

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0224

SENATE BILL NO. 48

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

1 FOR AN ACT ENTITLED, An Act to include viatical settlements in the definition of securities
2 under the Uniform Securities Act and to provide an exemption from registration for viatical
3 settlements issued by certain companies.

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

5 Section 1. That subsection (m) of § 47-31A-401 be amended to read as follows:

6 (m) "Security," means any note; stock; treasury stock; bonds; debentures; evidence of
7 indebtedness; certificate of interest or participation in any profit-sharing agreement;
8 collateral-trust certificates; preorganization certificate or subscription; transferable
9 shares; investment contracts; voting-trust certificates; certificate of deposit for a
10 security; certificate of interest or participation in an oil, gas or mining title or lease or
11 in payments out of production under such a title or lease; viatical settlement; or, in
12 general, any interests or instrument commonly known as a security, or any certificate
13 of interest or participation in, temporary or interim certificate for, receipt for
14 guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.
15 Security does not include any insurance or endowment policy or annuity contract
16 under which an insurance company promises to pay a fixed sum of money either in a

1 lump sum or periodically for life or some other specified period.

2 Section 2. That subsection (a)(5) of § 47-31A-402 be amended to read as follows:

3 (5) Any security issued by and representing an interest in or a debt of, or guaranteed by,
4 any insurance company organized under the laws of any state and authorized to do
5 business in this state, and any viatical settlement offered by any company in
6 compliance with Title 58; but this exemption does not apply to an annuity contract,
7 investment contract, or similar security under which the promised payments are not
8 fixed in dollars but are substantially dependent upon the investment results of a
9 segregated fund or account invested in securities;

10