House
Daily Reader

Monday, 25, 2010

Bills Included				
HB 1021	HB 1029	HB 1037		

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0241

HOUSE EDUCATION ENGROSSED NO. HB 1021 - 1/20/2010

Introduced by: The Committee on Education at the request of the Department of Education

FOR AN ACT ENTITLED, An Act to authorize the deposit of federal special education funds into the capital outlay fund for the purchase of equipment for the purpose of special education and to declare an emergency.

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

Section 1. That § 13-37-8.10 be amended to read as follows:

13-37-8.10. Payments <u>from state and local sources</u> received by a school district for special education, including minimum foundation funds based upon tuition paid for children in need as provided in chapter 13-37, shall be credited to the special education fund of the school district. <u>Any payment from federal sources received by a school district for special education may be credited to either the special education fund or the capital outlay fund for any equipment purchase for special education approved by the state Department of Education.</u>

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

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State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0225

HOUSE HEALTH AND HUMAN SERVICES

ENGROSSED NO. HB 1029 - 1/21/2010

Introduced by: The Committee on Health and Human Services at the request of the Department of Human Services

FOR AN ACT ENTITLED, An Act to authorize the Board of Social Worker Examiners to deny, suspend, or revoke applications for licensure or licenses under certain circumstances and repeal certain physical examination provisions.

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

Section 1. That § 36-26-32 be amended to read as follows:

36-26-32. The ~~license of~~ board may deny, revoke, suspend, or cancel any license or application for licensure to practice as a certified social worker, social worker, or social work associate ~~may be revoked, suspended, or canceled~~ and may take such other disciplinary or corrective action as the board deems appropriate upon any one or more of the following grounds:

(1) The licensee is guilty of fraud in the practice of social work or fraud or deceit in ~~his~~ the licensee's admission to the practice of social work;

(2) The licensee or applicant has been convicted during the past five years of a felony. The conviction of a felony shall be the conviction of any offense, which if committed

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within the State of South Dakota would constitute a felony under the laws thereof;

(3) The licensee is engaged in the practice of social work under a false or assumed name and has not registered that name pursuant to chapter 37-11, or is impersonating another practitioner of a like or different name;

(4) The licensee or applicant is addicted to the ~~habitual~~ use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate him or her from the performance of his or her professional duties;

(5) The physical or mental condition of the licensee or applicant is determined by a competent medical examiner to be such as to jeopardize or endanger those who seek relief from the licensee or applicant. A majority of the board may demand an examination of the licensee or applicant by a competent medical examiner selected by the board at the board's expense. If the licensee or applicant fails to submit to ~~said~~ the examination, this shall constitute immediate grounds for suspension of the licensee's license or denial of the application for licensure;

(6) The licensee has been found in violation of the code of ethics of the National Association of Social Workers;

(7) Obtaining or attempting to obtain a license, certificate, or renewal thereof by bribery or fraudulent representation;

(8) Knowingly making a false statement in connection with any application under this chapter;

(9) Knowingly making a false statement on any form promulgated by the board in accordance with this chapter or the rules ~~and regulations~~ promulgated under this chapter; ~~and~~

(10) The licensee or applicant has violated any provision of this chapter or the rules ~~and~~

~~regulations~~ promulgated ~~hereunder~~ under this chapter; and

(11) Cancellation, revocation, suspension, or refusal to renew a certificate, license, or permit to engage in the practice of social work in any other state for any cause.

Section 2. That § 36-26-20 be repealed.

~~36-26-20. If a majority of the board members have reason to suspect that the physical or mental health of any applicant is such as to jeopardize or endanger those who seek assistance from him or her, then the board shall require the applicant to forthwith have a physical examination by a competent medical examiner selected by the said board. The board shall pay the cost of such examination. If the medical examiner confirms that said person's physical or mental health is such as to jeopardize or endanger those who seek relief from the applicant, the board shall have authority to deny the application for a license until the applicant furnishes satisfactory proof of being physically and mentally competent and sound to practice social work.~~

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0236

HOUSE COMMERCE ENGROSSED NO. HB 1037 -
1/20/2010

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

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding insurance producer licensing.

