

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1176
(Representatives Monson, Kreidt, Vigesaa)
(Senators Klein, Luick, Rust)

AN ACT to amend and reenact sections 26.1-13-01, 26.1-13-05, 26.1-13-07, 26.1-13-10, 26.1-13-11, 26.1-13-12, 26.1-13-14, 26.1-13-15, 26.1-13-19, 26.1-13-21, 26.1-13-23, 26.1-13-28, 26.1-13-29, and 26.1-13-34 and subsection 7 of section 26.1-42.1-02 of the North Dakota Century Code, relating to county mutual insurance companies; and to repeal sections 26.1-13-20, 26.1-13-22, 26.1-13-24, 26.1-13-25, 26.1-13-26, 26.1-13-27, 26.1-13-31, 26.1-13-32, and 26.1-13-33 of the North Dakota Century Code, relating to county mutual insurance companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-13-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-01. County mutual insurance company - Organization.

A corporation for mutual insurance may be formed in accordance with this chapter by any number of persons, not less than fifty, residing in not more than ~~thirtyfour~~ counties in this state, ~~whowhich~~ collectively own property of not less than ~~onefour~~ hundred thousand dollars in value which ~~theythe~~ persons desire to insure; or any number of persons, not less than twenty-five, residing in any one county in this state, ~~whowhich~~ collectively own property of not less than ~~twenty-fiveone~~ hundred thousand dollars in value which ~~theythe~~ persons desire to insure. A county mutual insurance company organized under this chapter shall maintain a surplus of at least ~~fiftytwo~~ hundred thousand dollars.

SECTION 2. AMENDMENT. Section 26.1-13-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-05. Bylaws - Contents.

A county mutual insurance company may make bylaws, not inconsistent with the constitution or laws of this state, necessary to provide for the management of ~~its~~ the company's affairs in accordance with this chapter and to prescribe the duties of ~~its~~ the company's officers ~~and fix their compensation.~~ Bylaws may be repealed or amended in the manner provided in this chapter.

SECTION 3. AMENDMENT. Section 26.1-13-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-07. Directors - Number - Election - Powers and duties.

The general management of the business of a county mutual insurance company must be vested in a board of directors consisting of ~~not lessno fewer~~ than five members nor more than fifteen members. The members of the board must be elected by the members of the company at the annual meeting in the manner provided by the bylaws of the company ~~and, if it is not otherwise provided, by ballot.~~ As nearly as may be, one-third of the members of the first board must be elected for one year, one-third for two years, and one-third for three years, and in all future elections ~~subsequent thereto~~, except in the case of elections to fill vacancies on the board, members must be elected for terms of three years. Each director holds office until a successor is elected and qualified. In the election of the members of the first board, each incorporator is entitled to one vote, and at every subsequent election each member of the company is entitled to one vote per policy. The board may exercise the usual powers and shall perform the usual duties of a board of directors of a corporation generally.

SECTION 4. AMENDMENT. Section 26.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-10. Members of county mutual company - Policyholders - Notice of meetings.

Every person insured by a county mutual insurance company is a member while the policy is in force. The member is entitled to one vote per policy only and must be notified of the time and place of the holding of the meetings of the company by written notice thereof or by an imprint on the face of each policy, receipt, or certificate of renewal, as follows:

The assured is hereby notified that by virtue of this policy the assured is a member of the _____ mutual insurance company, and that the annual meetings of the company are held at its home office or designated location on the _____ day of _____ in each year at _____ o'clock.

~~When~~If the blanks in the notice are properly filled, the notice is sufficient.

SECTION 5. AMENDMENT. Section 26.1-13-11 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-11. Annual meeting - Quorum.

The annual meeting of a county mutual insurance company must be held ~~on the second Thursday in March in each year~~following notice of a prescribed date, time, and place unless ~~it~~notice is provided otherwise in the bylaws of the company. Twenty members constitute a quorum for the transaction of business at an annual meeting.

SECTION 6. AMENDMENT. Section 26.1-13-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-12. General powers, liabilities, and duties of county mutual company - Office - Name - Limitations.

