

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

447E0374

HOUSE BILL NO. 1215

Introduced by: Representatives Lange, Burg, Flowers, Glenski, Hanson (Gary), Hargens, Kloucek, Kooistra, Nachtigal, Olson (Mel), Peterson (Jim), Sigdestad, and Van Norman and Senators Hutmacher, Dennert, Koetzle, Moore, Reedy, and Symens

1 FOR AN ACT ENTITLED, An Act to repeal the prohibition of certain disclosures by a state
2 agency of information concerning a private entity.

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

4 Section 1. That § 1-27-28 be repealed.

5 ~~— 1-27-28. Terms used in §§ 1-27-29 to 1-27-32, inclusive, mean:~~

6 ~~— (1) "Private entity," any person or entity that is not a public entity as defined by~~
7 ~~subdivision 3-21-1(2);~~

8 ~~— (2) "State agency," each association, authority, board, commission, committee, council,~~
9 ~~department, division, state office, task force, and their officers, legal representatives,~~
10 ~~consultants, or other agents. The term does not include the Legislature, the Unified~~
11 ~~Judicial System, any law enforcement agency, or any unit of local government.~~

12 Section 2. That § 1-27-29 be repealed.

13 ~~— 1-27-29. A state agency which is authorized by law to investigate, examine, or audit the~~
14 ~~papers, books, records, financial condition, or other information held by or concerning a private~~

1 entity may not disclose that it is conducting such an investigation, examination, or audit, except
2 as provided by §§ 1-27-28 to 1-27-32, inclusive.

3 Section 3. That § 1-27-30 be repealed.

4 ~~1-27-30. All information obtained from or concerning the private entity by the state agency~~
5 ~~as a result of such an investigation, examination, or audit is confidential, except as provided by~~
6 ~~§§ 1-27-28 to 1-27-32, inclusive.~~

7 Section 4. That § 1-27-31 be repealed.

8 ~~1-27-31. A state agency may not disclose that it is investigating, examining, or auditing a~~
9 ~~private entity, and may only disclose the information obtained from such an investigation,~~
10 ~~examination, or audit as follows:~~

11 ~~(1) To the private entity being investigated, examined, or audited;~~

12 ~~(2) To those persons whom the private entity has authorized in writing to receive such~~
13 ~~information;~~

14 ~~(3) To the officers, employees, or legal representatives of any other state agency which~~
15 ~~requests the information in writing for the purpose of investigating and enforcing civil~~
16 ~~or criminal matters. The written request will specify the particular information desired~~
17 ~~and the purpose for which the information is requested;~~

18 ~~(4) To any administrative or judicial body if the information is directly related to the~~
19 ~~resolution of an issue in the proceeding, or pursuant to an administrative or judicial~~
20 ~~order. However, no person may use a subpoena, discovery, or other applicable~~
21 ~~statutes to obtain such information;~~

22 ~~(5) To another state pursuant to an agreement between the State of South Dakota and~~
23 ~~the other state, but only if the other state agrees to keep the information confidential~~
24 ~~as set forth in §§ 1-27-28 to 1-27-32, inclusive;~~

1 ~~(6) To the attorney general, state's attorney, or any state, federal, or local law~~
2 ~~enforcement officer;~~

3 ~~(7) To a federal agency pursuant to the provisions of federal law;~~

4 ~~(8) To the extent necessary to submit any final reports or filings which are otherwise~~
5 ~~required by law to be prepared or filed;~~

6 ~~(9) For investigations to protect the natural resources of the state; or~~

7 ~~(10) To comply with federal law, rules, or program delegation requirements.~~

8 Section 5. That § 1-27-32 be repealed.

9 ~~1-27-32. Disclosure of information made confidential by §§ 1-27-28 to 1-27-32, inclusive,~~
10 ~~except as provided in § 1-27-31, is a Class 6 felony.~~