

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

HOUSE BILL NO. 1391
(Representatives Keiser, Bosch, Dockter, Lefor, Louser, Nathe)
(Senators Burckhard, Klein, Meyer)

AN ACT to create and enact chapter 26.1-26.9 of the North Dakota Century Code, relating to regulation of self-service storage insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-26.9 of the North Dakota Century Code is created and enacted as follows:

26.1-26.9-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Location" means any physical location in this state or any website, call center site, or similar location directed to residents of this state.
2. "Occupant" means the person who rents a space at a self-service storage facility under a rental agreement, or a sublessee, successor, or assignee of the renter.
3. "Owner" means any person who owns, leases, subleases, manages, or operates a self-service storage facility and receives rent from an occupant under a rental agreement.
4. "Personal property" means movable property not affixed to land, including merchandise and household goods.
5. "Rental agreement" means a written agreement between the owner and the occupant which establishes or modifies the terms and conditions of the occupant's use of a space at a self-service storage facility.
6. "Self-service storage facility" means any real property used for renting or leasing individual spaces in which occupants customarily store and remove their personal property. The term does not include a garage used principally for parking motor vehicles; any property of a financial institution which contains vaults, safe deposit boxes, or other receptacles for the purpose and benefit of the financial institution's customers; or a warehouse where warehouse receipts, bills of lading, or other documents of title are issued for the personal property stored.
7. "Self-service storage insurance" means personal property insurance offered in connection with and incidental to the rental of a space at a self-service storage facility and which provides coverage to occupants at the self-service storage facility where the insurance is transacted for the loss of or damage to personal property occurring at the facility or when the property is in transit to or from the facility during the period of the rental agreement.
8. "Supervising entity" means a person that is a licensed insurer or insurance producer appointed by an insurer to supervise the administration of a self-service storage insurance program.

26.1-26.9-02. Licensure of owners.

1. An owner shall obtain from the insurance commissioner and hold a limited lines license under this section if the owner sells, solicits, or offers coverage for self-service storage insurance. This section does not require an owner to be licensed solely to display and make available to

occupants and prospective occupants brochures and other promotional materials created by or on behalf of an authorized insurer or surplus lines insurer.

2. A limited lines license issued under this section is limited to authorizing an owner and the owner's employees and authorized representatives to sell, solicit, and offer coverage for self-service storage insurance to occupants.
3. A limited lines license issued under this section authorizes an owner and the owner's employees and authorized representatives to sell, solicit, and offer self-service storage insurance coverage at each location at which the owner conducts business.
4. The owner or supervising entity shall maintain a registry of owner locations authorized to sell, solicit, or offer self-service storage insurance coverage in this state. Upon request by the commissioner, and with five days' notice, the owner or supervising entity shall provide the registry to the commissioner for inspection and examination.
5. Notwithstanding any other provision of law, a license issued under this section authorizes the licensee and the licensee's employees and authorized representatives to engage only in activities permitted by this chapter in connection with the business of insurance unless authorized to do so under another license issued by the commissioner.

26.1-26.9-03. Sale of self-service storage insurance - Requirements.

1. At every location where self-service storage insurance is offered to occupants, the owner shall make available to occupants brochures or other written or electronic materials that:
 - a. Disclose that self-service storage insurance may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy, renter's insurance policy, or other source of coverage.
 - b. State the purchase by the occupant of the self-service storage insurance offered by the owner is not required to lease a space at the self-service storage facility.
 - c. Provide the actual terms of the self-service storage insurance coverage, or summarize the material terms of the insurance coverage, including:
 - (1) The identity of the insurer;
 - (2) The identity of the supervising entity, if any;
 - (3) The amount of any applicable deductible and how the deductible is to be paid;
 - (4) Benefits of the coverage; and
 - (5) Key terms and conditions of the coverage.
 - d. Summarize the process for filing a claim.
 - e. State an occupant that purchases self-service storage insurance may cancel enrollment for the occupant's coverage at any time, and the person paying the premium shall receive a refund of any applicable unearned premium.
2. The written materials required by this section are not subject to filing or approval requirements with the commissioner.
3. Self-service storage insurance may be provided under an individual policy or a commercial, corporate, group, or master policy. Form, policy, and rate filings for self-service storage insurance must be made with the commissioner in accordance with this chapter and section 26.1-30-19.

4. Eligibility and underwriting standards for occupants electing to purchase self-service storage insurance coverage must be established for the self-service storage insurance program.
5. The owner is exempt from the examination and education requirements in chapter 26.1-26.

26.1-26.9-04. Authority of owners.

