

HOUSE BILL NO. 1062

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to create and enact a new subsection to section 26.1-30-19 of the North
2 Dakota Century Code, relating to the confidentiality of insurance filings; and to amend and
3 reenact section 26.1-03-10, subdivision a of subsection 5 of section 26.1-03-19.4, and
4 subsection 6 of section 26.1-03-19.4 of the North Dakota Century Code, relating to insurance
5 company records held by the insurance commissioner.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-03-10 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-03-10. Publication of abstract of annual statement and certificate of authority.**

10 An insurance company, at the time it submits its annual statement for filing, shall submit an
11 abstract of the annual statement for publication upon the form prescribed by the commissioner.
12 The abstract of the annual statement of each company, other than a state or county mutual
13 insurance company, must be published at least three times in one newspaper of general
14 circulation, designated by the commissioner, printed and published in each judicial district in this
15 state in which the company has an agency. The abstract of the annual statement of each state
16 or county mutual insurance company must be published once in a newspaper published in the
17 county in which the company has its principal place of business, the newspaper to be
18 designated by the members of the company at their annual meeting. The certificate of authority
19 issued by the commissioner to authorize the company to do business within this state must be
20 published in connection with the publication of the abstract of its annual statement. The fees for
21 publication are those provided under section 46-05-03. Proof of publication must be filed with
22 the commissioner within four months after the filing of the annual statement. The commissioner
23 shall provide abstracts, in a convenient form, on the commissioner's website.

1 **SECTION 2. AMENDMENT.** Subdivision a of subsection 5 of section 26.1-03-19.4 of the
2 North Dakota Century Code is amended and reenacted as follows:

3 a. Upon the adoption of a ~~financial~~an examination report under subdivision a of
4 subsection 3, the commissioner shall continue to hold the content of the
5 examination report as private and confidential information for a period of fifteen
6 days except to the extent provided in subsection 2. Thereafter, the commissioner
7 may open the report for public inspection so long as no court of competent
8 jurisdiction has stayed its publication.

9 **SECTION 3. AMENDMENT.** Subsection 6 of section 26.1-03-19.4 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 6. a. All working papers, recorded information, documents, and copies thereof
12 produced by, obtained by, or disclosed to the commissioner or any other person
13 in the course of a ~~financial~~an examination made under this chapter, or in the
14 course of analysis by the commissioner of the financial condition or market
15 conduct of the company, must be given confidential treatment and are not subject
16 to subpoena and may not be made public by the commissioner or any other
17 person, except to the extent provided in subsection 5. Access also may also be
18 granted to the national association of insurance commissioners. The parties must
19 agree in writing prior to receiving the information to provide to it the same
20 confidential treatment as required by this section, unless the prior written consent
21 of the company to which it pertains has been obtained.

22 b. ~~For purposes of any other examination other than financial examinations required~~
23 ~~or authorized by law, all preliminary data, drafts, notes, impressions, memoranda,~~
24 ~~working papers, and work product generated by the commissioner or the person~~
25 ~~making an examination or inspection are confidential and not open for public~~
26 ~~inspection until the commissioner releases a final report concerning the~~
27 ~~examination or inspection or upon a declaration by the commissioner that the~~
28 ~~material is nonconfidential. If a declaration of nonconfidentiality is requested by~~
29 ~~any person and denied, the commissioner, in the denial, shall state the reason for~~
30 ~~the confidentiality and the date, as can best be reasonably determined at the~~
31 ~~time, when it will be made public.~~

1 **SECTION 4.** A new subsection to section 26.1-30-19 of the North Dakota Century Code is
2 created and enacted as follows:

3 A filing and any supporting information is not open to public inspection or subject to the
4 provisions of chapter 44-04 unless the filing is approved by the commissioner.