

AN ACT

ENTITLED, An Act to revise certain provisions regarding the property and casualty Insurance Guaranty Association.

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

Section 1. That § 58-29A-2 be amended to read as follows:

58-29A-2. This chapter applies to all kinds of direct insurance, except life, annuity, disability, and health insurance; title insurance; surety or fidelity bonds or insurance, or any other bonding obligations; credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction; mortgage guaranty and financial guaranty, or other forms of insurance offering protection against investment risks; insurance of warranties or service contracts; ocean marine insurance; transactions which separately or in combination result in no transfer of insurance risk; and any insurance provided by or guaranteed or reinsured by any governmental body.

Section 2. That § 58-29A-16 be amended to read as follows:

58-29A-16. The association is obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or causes its cancellation, if the insured does so within thirty days of the determination, but the obligation includes only that amount of each covered claim which is in excess of one hundred dollars and is less than three hundred thousand dollars. However, the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. In no event is the association obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises nor is the association obligated to pay any unearned premium claims beyond twenty-five thousand dollars per policy. Notwithstanding any other provisions of this chapter, a covered

claim does not include any claim filed with the association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

Section 3. That § 58-29A-25 be amended to read as follows:

58-29A-25. No member insurer may be assessed in any year on any account an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account.

Section 4. That chapter 58-29A be amended by adding thereto a NEW SECTION to read as follows:

The association may recover from the following persons the amount of any covered claim paid on behalf of such person pursuant to this chapter:

- (1) Any insured whose net worth on December thirty-first of the year next preceding the date the insurer becomes an insolvent insurer exceeds fifty million dollars and whose liability obligations to other persons, including obligations under workers' compensation insurance coverages, are satisfied in whole or in part by payments made under this chapter; and
- (2) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this chapter.

The term, affiliate, does not include any agent or broker of the insolvent insurer.

Section 5. That § 58-29A-3 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Affiliate," any person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December thirty-first of the year immediately preceding the date the insurer becomes an insolvent insurer.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1048

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1048
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State