

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1189

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1189
01/16/2023

Relating to legal expense insurance plans.

Vice Chairman Ostlie called to order 9:57 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner.
Member absent: Representative Warrey.

Discussion Topics:

- Prepaid legal services
- Sample policy
- No charge for certain benefits
- Discounts for referral
- Levels of plans
- Proposed exemptions in statute

In favor:

Representative Scott Louser bill sponsor (no written testimony)

Kayla Effertz-Kleven, Olson Effertz Lobbying & Consulting, LLC., on behalf of Legal Services, Inc. (no written testimony)

Mark Nelms, Vice President and Assistant General Counsel for Present-Paid Legal Services, Inc. ("PPLSI") #13371

Neutral:

Tyler Erickson, Legal Counsel, ND Insurance Department, #16883

Vice Chairman Ostlie adjourned the meeting 10:19 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1189
01/30/2023

Relating to legal expense insurance plans.

Chairman Louser called to order 2:55 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- Subscription
- Legal services

Representative Thomas moved a do pass.
Representative Kasper seconded.

Roll call vote: Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 14-0-0

Representative Kasper will carry the bill.

Chairman Louser adjourned the meeting 2:57 PM

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1189: Industry, Business and Labor Committee (Rep. Louser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB
1189 was placed on the Eleventh order on the calendar.

2023 SENATE INDUSTRY AND BUSINESS

HB 1189

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1189
3/14/2023

A bill relating to legal expense insurance plans.

9:59 AM Chairman D. Larsen called the meeting to order.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Boehm. Members absent: Senator Klein.

Discussion Topics:

- Real estate license
- Pre-paid legal services
- Access to justice

10:00 AM Representative Scott Louser, District 5, Minot, ND introduced HB 1189, and testified in favor. No written testimony

10:04 AM Kayla Effertz-Kleven of Kleven Olson and Effertz Lobbying and Consulting, introduced Mark Nelms, Vice President and legal Counsel for Prepaid Legal Services (Legal Shield) testified in favor of HB 1189. No written testimony.

10:11 AM Tyler Erickson, Legal Counsel, North Dakota Insurance Department, testified neutral on HB 1189. # 24846

10:17 AM Chairman D. Larsen closed the hearing on HB 1189

Brenda Cook, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1189
3/20/2023

A bill relating to legal expense insurance plans.

11:36 AM Chairman D. Larsen opened the Committee Work meeting. Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

Discussion Topics:

- Committee action

11:37 AM Senator Barta moved to DO PASS HB 1189

11:37 AM Senator Kessel seconded the motion.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0 Motion DO PASS HB 1189

Senator Kessel will carry the bill.

11:39 AM Chairman D. Larsen adjourned the meeting.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1189: Industry and Business Committee (Sen. Larsen, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1189 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1189

Testimony of Mark Nelms, email marknelms@pplsi.com, House Bill No. 1189. I am in support of the bill.

Mr. Chairman and members of the committee. My name is Mark Nelms. I am a Vice President and Assistant General Counsel for Pre-Paid Legal Services, Inc. ("PPLSI"). This bill will provide an exception from the insurance code and the regulation of prepaid legal services plans like those offered in North Dakota by PPLSI.

PPLSI celebrated our 50th anniversary as a company last year. We have been doing business in the state of North Dakota since 1987. PPLSI is not regulated as insurance in most states. Recently, PPLSI has worked successfully to get similar legislative change in states like Nebraska, Arizona, Texas, and Tennessee to modernize their laws related to legal services plans.

PPLSI does not reimburse a member for any legal fees, court costs or out of pocket expenses. PPLSI does not assume risk or indemnify for legal services provided. PPLSI does not pay the provider law firm for specific legal services provided. The provider law firm receives from PPLSI only a small monthly administrative fee for each member in their state. Any payments for legal services not specifically included in the legal plan are paid directly by the member to the attorney.

