

AN ACT

ENTITLED, An Act to revise certain provisions regarding insurance producer licensing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 58-2-29 be amended to read as follows:

58-2-29. The director of the Division of Insurance shall collect in advance, and persons so served shall pay to the director in advance, fees, licenses, and miscellaneous charges as follows:

(1) Certificate of authority of insurer:

(a) Application for original certificate of authority:

For filing application for certificate of authority, articles of incorporation, and other charter documents, bylaws, financial statements, examination reports, power of attorney to the director, and all other documents and filings required in connection with such application: \$500.00

(b) Issuance of original certificate of authority 25.00

(c) Annual renewal of certificate of authority 25.00

(d) Reinstatement of certificate of authority 25.00

(e) Amendment or reissuance of certificate of authority 25.00

(f) Annual audit 500.00

This fee to be reduced by the total dollar amount of premium taxes remitted in each calendar year. The fee is waived for all licensed insurers remitting five hundred dollars or more in premium taxes in a calendar year.

(2) Filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation 10.00

(3) Filing bylaws or amendments thereto 5.00

(4) Filing annual statement of insurer, other than as part of application for original certificate

of authority 25.00

(5) Insurance producers and solicitors:

(a) Insurance producer's license, including also disability insurance when written by property, casualty, or surety insurer otherwise represented by the insurance producer:

(i) Filing application for original license, and including issuance of license, if issued 25.00

(ii) Original appointment of insurance producer, each insurer 10.00

(iii) Annual renewal of appointment, each insurer:

Domestic insurer 10.00

Foreign insurer 10.00

(iv) Temporary license 10.00

(b) Insurance producer's license, life or health insurance, including both life and disability insurance when so licensed as to the same insurer:

(i) Application for original license, including issuance of license, if issued, each insurer 25.00

(ii) Original appointment of insurance producer, each insurer 10.00

(iii) Annual renewal of appointment, each insurer:

Domestic insurer 10.00

Foreign insurer 10.00

(iv) Temporary license 10.00

(c) Limited license as insurance producer:

(i) Motor vehicle physical damage... Same as for insurance producer's license

(ii) Accident ticket policies, each insurer each year 10.00

- (iii) Baggage ticket policies, each insurer each year 10.00
 - (iv) Credit insurance... Same as for insurance producer license
- (d) Examination for license, each examination and each time taken 10.00
- (e) Nonresident insurance producer license:
 - (i) Original license 30.00
 - (ii) Biennial renewal of license 50.00
 - (iii) Appointments, each insurer 20.00
 - (iv) Annual renewal of appointments, each insurer 20.00
- (f) Resident insurance producer, original license 25.00
 - (i) Biennial continuing education fee, license renewal 20.00
- (g) Corporation or partnership license:
 - (i) Original license 25.00
 - (ii) Appointment, each insurer 10.00
 - (iii) Annual renewal of appointment, each insurer 10.00
- (h) Nonresident corporation or partnership license:
 - (i) Original license 30.00
 - (ii) Appointment, each insurer 20.00
 - (iii) Annual renewal of appointment, each insurer 20.00
- (6) Insurance vending machine license, each machine, each year 20.00
- (7) Surplus line broker's license, application for original license including issuance of license, if issued 50.00
 - (a) Biennial renewal of license 100.00
- (8) Rating bureau, original license 25.00
 - (a) Annual renewal of license 35.00

- (9) Examination of rating bureau... Same fees as provided in this chapter for examination of foreign insurance companies.
- (10) Farm mutuals:
 - (a) Application for original certificate of authority: For filing application for certificate of authority, articles of incorporation, and all other documents and filings required in connection with such application, and for issuance of an original certificate of authority, if issued 25.00
 - (b) Annual renewal of certificate of authority 10.00
 - (c) Filing annual statement 5.00
- (11) Broker's license as attorney in fact of a reciprocal or interinsurance exchange 20.00
- (12) Miscellaneous services:
 - (a) For a copy of any paper filed in the insurance division, for which another price is not set by statute, each page 75
 - (b) Director's sworn certificate, except when on certificates of authority or licenses 10.00
 - (c) For receiving and forwarding copy of summons or other process served upon the director, as process agent of an insurer or nonresident insurance producer 10.00
- (13) Application for continuing education course approval 25.00

Section 2. The code counsel shall transfer §§ 58-9-34 to 58-9-45, inclusive, to chapter 58-30.

Section 3. That § 58-30-8 be repealed.

Section 4. That § 58-30-68 be amended to read as follows:

58-30-68. The director may issue to an applicant qualified therefor under this title a limited lines insurance producer's license for the following types of insurance:

- (1) Credit insurance as defined in § 58-30-142;
- (2) Crop insurance as defined in § 58-30-142;
- (3) Rental car insurance as defined in § 58-9-35; and
- (4) Travel insurance as defined in § 58-30-142.

Section 5. That § 58-30-74 be amended to read as follows:

58-30-74. Each license or appointment issued under this title shall continue in force until expired, suspended, revoked, or otherwise terminated, whichever is applicable, but is subject to renewal by payment to the director annually or biennially of the applicable fee as stated in § 58-2-29 upon notice by the director.

Section 6. That § 58-30-100 be repealed.

