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Sixty-fourth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2283

Introduced by

Senators Klein, O'Connell, Oehlke

Representatives Kasper, Kelsh, Ruby

A BILL for an Act to create and enact sections 26.1-26-54 and 26.1-26-55 of the North Dakota Century Code, relating to lines of insurance and procedures for travel insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-26-54 of the North Dakota Century Code is created and enacted as follows:

26.1-26-54. Insurance licenses for limited lines travel insurance producers.

1. Travel insurance, as that term is defined in this section, is a limited line of insurance.
2. As used in this section:
   a. "Limited lines travel insurance producer" means a:
      (1) Licensed managing general agent or third-party administrator; or
      (2) Licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity as set forth under subsection 9.
   b. "Offer and disseminate" means to provide general information, including a description of the coverage and price, as well as to process the application, collect premiums, and perform other nonlicensable activities permitted by the state.
   c. "Travel insurance" means insurance coverage for personal risks incident to planned travel, including interruption or cancellation of a trip or event, loss of baggage or personal effects, damages to accommodations or rental vehicles, or sickness, accident, disability, or death occurring during travel. The term does not include a major medical plan that provides comprehensive medical protection for an individual on a trip lasting at least six months.

d. "Travel retailer" means a business entity that makes, arranges, or offers travel services and which may offer and disseminate travel insurance as a service to customers on behalf of and under the direction of a limited lines travel insurance producer.

3. Notwithstanding any other provision of law:

a. The commissioner may issue a limited lines travel insurance producer license to an individual or business entity that files an application with the commissioner in a form and manner prescribed by the commissioner. A licensed limited lines travel insurance producer may sell, solicit, or negotiate travel insurance through a licensed insurer.

b. A travel retailer may offer and disseminate travel insurance, if:

(1) The limited lines travel insurance producer or travel retailer provide:

(a) The actual material terms of the insurance coverage;

(b) A description of the claim filing process;

(c) A description of the policy review or cancellation process; and

(d) The identity and contact information of the insurer and limited lines producer.

(2) At the time of licensure, the limited lines travel insurance producer establishes and maintains a register of each travel retailer that offers insurance on the behalf of the producer. The register must be on a form prescribed by the commissioner. Annually, the register must be updated by the limited lines travel insurance producer. The register must include the name, address, and contact information of the travel retailer and a person that controls the travel retailer's operations. The register must include the travel retailer's federal tax identification number. Upon request, the limited lines travel insurance producer shall submit the register to the insurance department. The limited lines producer shall certify that the travel retailer complies with the Violent Crime and Law Enforcement Act of 1994 [Pub. L. 103-322; 108 Stat. 1796; 18 U.S.C. 1033 et seq.].

(3) The limited lines travel insurance producer designates one of the producer's licensed insurance employees as the individual responsible for the compliance with the state's travel insurance laws, rules, and regulations.

(4) The designated employee, president, secretary, treasurer, or any other individual who controls the producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(5) The limited lines travel insurance producer pays all applicable licensing fees as set forth in state law.

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer, who offer and disseminate travel insurance, to receive training. The commissioner may review the training procedures. The training material must contain instructions on the type of insurance offered, ethical sales practices, and required disclosures to prospective customers, and upon request must be provided to the commissioner for inspection.

4. The limited lines travel insurance producer and any travel retailer and the travel retailer's employees offering and disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of chapters 26.1-04 and 26.1-26.

5. The travel retailer and its employees act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer.

6. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee has violated any provision of this chapter or any other provision of this title, the commissioner may:

a. Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer; or

b. Revoke the authorization of the travel retailer to transact travel insurance on behalf of the limited lines travel insurance producer under its license and direct

the limited lines travel insurance producer to remove the travel retailer's name from its register.

7. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this chapter or any other provision of this title, the commissioner may:

a. Suspend or revoke the license of the limited lines travel insurance producer;

b. Issue a cease and desist order against the license of the limited lines travel insurance producer; and

c. Impose a monetary fine on the limited lines travel insurance producer.

8. Limited lines travel insurance producers, and those registered under the producer's license, are exempt from continuing education requirements.

9. A travel retailer shall make brochures or other written materials available to prospective purchasers which:

a. Provide the identity and contact information of the insurer and the limited lines travel insurance producer;

b. Explain purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

c. Explain an unlicensed travel retailer may provide general information about the insurance offered by the travel retailer, including a description of the coverage and price. An unlicensed travel retailer may not answer technical questions about the terms and conditions of the insurance offered by the travel retailer or evaluate the adequacy of existing insurance coverage.

10. An unlicensed employee or authorized representative of a travel retailer may not:

a. Evaluate or interpret the technical terms, benefits, or conditions of the offered travel insurance coverage;

b. Evaluate or advise a prospective purchaser regarding existing insurance coverage;

c. Be held out as a licensed insurer, licensed producer, or insurance expert; or

d. Be directly paid a commission or any other compensation by an insurer for the sale of insurance.

11. Notwithstanding any other provision of law, a travel retailer who is in compliance with all requirements of this section may receive fair compensation for offering and disseminating travel insurance.

12. Travel insurance may be provided under an individual policy or under a group or master policy.

13. The limited lines travel insurance producer is responsible for the acts of the travel retailer. The limited lines travel insurance producer shall ensure the travel retailer complies with this chapter.

SECTION 2. Section 26.1-26-55 of the North Dakota Century Code is created and enacted as follows:

26.1-26-55. Rulemaking.

The commissioner may adopt rules for the implementation and administration of this chapter.