

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

337M0215

## SENATE BILL NO. 69

Introduced by: Senator Knudson and Representative Cutler

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to insurable interests  
2 and to declare an emergency.

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

4 Section 1. That § 58-10-4 be amended to read as follows:

5 58-10-4. Insurable interest with reference to personal insurance includes only interests as  
6 follows:

7 (1) ~~For Interests in individuals related closely by blood, marriage, or by law, a substantial~~  
8 ~~interest or interests in individuals engendered by love and affection;~~

9 (2) For other persons, a lawful and substantial economic interest in having the life,  
10 health, or bodily safety of the individual insured continue, as distinguished from an  
11 interest which would arise only by, or would be enhanced in value by, the death,  
12 disablement, or injury of the individual insured;

13 (3) A person who is a party to a contract or option for the purchase or sale of an interest  
14 in a business partnership or firm, or of shares of stock of a closed corporation or of  
15 an interest in the shares, has an insurable interest in the life of each individual party  
16 to the contract and for the purpose of the contract only, in addition to any insurable



interest which may otherwise exist as to the life of the individual;

(4) A charitable organization that meets the requirements of section 501(c)3 of the Internal Revenue Code of 1986, as amended to January 1, 1992, and owns or purchases life insurance on an insured who consents to the ownership or purchase of the insurance has an insurable interest in the life of the insured;

(5) A financial institution, as defined in subdivision 10-43-1(4), to whom a debt is owed has an insurable interest in the life of the insured to the extent of the debt owed by the insured, irrespective of any statute of limitation regarding the enforceability of the debt;

(6) The trustee of a trust established by an individual settlor has an insurable interest in the life of that individual settlor, and has the same insurable interest in the life of any other individual as does such individual settlor. The trustee of a trust has the same insurable interest in the life of any other individual as does any beneficiary of the trust with respect to proceeds of insurance on the life of such individual or any portion of such proceeds that are allocable to such beneficiary's interest in such trust. If multiple beneficiaries of a trust have an insurable interest in the life of the same individual, the trustee of such trust has the same aggregate insurable interest in such individual's life as such beneficiaries with respect to proceeds of insurance on the life of such individual or any portion of such proceeds that are allocable in the aggregate to such beneficiaries' interest in the trust. A trustee of a business trust has the same insurable interest in the life of any individual as does any beneficial owner in any individual or any beneficial owners in the aggregate in any individual.

Section 2. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as follows:

1 For purposes of subdivision 58-10-4(6), the term, trust, includes any trust, including a  
2 business trust, and the term, beneficiary, includes the interest of any beneficiary in a trust,  
3 including a beneficial owner of a business trust.

4 Section 3. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For purposes of subdivision 58-10-4(6), the term, business trust, means a business trust  
7 subject to chapter 47-14A or chapter 47-14B.

8 Section 4. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 An insurance contract for which an insurable interest exists under subdivision 58-10-4(6),  
11 is a life insurance policy issued for delivery to a trust governed by South Dakota law.

12 Section 5. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 The provisions of subdivision 58-10-4(6) and sections 2 to 4, inclusive, of this Act, are  
15 effective retroactively to November 2, 1889.

16 Section 6. That chapter 58-10 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 The holding in *Chawla, ex rel Geisinger v. TransAmerica Occidental Life Insurance Co.*,  
19 \_\_\_\_F. Supp 2d \_\_\_\_, 2005 W.L. 405405 (E.D.Va. Feb. 3, 2005), that a trust does not have an  
20 insurable interest in the life of the settlor of the trust is not a part of the common law of the State  
21 of South Dakota.

22 Section 7. Whereas, this Act is necessary for the immediate preservation of the public peace,  
23 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
24 effect from and after its passage and approval.