

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0090

SENATE BILL NO. 25

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding what constitutes an
2 unauthorized insurer and engaging in unauthorized insurance.

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

4 Section 1. That § 58-8-1 be amended to read as follows:

5 58-8-1. No person, unless otherwise authorized by this title, may in this state, directly or
6 indirectly, act as insurance producer for, perform administrative services on behalf of, manage,
7 operate, control, or otherwise represent any insurer not then authorized to transact insurance
8 business in this state; including any arrangement as specified in section 2 of this Act. No person
9 may directly or indirectly engage in the solicitation, negotiation, or effectuation of insurance or
10 of annuity contracts, inspection of risks, fixing of rates, investigation or adjustment of losses,
11 collection of premiums, or in any other manner participate in the transaction of insurance
12 business with respect to subjects of insurance resident, located or to be performed in this state
13 with respect to any insurer not then authorized to transact business in this state including any
14 arrangement as specified in section 2 of this Act. Any violation of this section is a Class 2
15 misdemeanor.



1 Section 2. That chapter 58-8 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 An unauthorized insurer as defined in subdivision 58-1-2(18) includes any persons that do
4 not possess a certificate of authority and which some or all such persons share insurance risk
5 whether or not the persons sharing the insurance risk have entered into a formal written
6 contractual relationship or whether or not the persons have formed an entity for the purpose of
7 sharing insurance risk. Persons that agree, for consideration given, to jointly share health care
8 costs and for which there is not an authorized insurer issuing a health insurance policy or
9 certificate covering those shared health care costs, constitute an unauthorized insurer.