

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0258

SENATE COMMERCE COMMITTEE ENGROSSED NO. **HB1048** - 2/21/97

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the property and
2 casualty Insurance Guaranty Association.

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

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

5 58-29A-2. This chapter applies to all kinds of direct insurance, except life, annuity, disability,
6 and health; insurance; title; insurance; surety; or fidelity; disability; bonds or insurance, or any
7 other bonding obligations; credit; insurance, vendors' single interest insurance, or collateral
8 protection insurance or any similar insurance protecting the interests of a creditor arising out of
9 a creditor-debtor transaction; mortgage guaranty; and financial guaranty, or other forms of
10 insurance offering protection against investment risks; insurance of warranties or service
11 contracts; ocean marine insurance; transactions which separately or in combination result in no
12 transfer of insurance risk; and any insurance provided by or guaranteed or reinsured by any
13 governmental body.

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

1 58-29A-16. The association is obligated to the extent of the covered claims existing prior to
2 the determination of insolvency and arising within thirty days after the determination of
3 insolvency, or before the policy expiration date if less than thirty days after the determination,
4 or before the insured replaces the policy or causes its cancellation, if ~~he~~ the insured does so
5 within thirty days of the determination, but ~~such~~ the obligation includes only that amount of each
6 covered claim which is in excess of one hundred dollars and is less than three hundred thousand
7 dollars. However, the association shall pay the full amount of any covered claim arising out of
8 a workers' compensation policy. In no event is the association obligated to a policyholder or
9 claimant in an amount in excess of the obligation of the insolvent insurer under the policy from
10 which the claim arises nor is the association obligated to pay any unearned premium claims
11 beyond twenty-five thousand dollars per policy. Notwithstanding any other provisions of this
12 chapter, a covered claim does not include any claim filed with the association after the final date
13 set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

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

15 58-29A-25. No member insurer may be assessed in any year on any account an amount
16 greater than ~~one~~ two percent of that member insurer's net direct written premiums for the
17 preceding calendar year on the kinds of insurance in the account.

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

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

22 (1) Any insured whose net worth on December thirty-first of the year next preceding the
23 date the insurer becomes an insolvent insurer exceeds fifty million dollars and whose
24 liability obligations to other persons, including obligations under workers'
25 compensation insurance coverages, are satisfied in whole or in part by payments made

1 under this chapter; and

2 (2) Any person who is an affiliate of the insolvent insurer and whose liability obligations
3 to other persons are satisfied in whole or in part by payments made under this chapter.

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

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

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

1 **BILL HISTORY**

2 1/14/97 First read in House and referred to Commerce. H.J. 31

3 1/21/97 Scheduled for Committee hearing on this date.

4 1/21/97 Deferred to another day.

5 1/23/97 Scheduled for Committee hearing on this date.

6 1/23/97 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 88

7 1/23/97 Commerce Place on Consent Calendar. H.J. 88

8 1/27/97 House of Representatives Do Pass, Passed, AYES 66, NAYS 1. H.J. 161

9 1/28/97 First read in Senate and referred to Commerce. S.J. 201

10 2/20/97 Commerce Do Pass Amended, Passed, AYES 4, NAYS 1. S.J. 548