

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0259

HOUSE BILL NO. 1049

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

1 FOR AN ACT ENTITLED, An Act to establish an insurance examination fund and prescribe
2 certain requirements for insurers subject to examination.

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

4 Section 1. That chapter 58-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any insurer subject to chapter 58-3 shall pay to the Division of Insurance an annual
7 examination assessment fee of three hundred dollars by March first, beginning in 1998. There
8 shall be established within the state treasury the insurance examination fund, into which shall be
9 deposited the proceeds from the examination assessment fees. The director may increase the
10 annual examination assessment fee or levy an additional examination assessment fee of up to one
11 hundred fifty dollars if the insurance examination fund falls below fifty thousand dollars.

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

14 All money in the insurance examination fund is continuously appropriated for the purposes
15 specified in this Act. All costs of examinations, including travel expenses, living expense

allowances, and per diem as compensation of examiners shall be paid from the fund. The fund shall also pay the costs of consultants, attorneys, actuaries, accountants, and other experts as shall be determined at the director's discretion to be reasonably necessary to assist in the conduct of the examination or analyses of the financial affairs of insurance companies. Any person so retained shall be under the direction and control of the director and shall act in a purely advisory capacity.

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

The director may require persons who are not employees of the division who have been retained by the director to conduct or participate in examinations to bill and receive payments directly from the insurance company being examined. An insurer paying the costs of its examination pursuant to § 58-3-15 may receive reimbursements from the insurance examination fund upon completion of the examination.

Section 4. That § 58-3-11 be amended to read as follows:

58-3-11. The report shall be comprised only of facts appearing from the books, papers, records, or documents of the person being examined, or ascertained from the ~~sworn~~ statements of individuals concerning its affairs and the examiner's conclusions and recommendations based on procedures and guidelines adopted by the National Association of Insurance Commissioners or state statutes or ~~regulations~~ rules. The director shall adopt the procedures and guidelines and their effective date by rule promulgated pursuant to chapter 1-26.

Section 5. Each insurer's claim files for policies or certificates are subject to examination pursuant to chapter 58-33 by the director of insurance. To aid in such examination:

(1) The insurer shall maintain claim data that is accessible and retrievable for examination.

An insurer shall be able to provide the claim number, line of coverage, date of loss, and date of payment of the claim, date of denial, or date closed without payment. This

1 data shall be available for all open and closed files for the current year and the two
2 preceding years;

3 (2) Detailed documentation shall be contained in each claim file in order to permit
4 reconstruction of the insurer's activities relative to each claim;

5 (3) Each relevant document within the claim file shall be noted as to date received, date
6 processed, or date mailed. Dated correspondence is sufficient to document the date
7 mailed for the purposes of this subdivision;

8 (4) For those insurers that do not maintain hard copy files, claim files shall be accessible
9 from a computer, microfilm, Cathode Ray Tube (CRT), micrographics, or other
10 similar electronic means and be capable of duplication to hard copy; and

11 (5) Claim information obtained in a telephone conversation or personal interview with any
12 source which is used in the claim determination shall be documented in the claim file.