

AN ACT

ENTITLED, An Act to revise certain provisions related to assets allowed in the determination of the financial condition of an insurer.

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

Section 1. That § 58-26-1 be amended to read as follows:

58-26-1. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

- (1) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company;
- (2) Investments, securities, properties, and loans acquired or held in accordance with this title and in connection therewith the following items:
 - (a) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest;
 - (b) Declared and unpaid dividends on shares of stock, unless such amount has otherwise been allowed as an asset;
 - (c) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon;
 - (d) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the director a collectible asset;
 - (e) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event may interest accrued for a period in excess of eighteen months be allowed as an asset;

- (f) Rent due or accrued on real property if such rent is not in arrears for more than three months, and rent more than three months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral;
- (g) The unaccrued portion of taxes paid prior to the due date on real property;
- (3) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy;
- (4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer;
- (5) Premiums in the course of collection, other than for life insurance, not more than three months past due, less commissions payable thereon. The foregoing limitation does not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities;
- (6) Installment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply;
- (7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon;
- (8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under this title;
- (9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty;
- (10) Deposits or equities recoverable from underwriting associations, syndicates, and

reinsurance funds, or from any suspended banking institution, to the extent deemed by the director available for the payment of losses and claims and at values to be determined by the director;

- (11) Data and word processing machines used in the insurer's business. However, the original cost of the system shall be at least one thousand dollars but may not be more than three percent of the admitted assets of the insurer. Such cost shall be amortized over a period not to exceed five years;
- (12) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the director for the kinds of insurance to be reported upon therein;
- (13) Goodwill arising from acquisitions and mergers occurring after January 1, 2001;
- (14) Other assets, not inconsistent with the provisions of this section, deemed by the director to be available for the payment of losses and claims at values to be determined by the director.

Section 2. That § 58-26-10 be amended to read as follows:

58-26-10. In addition to assets impliedly excluded by other provisions of this title, the following expressly may not be allowed as assets in any determination of the financial condition of an insurer:

- (1) Goodwill, except goodwill permitted by § 58-26-1, trade names, and other like intangible assets;
- (2) Advances to officers, other than policy loans, whether secured or not, and advances to employees, representatives, insurance producers, and other persons on personal security only;
- (3) Stock of such insurer, owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the

- ownership by such insurer of an interest in another firm, corporation, or business unit;
- (4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature, and supplies, except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under this title and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to this title, or which is acquired through foreclosure of chattel mortgages or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes;
- (5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this title.

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I certify that the attached Act
originated in the

SENATE as Bill No. 137

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 137
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