The legislative change will also provide for additional economic opportunity and growth for the citizens of North Dakota that want to be a PPLSI independent sales associate. PPLSI associates can earn a commission from the sale of PPLSI legal plans. For the majority of associates, this can be a meaningful way to earn additional income. There is a licensing requirement for an associate to sell a PPLSI legal plan in North Dakota. Only seven states now require any such license for the sale of PPLSI legal plans. To become a PPLSI associate for a resident of North Dakota requires a process that includes testing, fingerprinting, and additional fees. The change in the law will remove that barrier. It is also difficult for a PPLSI associate living in another state who wants to sell a legal plan to a North Dakota resident (like a relative or friend) and the legislation remedies this as well.

PPLSI supports and promotes access to justice across the country. Legal plans are an important option for access to legal services for individuals, families, and small businesses. PPLSI legal plans provide access to legal services for North Dakota residents in all parts of the state.

The provider law firm for North Dakota is Wagner, Falconer & Judd. They are a top performing provider law firm. There are also 20 referral attorneys in North Dakota outside the provider law firm that receive referrals for PPLSI members.

Thank you for the opportunity to speak with you.

HOUSE BILL NO. 1189 TESTIMONY

Presented by: Tyler Erickson
Legal Counsel
North Dakota Insurance Department

Before: Industry Business and Labor Committee
Representative Scott Louser, Chairman

Date: January 16, 2023

Good morning, Chairman Louser and members of the House IBL Committee. My name is Tyler Erickson, and I'm an attorney with the North Dakota Insurance Department. I was the Department's primary contact point on this bill and after an in-depth review, we determined that the Department doesn't have any concerns with the language. As a result, the Department is offering this neutral testimony on HB 1189.

1. Initially, there was some slight disagreement between us and legal shield about whether legal shield's products were covered by our current law, and after a thorough review of our current law, we ultimately concluded that they were covered. As a result, they brought this bill to carve out their specific product from our code.
2. Once we had an opportunity to review the proposed language, the Department's number one concern when we reviewed these proposed exemptions (26.1-19 & 26.1-43) was to ensure that the carve outs do not result in any unnecessary or unanticipated regulatory shortfalls or gaps.
3. Under current law, all prepaid legal services contracts or legal expense insurance plans are subject to the regulatory oversight of our agency.
 - a. And although there are slight differences between prepaid legal services and legal expense insurance plans, the common denominator between them, rests in their use of indemnity, assumption of risk by a third party, or reimbursement for services.
 - b. (Differences if asked): prepaid legal services are typically used in a discounted legal services plan, where multiple people pay a

HOUSE BILL NO. 1189 TESTIMONY

Presented by: Tyler Erickson
Legal Counsel
North Dakota Insurance Department

Before: Senate Industry & Business Committee
Senator Doug Larsen, Chairman

Date: March 14, 2023 @ 10:00 am in Fort Union Room

Good morning, Chairman Larsen and members of the Senate Industry and Business Committee. My name is Tyler Erickson, and I'm an attorney with the North Dakota Insurance Department. I was the Department's primary point of contact on this bill and after an in-depth review, the Department determined that the proposed exemptions to chapters 26.1-19 and 26.1-43 should likely not result in any regulatory shortfalls. As a result, the Department is offering this neutral testimony on HB 1189.

1. Initially, there was some slight disagreement between the Department and Legal Shield about whether these products were covered by our current law, and after a review of our current law, we ultimately concluded that they were covered. As a result, they brought this bill to carve out their specific product from our code.
2. Under current law, all prepaid legal services contracts and legal expense insurance plans are subject to the regulatory oversight of our agency.
 - a. And although there are slight differences between prepaid legal services and legal expense insurance plans, the common denominator between them rests in their use of indemnity, assumption of risk, or reimbursement for services.
 - b. Differences: prepaid legal services are typically used in a discounted legal services plan, where multiple people pay a subscription fee, those fees are pooled, and in the event an insured experiences an insurable event, the insured receives a discounted rate of services from provider law firm // legal expense insurance on the other hand covers situations where a group of people pay a set premium and receive legal services anticipated and covered in the insurance contract and the legal expenses as a result of those services are covered.
3. Legal Shield's product, as they have mentioned, does not use any indemnity, assumption of risk, or reimbursement for services. In other words, their product, although it may look like insurance, in effect it does not act as insurance. Therefore, the Department, through its research of the product did not identify a legislative intent in the current code to indicate these products should be regulated.