

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

HOUSE BILL NO. 1144
(Representatives Keiser, Kasper)

AN ACT to create and enact section 26.1-26-04.1 of the North Dakota Century Code, relating to fees for insurance services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Notwithstanding any other provision of this title, an insurance producer may charge a fee for any services rendered in connection with the sale, solicitation, negotiation, placement, or servicing of an insurance contract, if the following conditions are met:
 - a. The fees may not be charged on a personal lines account, such as personal homeowners and automobile, personal life, and health insurance.
 - b. Before rendering the services and accepting any payment, a written disclosure must be provided to the party to be charged on a form approved by the commissioner disclosing:
 - (1) The nature of the services for which the fees will be charged along with a separate itemization of the amount of the fees;
 - (2) That the fees are charged in addition to any premiums paid;
 - (3) That if the insurance producer is also an appointed agent of an insurer with which coverage is being considered for placement, a statement that the insurance producer also represents the insurer in the transaction and owes a duty of loyalty to the insurer; and
 - (4) That if the insurance producer is to receive a commission from the sale of an insurance policy related to the services rendered, a statement clearly and completely disclosing that the:
 - (a) Insurance producer will receive a commission from the insurer which is paid from the premiums owed for the insurance; and
 - (b) Amount of commission received by the insurance producer may differ depending on the product sold and the insurer.
 - c. The disclosure required by this section must be signed and dated by both the producer and the party to be charged.
 - d. The producer shall retain the signed disclosure required by this section for not less than five years following the completion of the service. A copy of the signed disclosure must be available to the commissioner for inspection upon request.
 - e. The insurance producer may not pay or return, or offer to pay or return, all or part of a fee charged as an inducement to purchase a specific policy, or coverage within a policy, or coverage from a particular insurer.

- f. Any fee charged under this section must bear a reasonable relationship to the services provided and may not be discriminatory.
- 2. An insurance producer charging a fee for services rendered for risk management services under this section owes the person to be charged a higher standard of care than the ordinary standard of care otherwise owed by an insurance producer to fully advise the party to be charged as to the party's insurance needs, including the duty to inform the person to be charged as to a potential source of risk and to recommend, if available, insurance coverage for that risk.
- 3. An insurance producer may charge an individual, for personal or commercial lines, a fee for paying agency-billed premiums and fees by credit card or other electronic means, if the fee is disclosed to the client in writing and agreed to by the client in writing.
- 4. The commissioner may adopt rules determined necessary by the commissioner for the administration of this section.

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. 1144.

House Vote: Yeas 83 Nays 8 Absent 3

Senate Vote: Yeas 44 Nays 0 Absent 2

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