

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0201

## HOUSE BILL NO. 1021

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 the record retention period for certain insurance  
2 licensees and registrants.

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

4 Section 1. That § 58-30-127 be amended to read as follows:

5 58-30-127. No managing general agent may place business with an insurer unless there is in  
6 force a written contract between the parties which sets forth the responsibilities of each party and  
7 specifies the division of common or shared responsibilities. The contract shall contain the  
8 following minimum provisions:

- 9 (1) The insurer may terminate the contract for cause upon written notice to the managing  
10 general agent. The insurer may suspend the underwriting authority of the managing  
11 general agent during the pendency of any dispute regarding the cause for termination;
- 12 (2) The managing general agent shall render accounts to the insurer detailing all  
13 transactions and remit all funds due under the contract to the insurer on not less than  
14 a monthly basis;
- 15 (3) All funds collected for the account of an insurer shall be held by the managing general



1 agent in an escrow account in a bank which is a qualified United States financial  
2 institution as defined in § 58-30-139. This account shall be used for all payments on  
3 behalf of the insurer. The managing general agent may retain no more than three  
4 months estimated claims payments and allocated loss adjustment expenses;

5 (4) Separate records of business written by the managing general agent shall be  
6 maintained. The insurer shall have access and right to copy all accounts and records  
7 related to its business in a form usable by the insurer and the director shall have access  
8 to all books, bank accounts, and records of the managing general agent in a form  
9 usable to the director. Records shall be retained for ~~three~~ five years ~~or until examined,~~  
10 ~~whichever is later;~~

11 (5) The contract may not be assigned in whole or part by the managing general agent;

12 (6) Appropriate underwriting guidelines including:

- 13 (a) The maximum annual premium volume;
- 14 (b) The basis of the rates to be charged;
- 15 (c) The types of risks which may be written;
- 16 (d) Maximum limits of liability;
- 17 (e) Applicable exclusions;
- 18 (f) Territorial limitations;
- 19 (g) Policy cancellation provisions; and
- 20 (h) The maximum policy period; and

21 (7) Timely transmission of electronic claims files.

22 The insurer may cancel or nonrenew any policy of insurance subject to the applicable laws  
23 and regulations concerning the cancellation and nonrenewal of insurance policies.

24 Section 2. That chapter 58-1 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any insurer, nonprofit, surgical, dental or hospital plan, a health maintenance organization,  
3 or any other person required to be licensed or registered under this title shall retain all books and  
4 records that are subject to examination pursuant to this title for a period of not less than five  
5 years.