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

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

58-2-29. The director of the Division of Insurance shall collect in advance, and persons so served shall pay to the director in advance, fees, licenses, and miscellaneous charges as follows:

(1) Certificate of authority of insurer:

(a) Application for original certificate of authority:

For filing application for certificate of authority, articles of incorporation, and other charter documents, bylaws, financial statements, examination reports, power of attorney to the director, and all other documents and filings required in connection with such application: $500.00

(b) Issuance of original certificate of authority 25.00

(c) Annual renewal of certificate of authority 25.00

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(d) Reinstatement of certificate of authority 25.00

(e) Amendment or reissuance of certificate of authority 25.00

(f) Annual audit 500.00

This fee to be reduced by the total dollar amount of premium taxes remitted in each calendar year. The fee is waived for all licensed insurers remitting five hundred dollars or more in premium taxes in a calendar year.

(2) Filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation 10.00

(3) Filing bylaws or amendments thereto 5.00

(4) Filing annual statement of insurer, other than as part of application for original certificate of authority 25.00

(5) Insurance producers and solicitors:

(a) Insurance producer's license, including also disability insurance when written by property, casualty, or surety insurer otherwise represented by the insurance producer:

(i) Filing application for original license, and including issuance of license, if issued 25.00

(ii) Original appointment of insurance producer, each insurer 10.00

(iii) Annual renewal of appointment, each insurer:

Domestic insurer 10.00

Foreign insurer 10.00

(iv) Temporary license 10.00

(b) Insurance producer's license, life or health insurance, including both life and

disability insurance when so licensed as to the same insurer:

(i) Application for original license, including issuance of license, if issued, each insurer 25.00

(ii) Original appointment of insurance producer, each insurer 10.00

(iii) Annual renewal of appointment, each insurer:

Domestic insurer 10.00

Foreign insurer 10.00

(iv) Temporary license 10.00

(c) Limited license as insurance producer:

(i) Motor vehicle physical damage... Same as for insurance producer's license

(ii) Accident ticket policies, each insurer each year 10.00

(iii) Baggage ticket policies, each insurer each year 10.00

(iv) Credit insurance... Same as for insurance producer license

(d) Examination for license, each examination and each time taken 10.00

(e) Nonresident insurance producer license:

(i) Original license 30.00

(ii) ~~Annual~~ Biennial renewal of license ..... ~~25.00~~ 50.00

(iii) Appointments, each insurer 20.00

(iv) Annual renewal of appointments, each insurer 20.00

(f) Resident insurance producer, original license 25.00

(i) Biennial continuing education fee, license renewal 20.00

(g) Corporation or partnership license:

(i) Original license 25.00

(ii) Appointment, each insurer 10.00

(iii) Annual renewal of appointment, each insurer 10.00

(h) Nonresident corporation or partnership license:

(i) Original license 30.00

(ii) Appointment, each insurer 20.00

(iii) Annual renewal of appointment, each insurer 20.00

(6) Insurance vending machine license, each machine, each year 20.00

(7) Surplus line broker's license, application for original license including issuance of license, if issued 50.00

(a) ~~Annual~~ Biennial renewal of license ..... ~~50.00~~ 100.00

(8) Rating bureau, original license 25.00

(a) Annual renewal of license 35.00

(9) Examination of rating bureau... Same fees as provided in this chapter for examination of foreign insurance companies.

(10) Farm mutuals:

(a) Application for original certificate of authority: For filing application for certificate of authority, articles of incorporation, and all other documents and filings required in connection with such application, and for issuance of an original certificate of authority, if issued 25.00

(b) Annual renewal of certificate of authority 10.00

(c) Filing annual statement 5.00

(11) Broker's license as attorney in fact of a reciprocal or interinsurance exchange 20.00

(12) Miscellaneous services:

(a) For a copy of any paper filed in the insurance division, for which another price is not set by statute, each page 75

(b) Director's sworn certificate, except when on certificates of authority or licenses 10.00

(c) For receiving and forwarding copy of summons or other process served upon the director, as process agent of an insurer or nonresident insurance producer 10.00

(13) Application for continuing education course approval 25.00

Section 2. The code counsel shall transfer §§ 58-9-34 to 58-9-45, inclusive, to chapter 58-30.

Section 3. That § 58-30-8 be repealed.

