

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2317

Introduced by

Senators Campbell, Kannianen, Kreun

Representatives Beadle, Roers Jones, Trottier

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

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

4 **SECTION 1.** A new section to chapter 26.1-26 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Fees for services.**

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

10 a. Before rendering the services and accepting payment, the insurance producer
11 provides to the party to be charged, a written disclosure on a form approved by
12 the commissioner which discloses:

13 (1) The nature of the services for which the fees will be charged and a separate
14 itemization of the amount of the fees;

15 (2) The fees charged are in addition to any premiums paid;

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

20 (4) If the insurance producer is to receive a commission from the sale of an
21 insurance policy related to the services rendered, a statement clearly and
22 completely disclosing:

23 (a) The insurance producer will receive a commission from the insurer
24 which is paid from the premiums owed for the insurance; and

- 1 (b) The amount of commission received by the insurance producer may
2 differ depending on the product sold and the insurer.
- 3 b. The insurance producer and the party to be charged sign and date the disclosure
4 required under this section.
- 5 2. The insurance producer shall retain the signed disclosure required under this section
6 for at least five years following the completion of the service. Upon request of the
7 commissioner, the insurance producer shall make available for the commissioner to
8 inspect a copy of the signed disclosure.
- 9 3. An insurance producer may not pay or return, or offer to pay or return, all or a part of a
10 fee charged as an inducement to purchase a specific policy, coverage within a policy,
11 or coverage from a particular insurer.
- 12 4. A fee charged under this section must bear a reasonable relationship to the services
13 provided and may not be discriminatory.
- 14 5. An insurance producer that charges a fee for services rendered for loss exposure
15 analysis services under this section, owes the party to be charged a higher standard of
16 care than the ordinary standard of care otherwise owed by an insurance producer to
17 fully advise the party to be charged as to the party's insurance needs, including the
18 duty to inform the party to be charged as to the potential source of loss and to
19 recommend, if available, insurance coverage for that loss.
- 20 6. An insurance producer may charge a party a fee for paying agency-billed premiums
21 and fees by credit card or other electronic means.
- 22 7. The commissioner may adopt rules for administration of this section.