A county mutual insurance company has the powers and is subject to the liabilities and duties of other insurance companies, except:

- ~~1.~~ The principal office of the company must be located within the company's approved territory of operation.
- ~~2.~~ If the company is organized by the residents of a single county, the name of the county together with the word "county" must be embraced in the corporate name of the company.
- ~~3-2.~~ Notwithstanding contrary territorial limitations in this chapter, a county mutual insurance company may operate and issue the following policies in all the counties of the state:
 - a. Protection against loss or damage by any covered hazard to a seasonal dwelling if the primary residence is insured by the company in an authorized county.
 - b. Protection against loss or damage by tornadoes;
 - ~~b.c.~~ Protection against loss or damage by windstorms;
 - ~~e.d.~~ Protection against loss or damage by cyclones;
 - ~~d.e.~~ Protection against loss or damage by hail, except upon growing crops; and
 - ~~e.f.~~ Protection against loss or damage by any hazard upon any risk upon livestock; and
 - f. ~~Protection against loss or damage by any hazard to a seasonal dwelling if the primary residence is insured by the company in an authorized county.~~

SECTION 7. AMENDMENT. Section 26.1-13-14 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-14. County mutual company - Insurance authority.

A county mutual insurance company may insure against loss or damage by fire; lightning; cyclone; windstorm; tornado; hail, except upon growing crops; any insured hazard ~~upon any risk~~ upon livestock; explosion, except the explosion of steam boilers and flywheels; riot; riot attending a strike; civil commotion; aircraft; vehicles; smoke to the property of the insured; theft; vandalism; malicious mischief; water damage and freezing; collision and overturn of farm machinery; collapse of buildings; glass breakage; the additional living expenses incurred over and above normal living costs in cases of damage; the removal of debris; the cost of repairing or replacing homes or living residences; or all such forms of insurance.

SECTION 8. AMENDMENT. Section 26.1-13-15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-15. Territorial limits of county mutual company's operations - Terms of policies - Property insurable.

1. A county mutual insurance company may not insure any property beyond the company's authorized territory of operation except as provided in subsection 32 of section 26.1-13-12 and except that this territorial limitation does not apply to reinsurance contracts.
2. A policy may not be issued to exceed five years.
3. A policy may not be issued covering property located within the platted limits of an incorporated city in this state, except the policy may provide coverage as specified under sections 26.1-13-14 and 26.1-13-16 within the platted limits of the incorporated city on:
 - a. The place of residence;
 - b. A rental property that is no larger than a four residential rental unit;
 - c. A nonresidential property that is not used by the general public; or
 - d. A nonresidential property that is part of an existing policy.
4. The company may insure all property located outside of incorporated cities within the limits of the company's territory, as provided under section 26.1-13-02.
5. Policies issued under subsection 3 on property located within the platted limits of an incorporated city with a population over ten thousand must conform to rules adopted by the commissioner establishing requirements for underwriting risks and safeguarding financial solvency. A company's net written premiums of the current year in cities with a population over ten thousand may not exceed thirty-five percent of the gross written premiums of the previous year.
6. A policy issued by the company, if ~~the policy~~ the policy so provides, may cover loss or damage to livestock, personal property, vehicles, and farm machinery while temporarily removed from the premises of the insured to other locations.

SECTION 9. AMENDMENT. Section 26.1-13-19 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-19. Reinsurance of excessive losses.

~~Except as otherwise provided in sections 26.1-02-20 and 26.1-02-22, any county mutual insurance company may reinsure in a single contract, with other county mutual insurance companies, against excessive losses on all insurance contracts written. The reinsurance contracts may provide:~~

- ~~1. That whenever the total losses per dollar of insurance in force of any county mutual insurance company joining the contract exceeds the average total losses per dollar of insurance in force of all county mutual insurance companies joining the contract, the excessive loss or a portion thereof must be paid to the county mutual insurance company or companies suffering the excessive loss by the companies having a lower than average loss ratio; and~~
- ~~2. That the payments by individual companies suffering a lower than average loss ratio must be prorated according to a formula based upon the total dollars of insurance in force of any participating company as compared to the total dollars of insurance in force of all participating companies suffering a lower than average loss ratio.~~

~~The payments by any single company may not be greater than that sum which would bring the loss ratio per dollar of insurance in force of the company up to the average loss per dollar of insurance in force of all participating companies. Upon approval by the commissioner, any county mutual insurance company may reinsure in a single contract, with other county mutual insurance companies, against excessive losses on all insurance contracts written.~~

SECTION 10. AMENDMENT. Section 26.1-13-21 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-21. Supervision by commissioner.