~~58-30-8. In terminating an insurance producer, corporation, or partnership appointment, the insurer shall promptly give written notice of the termination of the appointment, including a statement of the facts and causes of the termination and the effective date of the cancellation of the insurance producer contract if applicable to the director of the Division of Insurance, and to the insurance producer if reasonably possible. The director may require of the insurer reasonable proof that the insurer has given the notice to the insurance producer.~~

~~Any statement made on the prescribed form to the director is privileged information and is not admissible in evidence in any action or proceeding, nor may any insurance producer, agency, partnership, or corporation whose appointment has been terminated sue the insurer or any of its officers, directors, or employees by reason of the furnishing of the information to the director. Nothing in this section affects the terms and conditions of any contract between an insurer and its insurance producer, including any provisions chosen by the parties dealing with the employment of or reasons for termination of insurance producers.~~

~~Any insurer who fails, neglects, or refuses to promptly supply the information or knowingly supplies false information pursuant to this section is guilty of a Class 2 misdemeanor.~~

Section 4. That § 58-30-68 be amended to read as follows:

58-30-68. The director may issue to an applicant qualified therefor under this title a limited lines insurance producer's license ~~as follows:~~

~~(1) To transportation ticket-selling agents of common carriers, covering personal accident insurance under ticket policies;~~

~~(2) To transportation ticket-selling agents of common carriers, covering baggage insurance;~~

~~(3) Travel accident insurance producers of motor service clubs~~ for the following types of insurance:

(1) Credit insurance as defined in § 58-30-142;

(2) Crop insurance as defined in § 58-30-142;

(3) Rental car insurance as defined in § 58-9-35; and

(4) Travel insurance as defined in § 58-30-142.

Section 5. That § 58-30-74 be amended to read as follows:

58-30-74. ~~All licenses and appointments~~ Each license or appointment issued under this title shall continue in force until expired, suspended, revoked, or otherwise terminated, whichever is applicable, but ~~are~~ is subject to renewal by payment to the director annually or biennially of the applicable fee as stated in § 58-2-29 upon notice by the director. ~~Any request for renewal of a surplus line broker license shall be made by the licensee.~~

Section 6. That § 58-30-100 be repealed.

~~58-30-100. In addition to the qualifications and requirements therefor referred to in §§ 58-30-95 to 58-30-99, inclusive, the issuance of a nonresident insurance producer's license is~~

~~subject to the conditions set forth in §§ 58-30-101 and 58-30-104.~~

Section 7. That § 58-30-114 be amended to read as follows:

58-30-114. Terms, as used in §§ 58-30-114 to 58-30-121, inclusive, mean:

(1) "Director," the director of the Division of Insurance;

(2) "Instructor," any individual who teaches, lectures, or otherwise instructs an insurance education offering;

(3) "Licensee," any individual who is licensed by the Division of Insurance as a resident insurance producer; <u>and</u>

(4) "Sponsor," any person, offering or providing insurance education or related activity~~; and~~

~~(5) "Two-year period," twenty-four months commencing on April 1, 1986, and each succeeding twenty-four month period. The twenty-four month period ending on March 31, 2000, is extended through April 30, 2000. Each succeeding twenty-four month period thereafter shall commence on May first~~.

Section 8. That § 58-30-115 be amended to read as follows:

58-30-115. The provisions of §§ 58-30-114 to 58-30-121, inclusive, do not apply to the following persons:

(1) Licensees for whom an examination is not required under the laws of this state. However, persons who are excused from the examination under subdivisions 58-30-52(1), (2), and (3) may not be exempt;

(2) ~~Persons excepted from licensing requirements as defined in §§ 58-30-5 and 58-30-5.1;~~

~~(3)~~ Licensees over age sixty-five, if they have been licensed with the Division of Insurance for a period of at least ten years, and do not sell, solicit, or negotiate

insurance; and

~~(4)~~(3) Licensees holding limited or restricted licenses, as the director of the Division of Insurance may determine except as provided by subdivision 58-30-116(2).

Section 9. That § 58-30-116 be amended to read as follows:

58-30-116. ~~In each two-year period, each~~ Biennially, beginning April 1, 2012, on the last day of the licensee's birth month, the licensee shall furnish evidence to the director of the Division of Insurance that the licensee has satisfactorily completed the following continuing education requirements:

(1) Any licensee who holds a property casualty life, accident/health, or variable contract qualification shall obtain a minimum of ten continuing education credit hours in courses certified for each such classification. However, no more than twenty hours of continuing education may be required of any licensee holding multiple insurance producer licenses; and

(2) Any licensee who holds only a crop hail qualification shall obtain a minimum of four credit hours certified for that line.