Section 7. That § 58-30-114 be amended to read as follows:

58-30-114. Terms, as used in §§ 58-30-114 to 58-30-121, inclusive, mean:

- (1) "Director," the director of the Division of Insurance;
- (2) "Instructor," any individual who teaches, lectures, or otherwise instructs an insurance education offering;
- (3) "Licensee," any individual who is licensed by the Division of Insurance as a resident insurance producer; and
- (4) "Sponsor," any person, offering or providing insurance education or related activity.

Section 8. That § 58-30-115 be amended to read as follows:

58-30-115. The provisions of §§ 58-30-114 to 58-30-121, inclusive, do not apply to the following persons:

- (1) Licensees for whom an examination is not required under the laws of this state. However, persons who are excused from the examination under subdivisions 58-30-52(1), (2), and (3) may not be exempt;

- (2) Licensees over age sixty-five, if they have been licensed with the Division of Insurance for a period of at least ten years, and do not sell, solicit, or negotiate insurance; and
- (3) Licensees holding limited or restricted licenses, as the director of the Division of Insurance may determine except as provided by subdivision 58-30-116(2).

Section 9. That § 58-30-116 be amended to read as follows:

58-30-116. Biennially, beginning April 1, 2012, on the last day of the licensee's birth month, the licensee shall furnish evidence to the director of the Division of Insurance that the licensee has satisfactorily completed the following continuing education requirements:

- (1) Any licensee who holds a property casualty life, accident/health, or variable contract qualification shall obtain a minimum of ten continuing education credit hours in courses certified for each such classification. However, no more than twenty hours of continuing education may be required of any licensee holding multiple insurance producer licenses; and
- (2) Any licensee who holds only a crop hail qualification shall obtain a minimum of four credit hours certified for that line.

Section 10. That § 58-30-121 be amended to read as follows:

58-30-121. The Division of Insurance shall charge each licensee an additional fee of twenty dollars upon renewal of the license. Beginning April 1, 2012, the fee as defined in § 58-2-29 is due on the last day of the licensee's birth month and for each succeeding twenty-four month period. The fee shall be deposited in a separate account, entitled the South Dakota insurance producer's continuing education fund, as funding for the administration of the continuing education program. The director may withhold or not renew the license of any licensee who fails to tender timely payment of the fee.

Section 11. That § 58-30-142 be amended to read as follows:

58-30-142. Terms used in §§ 58-30-141 to 58-30-195, inclusive, mean:

- (1) "Agent of the insurer," any insurance producer who is compensated directly or indirectly by an insurer and sells, solicits, or negotiates any product of that insurer;
- (2) "Agent of insured," any insurance producer or person who secures compensation from an insured or insurance customer only and receives no compensation directly or indirectly from an insurer for a transaction with that insured or insurance customer;
- (3) "Business entity," a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity;
- (4) "Credit insurance," insurance that includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the director determines should be designated a form of limited line credit insurance;
- (5) "Crop insurance," insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightening, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance;
- (6) "Home state," the District of Columbia and any state or territory of the United States in which an insurance producer maintains the insurance producer's principal place of residence or principal place of business and is licensed to act as an insurance producer;
- (7) "Limited lines producer," any person authorized by the director to sell, solicit, or negotiate limited lines insurance;

- (8) "Negotiate," the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;
- (9) "Sell," to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;
- (10) "Solicit," attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;
- (11) "Terminate," the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance;
- (12) "Travel insurance," insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

Section 12. That § 58-30-152 be amended to read as follows:

58-30-152. Unless denied licensure pursuant to § 58-30-167, any person who has met the requirements of §§ 58-30-145 to 58-30-151, inclusive, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

- (1) Life--insurance coverage on human lives including benefits of endowment and annuities and may include benefits in the event of death or dismemberment by accident and benefits for disability income;
- (2) Accident and health or sickness--insurance coverage for sickness, bodily injury, or accidental death and may include benefits in the event of death or dismemberment by accident and for disability income;

- (3) Property--insurance coverage for the direct or consequential loss or damage to property of every kind;
- (4) Casualty--insurance coverage against legal liability, including that for death, injury, or disability, damage to real or personal property, or fidelity and surety bonds;
- (5) Variable life and variable annuity products--insurance coverage provided under variable life insurance contracts and variable annuities;
- (6) Personal lines--property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
- (7) Limited lines;
- (8) Any other line of insurance permitted under state laws or rules.

Section 13. That § 58-30-163 be amended to read as follows:

58-30-163. The director shall waive any requirements for a nonresident license applicant with a valid license from the applicant's home state, except for the requirements imposed by § 58-30-159, if the applicant's home state awards nonresident licenses to residents of this state on the same basis. The director may issue a resident license for a type of license not specified in this title to a person for insurance activities which do not require licensure in this state provided that another state which that person does insurance business in requires such license.

Section 14. That § 58-30-180 be amended to read as follows:

58-30-180. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer shall notify the director within thirty days following the effective date of the termination, using a format prescribed by the director. In addition, an insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the director within thirty days following the effective date of the termination,

using a format prescribed by the director, if a reason for termination is one of the reasons set forth in § 58-30-167 or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in § 58-30-167. Upon the written request of the director, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the insurance producer. Such information, documents, records, or other data are confidential pursuant to § 58-30-187.

An Act to revise certain provisions regarding insurance producer licensing.

I certify that the attached Act
originated in the

HOUSE as Bill No. 1037

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1037

File No. _____

Chapter No. _____

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State