

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

463A0484

SENATE BILL NO. 107

Introduced by: Senator Shoener and Representative Roe

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

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

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

5 58-6-10. Except for instrumentalities of the United States government, no insurer, the voting
6 control or ownership of which is held in whole or substantial part by any government or
7 governmental agency, or which is operated for or by any such government or agency, ~~shall be~~
8 ~~authorized to~~ may transact insurance in this state, unless, upon verified application by the insurer,
9 the director finds that:

10 (1) The insurer is not subject to any form of subsidy that would enable it to compete
11 unfairly with domestic insurers;

12 (2) The insurer is not subject to governmental practices that discriminate on the basis of
13 race, color, creed, or national origin;

14 (3) The ownership or financial control does not create the presence of any sovereign
15 immunity in the insurer;

16 (4) The insurer has agreed to waive sovereign immunity as a defense should it exist for

1 any action by or against the director pursuant to the director's regulatory authority
2 under Title 58;

3 (5) The insurer has agreed that it will exhaust all administrative remedies and will neither
4 commence in, nor remove to, federal court any action by or against the director
5 pursuant to the director's regulatory authority under Title 58;

6 (6) Appropriate measures and controls exist to avoid security problems resulting from an
7 insurer's access to confidential information and data of its insured; and

8 (7) The ownership or financial control results in substantial or undue influence being
9 asserted over the insurer.

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