Section 10. That § 58-30-121 be amended to read as follows:

58-30-121. The Division of Insurance shall charge each licensee an additional fee of twenty dollars upon renewal of the license. ~~The fee is due on May 1, 2004, and at the beginning of each succeeding twenty-four-month period. Beginning in 2008 and each succeeding twenty-four month period, the fee is due on April thirtieth.~~ Beginning April 1, 2012, the fee as defined in § 58-2-29 is due on the last day of the licensee's birth month and for each succeeding twenty-four month period. The fee shall be deposited in a separate account, entitled the South Dakota insurance producer's continuing education fund, as funding for the administration of the continuing education program. The director may withhold or not renew the license of any

licensee who fails to tender timely payment of the fee.

Section 11. That § 58-30-142 be amended to read as follows:

58-30-142. Terms used in §§ 58-30-141 to 58-30-195, inclusive, mean:

(1) "Agent of the insurer," any insurance producer who is compensated directly or indirectly by an insurer and sells, solicits, or negotiates any product of that insurer;

(2) "Agent of insured," any insurance producer or person who secures compensation from an insured or insurance customer only and receives no compensation directly or indirectly from an insurer for a transaction with that insured or insurance customer;

(3) "Business entity," a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity;

(4) "Credit insurance," insurance that includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the director determines should be designated a form of limited line credit insurance;

(5) "Crop insurance," insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightening, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance;

(6) "Home state," the District of Columbia and any state or territory of the United States in which an insurance producer maintains the insurance producer's principal place of

residence or principal place of business and is licensed to act as an insurance producer;

~~(5) "Limited line credit insurance," includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance director determines should be designated a form of limited line credit insurance;~~

~~(6) "Limited line credit insurance producer," any person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy;~~

~~(7) "Limited lines insurance," those lines of insurance defined in § 58-30-68 or any other line of insurance that the insurance director may deem it necessary to recognize for the purposes of complying with § 58-30-163;~~

~~(8)~~(7) "Limited lines producer," any person authorized by the ~~insurance~~ director to sell, solicit, or negotiate limited lines insurance;

~~(9)~~(8) "Negotiate," the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;

~~(10)~~(9) "Sell," to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;

~~(11)~~(10) "Solicit," attempting to sell insurance or asking or urging a person to apply for

a particular kind of insurance from a particular company;

~~(12)~~(11) "Terminate," the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance;

(12) "Travel insurance," insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

Section 12. That § 58-30-152 be amended to read as follows:

58-30-152. Unless denied licensure pursuant to § 58-30-167, any person who has met the requirements of §§ 58-30-145 to 58-30-151, inclusive, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life--insurance coverage on human lives including benefits of endowment and annuities and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health or sickness--insurance coverage for sickness, bodily injury, or accidental death and may include benefits in the event of death or dismemberment by accident and for disability income;

(3) Property--insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) Casualty--insurance coverage against legal liability, including that for death, injury, or disability, damage to real or personal property, or fidelity and surety bonds;

(5) Variable life and variable annuity products--insurance coverage provided under

variable life insurance contracts and variable annuities;

(6) ~~Commercial lines--property and casualty insurance coverage sold to businesses including farming, professionals, and other commercial enterprises;~~

~~(7)~~ Personal lines--property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

~~(8) Credit--limited line credit insurance;~~

(7) Limited lines;

~~(9)~~(8) Any other line of insurance permitted under state laws or rules.

Section 13. That § 58-30-163 be amended to read as follows:

58-30-163. ~~Notwithstanding any other provision of §§ 58-30-141 to 58-30-195, inclusive, a person licensed as a limited line credit insurance producer or other type of limited lines insurance producer in the person's home state is entitled to receive a nonresident limited lines insurance producer license if eligible pursuant to § 58-30-159 granting the same scope of authority as granted under the license issued by the insurance producer's home state. For the purposes of this section, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to subdivisions 58-30-152(1) to (7), inclusive.~~ The director shall waive any requirements for a nonresident license applicant with a valid license from the applicant's home state, except for the requirements imposed by § 58-30-159, if the applicant's home state awards nonresident licenses to residents of this state on the same basis. The director may issue a resident license for a type of license not specified in this title to a person for insurance activities which do not require licensure in this state provided that another state which that person does insurance business in requires such license.

Section 14. That § 58-30-180 be amended to read as follows:

58-30-180. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer shall notify the director within thirty days following the effective date of the termination, using a format prescribed by the director. In addition, an insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the director within thirty days following the effective date of the termination, using a format prescribed by the director, if a reason for termination is one of the reasons set forth in § 58-30-167 or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in § 58-30-167. Upon the written request of the director, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the insurance producer~~ pursuant to § 58-30-8, such~~. Such information~~ is~~, documents, records, or other data are confidential pursuant to § 58-30-187.