1. Employees and authorized representatives of an owner may sell, solicit, and offer self-service storage insurance to occupants and are not subject to licensure as an insurance producer under this chapter if:
 - a. The owner obtains a limited lines license to authorize the owner's employees and authorized representatives to sell, solicit, and offer self-service storage insurance under this chapter.
 - b. The owner files an acknowledgment with the commissioner in a form and manner directed by the commissioner that the owner's counter sales employees and authorized representatives act on the owner's behalf and the owner is responsible for any representations made by the counter sales employees or authorized representatives relating to the self-service storage insurance offered through the owner. The acknowledgment must state the commissioner may take any administrative action included in this title.
 - c. The insurer issuing the self-service storage insurance or a supervising entity supervises the development of a training program for employees and authorized representatives of the owner. The training required by this subdivision:
 - (1) Must be delivered to employees and authorized representatives of the owner who are engaged directly in the activity of selling, soliciting, or offering self-service storage insurance, and the training materials must be maintained by the owner and made available to the commissioner for inspection upon request.
 - (2) Must include providing each employee and authorized representative with basic instruction about the self-service storage insurance offered to customers and the disclosures required under section 26.1-26.9-03; and
 - (3) May be provided in electronic form, provided the owner or supervising entity implements a supplemental education program regarding the self-service storage insurance conducted and overseen by a licensed producer.
 - d. An employee or authorized representative of an owner may not advertise, represent, or otherwise be held out to the public as a nonlimited lines-licensed insurance producer, unless otherwise licensed.
2. An owner's employees and authorized representatives may not be paid directly by an insurance company, or be paid a commission or any other compensation for the sale of self-service storage insurance. This section does not prevent an owner from including the results of selling, soliciting, or offering self-service storage insurance in an overall performance compensation incentive program for employees and authorized representatives.
3. The owner may bill and collect charges for self-service storage insurance coverage. Any charge to the occupant for coverage not included in the cost of the rental of a space must be separately itemized on the occupant's bill. If the self-service storage insurance coverage is included with the lease of a space, the owner clearly and conspicuously shall disclose to the occupant, on the rental invoice or elsewhere, any self-service storage insurance coverage included with the rental of a space. An owner billing and collecting the charges is not required to maintain the funds in a segregated account if the owner is authorized by the insurer to hold the funds in an alternative manner. All premiums received by an owner from an occupant for

the sale of self-service storage insurance must be considered funds held by the owner in a fiduciary capacity for the benefit of the insurer. An owner may receive compensation for billing and collection services.

26.1-26.9-05. Application for license and fees.

1. An owner selling, soliciting, or offering self-service storage insurance shall apply to the commissioner.
2. In lieu of providing the information for all officers, directors, and shareholders owning more than ten percent of the applicant, the applicant shall provide the name, residential address, and other information required by the commissioner for an employee or officer of the owner or supervising entity designated by the applicant as the person responsible for the owner's compliance with the requirements of this chapter. However, if the owner derives more than fifty percent of the owner's revenue from the sale of self-service storage insurance, the information required under this subsection must be provided for all officers, directors, and shareholders of record having beneficial ownership of ten percent or more.
3. Each owner licensed under this chapter shall pay to the commissioner a fee as prescribed by the commissioner.
4. An owner selling, soliciting, or offering self-service storage insurance before the effective date of this Act shall apply for licensure within ninety days of the application being made available by the commissioner. An applicant that begins to sell, solicit, or offer self-service storage insurance after the effective date of this Act shall obtain a license before selling, soliciting, or offering self-service storage insurance.

26.1-26.9-06. Authority of commissioner to investigate.

Within a reasonable time after receipt of a properly completed application for a license under this chapter, the commissioner may conduct investigations and propound interrogatories concerning the applicant's qualifications, residence, business affiliations, and any other matter the commissioner believes necessary or advisable to determine compliance with this chapter or for the protection of the public.

26.1-26.9-07. Examination and investigation by commissioner.

If the commissioner believes this chapter has been violated, the commissioner, at the expense of the insurer involved, may examine, at the offices of the insurer or insurance producer, whether located within or outside this state, all books, records, and papers of the insurer or insurance producer, and may examine under oath, the officers, managers, and insurance producer of the insurer, or the insured, regarding the violation.

26.1-26.9-08. License suspension, revocation, or refusal - Grounds.

The commissioner may suspend, revoke, place on probation, or refuse to continue or issue a license issued under this chapter if, after notice to the licensee or applicant and a hearing, the commissioner finds as to the licensee any of the following conditions:

1. A materially untrue statement in the license application.
2. An acquisition or attempt to acquire a license through misrepresentation or fraud.
3. The applicant cheated on an examination for an insurance license.
4. Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.

5. The applicant or licensee has been convicted of a felony or convicted of an offense, as defined by section 12.1-01-04, determined by the commissioner to have a direct bearing on a person's ability to serve the public as a licensee, or the commissioner finds, after conviction of an offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.
6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown to be incompetent, untrustworthy, or financially irresponsible.
7. A misrepresentation of the terms of any actual or proposed insurance contract.
8. The licensee knowingly solicited, procured, or sold unnecessary or excessive insurance coverage to any person.
9. The licensee has forged another's name to an application for insurance.
10. An improper withholding of, misappropriating of, or converting to one's own use any moneys belonging to policyholders, insurers, beneficiaries, or others received in the course of one's insurance business.
11. The licensee has been found guilty of any unfair trade practice defined in this title or fraud.
12. A violation of or noncompliance with any insurance laws of this state or a violation of or noncompliance with any lawful rules or orders of the commissioner or of a commissioner of another state.
13. The licensee's license has been suspended or revoked in any other state, province, district, or territory for any reason or purpose other than noncompliance with continuing education programs, or noncompliance with mandatory filing requirements imposed upon a licensee by the state, province, district, or territory, provided the filing does not directly affect the public interest, safety, or welfare.
14. The applicant or licensee has refused to respond within twenty days to a written request by the commissioner for information regarding any potential violation of this section.
15. Without express prior written approval from the commissioner, the licensee communicates with a person the licensee knows has contacted the department regarding an alleged violation committed by the licensee in an attempt to have the complainant dismiss the complaint.
16. The licensee knowingly accepts insurance business from an individual who is not licensed.
17. The applicant or licensee knowingly fails to comply with a court order imposing child support obligation.
18. The applicant or licensee fails to file the required returns or pay the taxes due under chapter 57-38 or comply with a court order directing payment of any income tax or employer income tax withholding imposed by chapter 57-38.

26.1-26.9-09. Rulemaking authority.

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

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. 1391.

House Vote: Yeas 88 Nays 2 Absent 4

Senate Vote: Yeas 44 Nays 2 Absent 0

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