

AN ACT

ENTITLED, An Act to authorize banks to enter into debt cancellation and debt suspension contracts and to exempt such contracts from insurance regulations.

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

Section 1. That § 51A-1-2 be amended by adding thereto two NEW SUBDIVISIONS to read as follows:

"Debt cancellation contract," a loan term or contractual arrangement modifying loan terms under which a bank agrees to cancel all or part of a customer's obligation to repay an extension of credit from the bank upon the occurrence of a specified event. The contract may be separate from or a part of other loan documents. The term, debt cancellation contract, does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment, or the bank's unilateral decision to allow a deferral of repayment;

"Debt suspension contract," a loan term or contractual arrangement modifying loan terms under which a bank agrees to suspend all or part of a customer's obligation to repay an extension of credit from the bank upon the occurrence of a specified event. The contract may be separate from or a part of other loan documents. The term, debt suspension contract, does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment, or the bank's unilateral decision to allow a deferral of repayment.

Section 2. That chapter 51A-4 be amended by adding thereto a NEW SECTION to read as follows:

A bank may enter into debt cancellation contracts and debt suspension contracts and charge a fee for those contracts in connection with any extension of credit that it makes to its customers.

Section 3. That § 58-1-3 be amended to read as follows:

58-1-3. No provision of this title applies with respect to:

- (1) Fraternal benefit societies, except as stated in chapter 58-37A;
- (2) Bail bondsmen, other than corporate sureties and their agents, except as stated in chapter 58-22;
- (3) Motor vehicle service contracts which are contracts or agreements to perform or indemnify for a specific duration the repair, replacement, or maintenance of motor vehicles for operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including towing, rental, and emergency road service. Consideration for a motor vehicle service contract shall be stated separately from the price of the motor vehicle;
- (4) Service agreements or extended warranty plans for which the primary purpose is to provide service, repair, or replacement on consumer goods or products including appliances, merchandise, or equipment, or mechanical/electrical systems in single or multiple-family dwellings. Incidental indemnity payments under such plans where service, repair, or replacement is not feasible or economical does not void this exemption;
- (5) Any person, trust, or other entity proven to be under the exclusive regulatory authority of the federal government or another state agency;
- (6) Any agreement to provide liability protection entered into pursuant to chapter 1-24 is exempt from the regulatory requirements of Title 58, except to forms of insurance coverage provided by an insurer otherwise subject to the insurance laws of this state;
- (7) Any church plan, as defined in section 414(e) of the Internal Revenue Code of 1986, as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(33)(C)(i)); or any church benefits board, as described in section 414(e)(3)(A) of the Internal Revenue Code of 1986,

as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(33)(C)(i));

- (8) Any debt cancellation contract or debt suspension contract as defined by this Act.

An Act to authorize banks to enter into debt cancellation and debt suspension contracts and to exempt such contracts from insurance regulations.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1118

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1118
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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

Governor

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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