

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

337M0215

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 69** - 02/15/2006

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 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



1 to the contract and for the purpose of the contract only, in addition to any insurable
2 interest which may otherwise exist as to the life of the individual;

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

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

11 (6) The trustee of a trust established by an individual settlor has an insurable interest in
12 the life of that individual settlor, and has the same insurable interest in the life of any
13 other individual as does such individual settlor. However, the settlor must be the
14 insured or have an insurable interest as required by subdivisions (1) to (5), inclusive,
15 of this section. The trustee of a trust has the same insurable interest in the life of any
16 other individual as does any beneficiary of the trust with respect to proceeds of
17 insurance on the life of such individual or any portion of such proceeds that are
18 allocable to such beneficiary's interest in such trust. If multiple beneficiaries of a trust
19 have an insurable interest in the life of the same individual, the trustee of such trust
20 has the same aggregate insurable interest in such individual's life as such
21 beneficiaries with respect to proceeds of insurance on the life of such individual or
22 any portion of such proceeds that are allocable in the aggregate to such beneficiaries'
23 interest in the trust. A trustee of a business trust has the same insurable interest in the
24 life of any individual as does any beneficial owner in any individual or any beneficial

1 owners in the aggregate in any individual.

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

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

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

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

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

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

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

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

19 Section 6. Whereas, this Act is necessary for the immediate preservation of the public peace,
20 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
21 effect from and after its passage and approval.