

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0260

HOUSE BILL NO. 1054

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 requirements for the independent audit of
2 insurers.

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

4 Section 1. That chapter 58-43 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this chapter, the term, indemnification, means an agreement of
7 indemnity or a release from liability where the intent or effect is to shift or limit in any manner
8 the potential liability of the person or firm for failure to adhere to applicable auditing or
9 professional standards, whether or not resulting in part from knowing or other
10 misrepresentations made by the insurer or its representatives.

11 Section 2. That § 58-43-9 be amended to read as follows:

12 58-43-9. An accountant shall be recognized as qualified as long as ~~he~~ the accountant
13 conforms to the standards of ~~his~~ the profession, as contained in the Code of Professional Ethics
14 of the American Institute of Certified Public Accountants and the requirements of chapter ~~36~~
15 ~~20A~~ 36-20B and rules promulgated pursuant to that chapter.



1 Section 3. That chapter 58-43 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 No person or firm may be recognized as a qualified independent certified public accountant
4 if the person or firm:

- 5 (1) Is not in good standing with the American Institute of CPA's and in all states in
6 which the accountant is licensed to practice, or, for a Canadian or British company,
7 that is not a chartered accountant; or
8 (2) Has either directly or indirectly entered into an agreement of indemnity or release
9 from liability with respect to the audit of the insurer.

10 Section 4. That chapter 58-43 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 A qualified independent certified public accountant may enter into an agreement with an
13 insurer to have disputes relating to an audit resolved by mediation or arbitration. However, if
14 a delinquency proceeding commenced against the insurer under chapter 58-29B, the mediation
15 or arbitration provisions shall operate at the option of the statutory successor.

16 Section 5. That § 58-4-47 be amended to read as follows:

17 58-4-47. The division shall allow for the sharing of otherwise confidential information,
18 administrative or judicial orders, or other action with other state, federal, and international
19 regulatory officials if those officials are statutorily required to maintain its confidentiality. The
20 division shall cooperate and share all information with respect to domestic companies with other
21 state, federal, and international regulators including committees established by the National
22 Association of Insurance Commissioners which may be reviewing and coordinating regulatory
23 oversight and activities. The division shall also cooperate and share information with respect
24 to domestic companies subject to delinquency proceedings. The division may receive

1 documents, materials, or information, including otherwise confidential and privileged
2 documents, materials, or information from the National Association of Insurance
3 Commissioners, its affiliates, or subsidiaries and from regulatory and law enforcement officials
4 of other foreign or domestic jurisdictions. The division shall maintain as confidential or
5 privileged any document, material, or information received with notice or the understanding that
6 it is confidential or privileged under the laws of the jurisdiction that is the source of the
7 document, material, or information. The director may use the documents, materials, or other
8 information in the furtherance of any regulatory function or legal action brought as a part of the
9 director's duties.