

AN ACT

ENTITLED, An Act to establish standards for disability income insurance.

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

Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this Act, the term, disability income insurance, means a policy or certificate of insurance that primarily provides payment to or for the benefit of the policyholder or certificate holder based, in whole or in part, upon lost wages or other earned income or business or financial losses as a result of an inability to work due to sickness, injury, or a combination of sickness and injury.

Section 2. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

Any disability income insurance policy may include provisions that exclude or reduce benefits if the insured is collecting other benefits under a government program or is eligible to receive benefits under other insurance coverage. If the insured subsequently receives other benefits for a period for which the insurer paid benefits, the insurer may require reimbursement from the insured for any benefits already paid that otherwise would not have been paid. If the insured fails to make timely application for any other insurance coverage or governmental program for which that insured may be eligible, fails to actively and in good faith pursue all appeals procedures if benefits under other insurance or governmental program have been denied, or fails to produce satisfactory evidence that the applications have been made and the appeals pursued, benefits may be reduced or withheld.

Section 3. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

No disability income insurance policy may require the loss to commence less than thirty days after

the date of the accident.

Section 4. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

Except for overhead expense, buy-sell coverage or other similar business disability income insurance coverage, a disability income insurance policy shall meet the following minimum standards:

- (1) Provide that periodic payments that are payable at ages after sixty-two and reduced solely on the basis of age are at least fifty percent of the amounts payable immediately prior to age sixty-two or in the case of an employer group plan that has twenty or more employees, that periodic payments are actuarially equivalent regardless of age;
- (2) Contain an elimination period no greater than:
 - (a) Ninety days in the case of coverage providing a benefit of one year or less;
 - (b) One hundred eighty days in the case of coverage providing a benefit of more than one year but not greater than two years;
 - (c) Three hundred sixty-five days in the case of coverage providing a benefit of more than two years but not greater than five years; or
 - (d) Seven hundred thirty days in the case of coverage providing a benefit greater than five years resulting from sickness or injury;
- (3) Provide a maximum benefit period of at least six months for long-term disability income insurance and at least twelve weeks for short-term disability income insurance. However, in the case of a policy covering disability arising out of pregnancy, childbirth, or miscarriage, the maximum benefit period may be one month, except if the plan is an employer plan with fifteen or more employees, then the maximum benefit period for pregnancy, childbirth, or miscarriage may not be less than the maximum benefit period for other covered disabilities;

- (4) Include no reduction in benefits because of any cost of living increase in social security or similar benefits during a benefit period;
- (5) Require only one elimination period if a policy provides total disability income benefits and partial disability income benefits.

A long-term disability income insurance policy may have longer elimination periods if the policy is issued in conjunction with or supplemental to a limited duration self-insured or other short-term disability income policy. The provisions of this section do not apply to an employer plan if at least fifty percent of the covered employee's disability income benefits are subject to federal income taxes.

Section 5. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

The director may promulgate rules pursuant to chapter 1-26 to protect the insurance-buying public with regard to disability income policies. However, the director shall take into account the effect any such rule may have on the availability of coverage. The rules may include:

- (1) Definition of terms;
- (2) Permissible exclusions;
- (3) Return of premium provisions;
- (4) Terms of renewability;
- (5) Disclosure requirements;
- (6) Benefit triggers, if such rules permit the use of activities of daily living as an acceptable benefit trigger; and
- (7) Limitations, exceptions, and reductions.

An Act to establish standards for disability income insurance.

I certify that the attached Act originated in the

SENATE as Bill No. 39

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 39

File No. _____

Chapter No. _____

Received at this Executive Office this ____ day of _____,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____, A.D., 20__

Governor

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

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State