

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

919R0742

HOUSE JUDICIARY ENGROSSED NO. **HB 1254** 2/19/2010

Introduced by: Representatives Hoffman, Bolin, Greenfield, Hamiel, Kirkeby, Kopp, Krebs,
Moser, Romkema, and Turbiville and Senators Gant, Brown, and Hundstad

1 FOR AN ACT ENTITLED, An Act to permit the assignment of certain funeral benefits.

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

3 Section 1. That § 58-37A-17 be amended to read as follows:

4 58-37A-17. The owner of a benefit contract may change the beneficiaries in accordance with
5 the laws or rules of the society unless the owner waives this right by specifically requesting in
6 writing that the beneficiary designation be irrevocable. A society may, through its laws or rules,
7 limit the scope of beneficiary designations and shall provide that no revocable beneficiary may
8 obtain any vested interest in the proceeds of any certificate until the certificate has become due
9 and payable in conformity with the provisions of the benefit contract. A society shall honor an
10 irrevocable assignment of ownership or an irrevocable beneficiary designation may be made to
11 a trust established by the insured, the owner of the policy or contract, or the society, which shall
12 provide for the payment for any funeral or burial related expenses designated in the trust and for
13 any payment due the beneficiaries entitled thereto or, if applicable, the estate of the insured. A
14 society may not make payments in excess of the amount of funeral or burial related expenses



1 to a trust established by the funeral home or funeral director.

2 A society may provide for the payment of funeral benefits to the extent of the portion of any
3 payment under a certificate as might reasonably appear to be due to any person equitably entitled
4 to it by reason of having incurred expense occasioned by the burial of the member. ~~However,~~
5 ~~the portion so paid may not exceed the sum of ten thousand dollars.~~ A society shall honor any
6 valid collateral assignment that is properly executed including an irrevocable assignment or
7 irrevocable beneficiary designation for the payment of incurred funeral or burial related
8 expenses. Unless the society has its own collateral assignment form readily available, the society
9 shall accept a collateral assignment form prescribed by the director by rule pursuant to chapter
10 1-26.

11 If, at the death of any person insured under a benefit contract, there is no lawful beneficiary
12 to whom the proceeds are payable, the amount of the benefit, except to the extent that funeral
13 benefits may be paid as provided in this chapter, is payable to the estate of the deceased insured
14 the same as other property not exempt. However, if the owner of the certificate is other than the
15 insured, the proceeds are payable to the owner.