

AN ACT

ENTITLED, An Act to clarify governmental ownership of insurance companies upon certain findings by the director of the Division of Insurance.

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

Section 1. That § 58-6-10 be amended to read as follows:

58-6-10. Except for instrumentalities of the United States government, no insurer, the voting control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency, may transact insurance in this state, unless, upon verified application by the insurer, the director finds that:

- (1) The insurer is not subject to any form of subsidy that would enable it to compete unfairly with domestic insurers;
- (2) The insurer is not subject to governmental practices that discriminate on the basis of race, color, creed, or national origin;
- (3) The ownership or financial control does not create the presence of any sovereign immunity in the insurer;
- (4) The insurer has agreed to waive sovereign immunity as a defense should it exist for any action by or against the director pursuant to the director's regulatory authority under Title 58;
- (5) The insurer has agreed that it will exhaust all administrative remedies and will neither commence in, nor remove to, federal court any action by or against the director pursuant to the director's regulatory authority under Title 58;
- (6) Appropriate measures and controls exist to avoid security problems resulting from an insurer's access to confidential information and data of its insured; and
- (7) The ownership or financial control does not result in substantial or undue influence

being asserted over the insurer.

Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by public insurance supervisory authority does not constitute ownership, control, or operation of the insurer for the purposes of this section. Nothing contained in this section prohibits or affects self insurance by school districts as provided in § 13-10-3, or by municipalities as provided in § 9-14-30. The failure of any applicant under this section to submit all information requested by the director pursuant to this section and the director's regulatory authority under Title 58 relevant to any finding to be made under this section is sufficient to deny the application.

An Act to clarify governmental ownership of insurance companies upon certain findings by the director of the Division of Insurance.

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I certify that the attached Act
originated in the
SENATE as Bill No. 107

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 107
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State