

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0343

## HOUSE BILL NO. 1027

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 residency requirements regarding the  
2 issuance and renewal of insurance.

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

4 Section 1. That § 58-17-85 be amended to read as follows:

5 58-17-85. If a person has an aggregate of at least twelve months of creditable coverage and  
6 is a resident of this state, the carrier shall accept such person for coverage under a health benefit  
7 plan, which contains benefits which are equal to or exceed the benefits contained in the basic plan  
8 that was approved and adopted by rule by the director pursuant to chapter 1-26 and the  
9 maximum lifetime maximum benefit of the coverage is not less than one million dollars if the  
10 person applies within sixty-three days of the date of losing prior creditable coverage. In addition  
11 to the plan which equals or exceeds the basic coverage, the carrier shall also offer to the eligible  
12 person, the individual standard plan as approved and adopted by rule by the director or a plan  
13 with benefits that exceed the standard plan. No carrier is required to issue further individual  
14 health benefit coverage under §§ 58-17-68 to 58-17-87, inclusive, if the individual health benefit  
15 plans issued to high-risk individuals constitute two percent or more of that carrier's earned



1 premium on an annual basis from individual health benefit plans covered by §§ 58-17-66 to  
2 58-17-87, inclusive. Each carrier who meets the two percent earned premium threshold shall  
3 report within thirty days to the director in a format prescribed by the director. If the director  
4 determines that all carriers in the individual market have met the two percent threshold, the  
5 threshold shall, upon order of the director, be expanded an additional two percent. The threshold  
6 shall be expanded in additional two percent increments if all carriers in the individual market  
7 meet the previous threshold. The director may promulgate rules pursuant to chapter 1-26 to  
8 determine which individual policies may be used to determine the two percent threshold, the  
9 procedures involved, and the applicable time frames. In making that determination, the director  
10 shall develop a method designed to limit the number of high-risk individuals to whom any one  
11 carrier may be required to issue coverage. No carrier is required to provide coverage pursuant  
12 to this section if:

- 13 (1) The applicant is eligible for continuation of coverage under an employer plan;
- 14 (2) The applicant's creditable coverage is a conversion plan from an employer group plan;
- 15 (3) The person is covered or eligible to be covered under creditable coverage or lost  
16 creditable coverage due to nonpayment of premiums; or
- 17 (4) The person loses coverage under a short term or limited duration plan.

18 Any person who has exhausted continuation rights and who is eligible for conversion or other  
19 individual or association coverage has the option of obtaining coverage pursuant to this section  
20 or the conversion plan or other coverage. A person who is otherwise eligible for the issuance of  
21 coverage pursuant to this section may not be required to show proof that coverage was denied  
22 by another carrier.

23 For purposes of this section, a carrier may require reasonable evidence that the prospective  
24 insured is a resident of this state. Factors that the carrier may consider include a driver's license,

1 voter registration, and where the prospective insured resides.

2 Section 2. That § 58-11-55 be amended to read as follows:

3 58-11-55. Except as provided in §§ 58-11-55.1 and 58-11-55.2, no insurer may refuse to  
4 issue or to renew a policy or certificate solely because of the age, residence, race, color, creed,  
5 national origin, ancestry, occupation, or marital status of the applicant or the insured. Violation  
6 of this section is a Class 2 misdemeanor. Nothing in this section requires an insurer to issue or  
7 renew a policy or certificate to a person who is not a resident of this state.