

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

537B0450

HOUSE BILL NO. 1222

Introduced by: Representatives Schaunaman, Cutler, Duxbury, Hunt, Sperry, and Waltman and
Senators Lawler, Dennert, and Munson (David)

1 FOR AN ACT ENTITLED, An Act to regulate the treatment of the loans and other assets of
2 any qualified education loan insurer during receivership, rehabilitation, or liquidation.

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

4 Section 1. That chapter 58-29B be amended by adding thereto a NEW SECTION to read
5 as follows:

6 For the purposes of this Act, the term, qualified education loan insurer, means a domestic
7 stock insurer formed under chapter 58-5 for the principal purposes of transacting surety
8 insurance, in this state only, in the education loan market and principally or beneficially owning
9 or through a wholly-owned subsidiary investing in education loans. The term, education loan,
10 means any loan to a borrower for education purposes, including any loan originated in
11 accordance with the terms of the Higher Education Act of 1965, as amended.

12 Section 2. That chapter 58-29B be amended by adding thereto a NEW SECTION to read
13 as follows:

14 Notwithstanding the other provisions of chapter 58-29B, for the purposes of determining:

15 (1) If a qualified education loan insurer has, in any transaction involving the transfer of

1 any education loans or other assets, sold such education loans or other assets or
2 pledged such education loans or other assets to secure indebtedness of the qualified
3 education loan insurer; and

4 (2) If a wholly owned subsidiary of a qualified education loan insurer shall be treated as
5 a separate entity, distinct from the qualified education loan insurer, or the subsidiary's
6 assets and liabilities shall be consolidated with the assets and liabilities of the qualified
7 education loan insurer, this Act shall be construed as referring to available and
8 analogous case law under the federal bankruptcy code for making determinations in
9 any receivership, rehabilitation, or liquidation of the qualified education loan insurer.