

HOUSE BILL NO. 1086

Introduced by

Industry, Business and Labor Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact subsection 5 of section 26.1-22-01 and sections
2 26.1-22-02.1, 26.1-22-06.1, 26.1-22-10, 26.1-22-14, 26.1-22-15, and 26.1-22-19 of the North
3 Dakota Century Code, relating to property insured by the state fire and tornado fund; to provide
4 an effective date; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Subsection 5 of section 26.1-22-01 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 5. "Political subdivision" means all counties, townships, park districts, school districts,
9 cities, and any other units of local government which are created either by statute or
10 by the Constitution of North Dakota for local government or other public purposes. The
11 term does not include a public nonprofit corporation or an administrative or legal entity
12 responsible for administration of a joint powers agreement, unless the public nonprofit
13 corporation or administrative or legal entity responsible for administration of a joint
14 powers agreement elects to be insured under this chapter.

15 **SECTION 2. AMENDMENT.** Section 26.1-22-02.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **26.1-22-02.1. Insurance against indirect losses.**

18 The commissioner shall provide, upon request of an entity insured with the fund, coverage
19 by the fund for an indirect loss incurred because of a loss arising out of a peril insured against
20 by the fund. The coverage provided by the fund may be an amount that is subject to the
21 underwriting guidelines adopted by the commissioner.

22 **SECTION 3. AMENDMENT.** Section 26.1-22-06.1 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **26.1-22-06.1. Replacement cost appraisal required on state-owned property.**

2 Once every six years each state agency and institution shall obtain from the fund a
3 replacement cost appraisal on all buildings and fixtures and permanent contents under its
4 control which are insured at replacement cost. The fund shall determine the manner of
5 conducting the appraisal. Annually, except for any year an appraisal is conducted, the agency or
6 institution shall adjust the appraisal amount in the manner authorized by the fund.

7 **SECTION 4. AMENDMENT.** Section 26.1-22-10 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **26.1-22-10. Commissioner to provide insurance on buildings and personal property.**

10 1. Upon application the commissioner shall provide for insurance against loss by fire,
11 lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosions, riot
12 attending a strike, aircraft, smoke, vehicles, or any other risks of direct physical loss,
13 ~~all in the manner and subject to the restrictions of the standard fire insurance policy~~
14 ~~and standard endorsement, and no other hazards, in the fund,~~ on all buildings owned
15 by the state, state industries, political subdivisions, international peace gardens, and
16 winter shows, and the fixtures and permanent contents in such buildings, to the extent
17 of not to exceed the insurable value of such property, as the value is agreed to
18 between the commissioner and the officer or board having control of such property, or,
19 in case of disagreement, by approval through arbitration. The commissioner may allow
20 ~~personal~~ property to be insured on a blanket basis.

21 2. All buildings and the contents of the buildings owned by the state mill and elevator
22 association, in lieu of coverage under this chapter, may, at the option of the industrial
23 commission, be insured by private insurance companies licensed to do business in
24 this state, against at least all the types of hazards insured against by the fund. If the
25 industrial commission exercises the option provided in this section, the commission
26 shall seek competitive sealed bids, shall invite the fund to submit a bid, and may reject
27 any or all bids received.

28 3. All public buildings owned by a political subdivision, in lieu of coverage provided for in
29 this section, may at the option of the governing body of the political subdivision be
30 insured on the basis of competitive sealed bids, through the fund which must be
31 invited to submit a sealed bid or private insurance companies licensed to do business

1 in this state, against damage resulting from hazards, which include those types of
2 hazards that may be insured against by the fund. The governing body may reject any
3 or all such bids.

4 4. All public libraries owned by the state or political subdivisions may, in addition to the
5 coverage provided for in this section, be covered against damage through vandalism.
6 If this coverage cannot be extended to the public libraries situated within this state, the
7 libraries may contract for this coverage with private insurance companies; provided,
8 that this coverage meets the recommendations of the insurance code of the American
9 library association.

