

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

553I0653

## SENATE BILL NO. 167

Introduced by: Senators Dempster and Sutton (Dan) and Representatives Williamson, Engels,  
and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise the determination of minimum nonforfeiture  
2 amounts for individual deferred annuities and to provide for a sunset of the revision.

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

4 Section 1. That § 58-15-74 be amended to read as follows:

5 58-15-74. The minimum values as specified in §§ 58-15-75 to 58-15-80, inclusive, of any  
6 paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be  
7 based upon minimum nonforfeiture amounts as defined in this section:

8 (1) With respect to contracts providing for flexible considerations, the minimum  
9 nonforfeiture amount at any time at or prior to the commencement of any annuity  
10 payments shall be equal to an accumulation up to such time at a rate of interest of  
11 three percent per annum of percentages of the net considerations, as hereinafter  
12 defined, paid prior to such time, decreased by the sum of any prior withdrawals from  
13 or partial surrenders of the contract accumulated at a rate of interest of three percent  
14 per annum and the amount of any indebtedness to the company on the contract,  
15 including interest due and accrued, and increased by any existing additional amounts



1 credited by the company to the contract;

2 (2) The net considerations for a given contract year used to define the minimum  
3 nonforfeiture amount shall be an amount not less than zero and shall be equal to the  
4 corresponding gross considerations credited to the contract during that contract year  
5 less an annual contract charge of thirty dollars and less a collection charge of one  
6 dollar and twenty-five cents per consideration credited to the contract during that  
7 contract year and the percentages of net considerations shall be sixty-five percent of  
8 the net consideration for the first contract year and eighty-seven and one-half percent  
9 of the net considerations for the second and later contract years. Notwithstanding the  
10 preceding provisions, the percentage shall be sixty-five percent of the portion of the  
11 total net consideration for any renewal contract year which exceeds by not more than  
12 two times the sum of those portions of the net considerations in all prior contract  
13 years for which the percentage was sixty-five percent; and

14 (3) With respect to contracts providing for fixed scheduled considerations, minimum  
15 nonforfeiture amounts shall be calculated on the assumption that considerations are  
16 paid annually in advance and shall be defined as for contracts with flexible  
17 considerations which are paid annually with two exceptions:

18 (a) The portion of the net consideration for the first contract year to be  
19 accumulated shall be the sum of sixty-five percent of the net consideration for  
20 the first contract year plus twenty-two and one-half percent of the excess of the  
21 net consideration for the first contract year over the lesser of the net  
22 considerations for the second and third contract years; and

23 (b) The annual contract charge shall be the lesser of thirty dollars or ten percent  
24 of the gross annual consideration;

1 (4) With respect to contracts providing for a single consideration, minimum nonforfeiture  
2 amounts shall be defined as for contracts with flexible considerations except that the  
3 percentage of net consideration used to determine the minimum nonforfeiture amount  
4 shall be equal to ninety percent and the net consideration shall be the gross  
5 consideration less a contract charge of seventy-five dollars;

6 (5) Notwithstanding any other provision of this section, for any contract issued after  
7 June 30, 2003, and before July 1, 2005, the interest rate at which net considerations,  
8 withdrawals, and partial surrenders shall be accumulated, for purposes of determining  
9 minimum nonforfeiture amounts, shall be one and one-half percent per annum.