

## **CHAPTER 26.1-50 NORTH DAKOTA LOW-RISK INCENTIVE FUND**

**26.1-50-01. Definitions.** As used in this chapter:

1. "Fund" means the North Dakota low-risk incentive fund.
2. "Governing board" means the board of directors of the corporation or board of governors of the limited liability company established under section 26.1-50-02.
3. "Insurer" means any foreign or domestic corporation, association, benefit society, exchange, partnership, limited liability company, or individual engaged as principal in the business of insurance in this state.
4. "Primary sector business" means an individual, corporation, limited liability company, partnership, or association that through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth. Qualification as a primary sector business under this subsection must be determined by the department of commerce division of economic development and finance.

**26.1-50-02. Establishment - Organization.** Any insurer or group of insurers may establish a corporation or limited liability company to own and operate the North Dakota low-risk incentive fund. Except as provided in this chapter, all authority regarding the articles of incorporation or articles of organization is the province of the governing board, which must include a representative of the Bank of North Dakota and the commissioner of commerce or the commissioner's designee. The Bank of North Dakota shall administer the fund; however, the governing board is responsible for adopting fund policies and procedures. The governing board may not distribute more than seventy-five percent of the net profit of the fund in any of the first five years of operation.

**26.1-50-03. North Dakota low-risk incentive fund use.** The fund may be used only for making loans to low-risk businesses for primary sector business projects in this state. A loan may not be approved or made by the fund without some participation in the loan by the Bank of North Dakota. A loan from the fund may not be made to an insurer. The governing board shall establish the rate of interest and terms of repayment for a loan from the fund. Fifty percent of the amount loaned from the fund during the first year of a biennium must be reserved solely for businesses in rural areas. The remainder loaned from the fund may be used in urban or rural areas. For purposes of this section, "rural areas" means the area of the state not including territory within the corporate limits of a city with a population of twenty thousand or more.

**26.1-50-04. Loan administration.** An application for a loan from the fund must contain the information prescribed by the governing board. Except as provided in this section, information contained in applications for loans from the fund is confidential. The Bank of North Dakota shall review each loan application, report to the governing board whether the applicant represents a primary sector business project, and make a recommendation to the governing board to either approve or disapprove the loan application. The Bank of North Dakota shall administer all loans issued by the fund and shall receive from the fund a service fee of twenty-five basis points on all loans in place. The insurance commissioner may examine the fund and activities of insurers in connection with the fund to assure compliance with this title. The fund shall pay for the costs of an examination and no credit may be allowed any insurer for payment of examination costs as otherwise provided under section 26.1-03-17.

**26.1-50-05. Audited financial statement - Report of fund operations.** The governing board shall contract annually with a certified public accountant for performance of an audit and preparation of audited financial statements of the fund prepared in accordance with generally accepted accounting principles and a report containing an analysis of the impact of the fund on the state's economy, business and employment activity generated by loans from the fund, and the effects of that activity on state and local tax revenues. The governing board shall provide the

financial statements and report to the governor, the insurance commissioner, and the legislative council and make copies available to the public. The cost of the audit and preparation of financial statements and report must be paid from the fund.

**26.1-50-06. Tax credit.** If the requirements of this chapter are met, an insurer is entitled to a credit against taxes due under section 26.1-03-17 or 26.1-11-06 as determined under this section. If the insurer is a member of an insurance holding company system, the insurer or any affiliate insurer is entitled to a credit against taxes under section 26.1-03-17 or 26.1-11-06 as determined under this section.

1. An insurer making or participating in a loan under this chapter or an affiliate insurer under this chapter is entitled to a premium tax credit calculated for each calendar year the loan is in place. The amount of the credit is the difference between:
  - a. The participating insurer's share of the interest earned on the loan during the calendar year; and
  - b. The participating insurer's share of an amount of interest that would have been earned during the same period by applying an interest rate, calculated by adding three hundred basis points to a comparable treasury security rate at the date of the issuance of the loan.
2. The maximum credit allowed an insurer for any calendar year is the amount of interest that would have been earned during the period by applying an interest rate of three hundred basis points. A credit may not be allowed if the interest earned exceeds the interest that would have been earned by applying the calculation in subdivision b of subsection 1.
3. The credit may not exceed the total amount of the insurer's tax liability under subsection 1 of section 26.1-03-17 and no unused credit may be carried forward.
4. Credits under this section for all insurers may not exceed seven hundred fifty thousand dollars in a calendar year.

**26.1-50-07. Assets of insurers.** The amount of a loan made by an insurer or the amount of an insurer's participation in a loan made under this chapter may not be considered or reported on the insurer's annual statement as an admitted asset except to the extent provided under section 26.1-05-19.