

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

364Q0052

HOUSE BILL NO. 1114

Introduced by: Representatives Dreyer, Burg, Dennert, Faehn, Hoffman, Hunt, Kirkeby, Lucas, Lust, Moser, Nygaard, Pitts, Rausch, Rave, Street, Tidemann, and Verchio and Senators Gant, Dempster, Garnos, Gray, Hansen (Tom), Hanson (Gary), Howie, Knudson, Maher, Merchant, Nelson, Olson (Russell), Peterson, Rhoden, and Vehle

1 FOR AN ACT ENTITLED, An Act to allow a broker to form certain business entities under
2 certain conditions.

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

4 Section 1. That § 36-21A-46.1 be amended to read as follows:

5 36-21A-46.1. A broker may, or a real estate salesperson or broker associate employed by or
6 otherwise associated with a broker may, form a business corporation or limited liability
7 company under the following conditions:

- 8 (1) The business corporation or limited liability company does not engage in real estate
9 transactions as a third-party agent or in any other capacity requiring a license under
10 this chapter;
- 11 (2) The business corporation or limited liability company does not advertise or otherwise
12 hold itself out as a real estate brokerage company;
- 13 (3) The employing or associating broker is not relieved of any obligation to supervise the



1 employed or associated licensee or any other requirement of this chapter or the rules
2 adopted pursuant to this chapter;

3 (4) The employed or associated licensee is not relieved of any personal liability for any
4 licensed activities by interposing the corporate or limited liability form;

5 (5) The business corporation or limited liability company is owned solely by a broker,
6 an individual real estate salesperson, or broker associate, or by that ~~person~~ licensee
7 and that person's licensee's spouse, or by that ~~person licensee~~ and other salespersons
8 and broker associates licensees within the same firm as that ~~person licensee~~ licensee; and

9 (6) The business corporation or limited liability company is approved by and registered
10 with the commission. The registration fee for an approved business corporation or
11 limited liability company shall be established by rule promulgated pursuant to
12 chapter 1-26. The fee may not exceed one hundred dollars.