosed to the client in writing and agreed to by the client in  
24                  writing.
- 25                  4. The commissioner may adopt rules determined necessary by the commissioner for the  
26                  administration of this section.