10 **SECTION 5. AMENDMENT.** Section 26.1-22-14 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **26.1-22-14. Assessments and reporting of premiums and losses.**

13 1. If the reserve balance is less than twelve million dollars, the commissioner shall
14 determine the amount of money necessary to bring the reserve balance up to twelve
15 million dollars. The commissioner then shall ~~then~~ levy an assessment against every
16 policy in force with the fund.

17 2. The assessment must be computed as follows:

18 a. The eighty percent or ninety percent coinsurance rate established ~~by the~~
19 ~~insurance services office~~ for each insured property for which that rate may be
20 applicable, and the full rate established for policies providing coverage against
21 indirect losses and for properties to which the eighty percent or ninety percent
22 coinsurance rate is not applicable ~~under the rules of the insurance services office~~,
23 must be applied to the amount of insurance provided in each policy and the result
24 of the application of the rate to the amount of insurance sets the tentative
25 assessment to be made against the policy.

26 b. The total of all tentative assessments must then be ascertained.

27 c. The percentage of the assessment necessary to restore the reserve balance to
28 the sum of twelve million dollars must then be computed and collected on each
29 policy; provided, that until the reserve balance reaches twelve million dollars, the
30 assessment must be in an amount determined by the commissioner but may not

1 exceed sixty percent of the rates set by the insurance services office for insured
2 property unless the reserve balance is depleted below three million dollars.

3 d. In case of a fractional percentage the next higher whole percent must be used in
4 such computation.

5 ~~The commissioner shall submit, not later than December thirty-first of every five-year period, all~~
6 ~~data concerning premiums written and losses incurred during the previous five-year period~~
7 ~~ending June thirtieth to the insurance services office so that the experience of the fund may be~~
8 ~~included in the computation of rates to apply to the classes of business written by the fund.~~

9 **SECTION 6. AMENDMENT.** Section 26.1-22-15 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **26.1-22-15. Collection of premiums and assessments.**

12 The commissioner, as soon as possible after providing for insurance coverage against any
13 indirect loss or loss of property belonging to the state, a political subdivision, an international
14 peace garden, or a winter show, shall certify to the insured the amount of premium or
15 assessment due. The certificate must give the name of the insured, the amount of insurance
16 written thereon, and the amount of the premium or assessment, and if applicable, the location
17 and description of the insured property. The proper officer shall remit to the commissioner the
18 amount of the premium or assessment within sixty days after the date of the certification. The
19 commissioner shall deposit the premiums and assessments with the state treasurer to the credit
20 of the fund. If the premiums or assessments are not paid within sixty days after the date on
21 which they are certified, ~~they shall bear interest at the rate of six percent per annum and~~
22 ~~collection thereof may be enforced by appropriate action. The attorney general and the state's~~
23 ~~attorney of the relevant county shall bring appropriate actions to enforce the collections of the~~
24 ~~premium and assessment upon request of the commissioner. An enforcement judgment~~
25 ~~obtained under this section must include a rate of six percent interest per annum.~~ Payment of
26 the premiums or assessments certified pursuant to this section may be made by any state
27 department, officer, board, institution, or agency and by any political subdivision, out of any
28 available funds, notwithstanding that no specific appropriation or tax levy has been made
29 therefor.

30 **SECTION 7. AMENDMENT.** Section 26.1-22-19 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **26.1-22-19. Repair or replacement of destroyed buildings.**

2 If the commissioner and the insured agree that the fund shall repair or replace the building
3 destroyed or damaged, no repairs, rebuilding, or replacement may be undertaken by the
4 commissioner or any employees of the commissioner, ~~but if they are deemed necessary or~~
5 ~~proper in any case, they must be performed by independent contractors.~~ The cost of any
6 repairs, rebuilding, or replacements may not exceed the amount of the insurance carried upon
7 the particular risk.

8 **SECTION 8. EFFECTIVE DATE.** This Act becomes effective on July 1, 2021.

9 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.