The commissioner has full power of supervision over all reinsurance contracts executed under ~~sections~~section 26.1-13-19 and 26.1-13-20.

SECTION 11. AMENDMENT. Section 26.1-13-23 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-23. Loss - Notice - Adjustment - Arbitration - Finality of determination of board of adjustment - Powers of board.

~~Every member of a county mutual insurance company ~~whowhich~~ sustains loss or damage by fire, lightning, or cyclone shall notify the secretary of the company, or the president in the absence of the secretary, immediately after the loss is sustained. That officer shall ascertain the amount of the loss and shall cause the amount of the loss to be adjusted in the manner provided in the bylaws of the company, or the officer forthwith shall convene the board of directors of the company, and, the board shall appoint a committee of not more than three members of the company to ascertain and adjust the amount of the loss. The company shall assign the loss to be adjusted in the manner provided in the insurance policy of the company. If the parties are unable to agree upon the amount of the damage, the claimant and the company each shall choose a disinterested party to constitute a board of arbitration to settle the loss. If the parties cannot agree, ~~they~~the parties shall choose a third party to act with ~~them~~the parties. The board of arbitration may examine witnesses and shall determine all matters in dispute, and the decision of the arbitration board is final. ~~Any officer or member of the company, while acting as an adjuster, and the members of any board of arbitration appointed pursuant to this section may subpoena and examine witnesses, administer oaths, and take acknowledgments while acting in that capacity.~~~~

SECTION 12. AMENDMENT. Section 26.1-13-28 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-28. Borrowing of money authorized –~~Repayment from assessments.~~

The board of directors of a county mutual insurance company, in ~~its~~the board's discretion, may borrow money for the payment of unpaid losses. ~~Any money borrowed must be repaid from moneys collected from the next ensuing assessment levied in accordance with this chapter.~~

SECTION 13. AMENDMENT. Section 26.1-13-29 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-29. Withdrawal from membership.

Any member of a county mutual insurance company may withdraw from membership at any time while the company continues to transact the business for which ~~it~~the company was organized if, by withdrawal, the number of members remaining in the company will not be reduced below the original number of incorporators, or the assets of the company will not be reduced below the amount at the time of incorporation. In order to withdraw, a member shall surrender the policy for cancellation, and give written notice of withdrawal to the secretary or designated employee of the company, ~~and pay the member's share of all claims then existing against the company.~~

SECTION 14. AMENDMENT. Section 26.1-13-34 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-34. Annual statement to be furnished to members of county mutual company ~~or of mutual reinsurance company.~~

The secretary of each county mutual insurance company ~~and of each mutual reinsurance company~~ formed under this chapter shall prepare and submit to the members of the company, at each annual meeting, a copy of the annual statement required to be filed with the commissioner under section 26.1-03-07.

SECTION 15. AMENDMENT. Subsection 7 of section 26.1-42.1-02 of the North Dakota Century Code is amended and reenacted as follows:

7. "Member insurer" means any person, ~~except a county mutual insurance company,~~ that writes any kind of insurance to which this chapter applies under section 26.1-42.1-01, including the exchange of reciprocal or interinsurance contracts and that is licensed to transact insurance in this state. An insurer shall cease to be a member insurer on the day following the termination or expiration of the insurer's license to transact the kinds of insurance to which this chapter applies, however the insurer remains liable as a member insurer for every obligation, including an obligation for assessments levied before the termination or expiration of the insurer's license and assessments levied after the termination or expiration, which relate to any insurer that became an insolvent insurer before the termination or expiration of that insurer's license.

SECTION 16. REPEAL. Sections 26.1-13-20, 26.1-13-22, 26.1-13-24, 26.1-13-25, 26.1-13-26, 26.1-13-27, 26.1-13-31, 26.1-13-32, and 26.1-13-33 of the North Dakota Century Code are repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1176.

House Vote: Yeas 84 Nays 1 Absent 9

Senate Vote: Yeas 42 Nays 0 Absent 5

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State