

# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0240

## SENATE BILL NO. 52

Introduced by: The Committee on Commerce at the request of the Department of Revenue  
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the payment of burial  
2 expenses by life insurers and fraternal benefit societies.

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

4 Section 1. That § 58-37A-17 be amended to read as follows:

5 58-37A-17. The owner of a benefit contract may change the beneficiaries in accordance with  
6 the laws or rules of the society unless the owner waives this right by specifically requesting in  
7 writing that the beneficiary designation be irrevocable. A society may, through its laws or rules,  
8 limit the scope of beneficiary designations and shall provide that no revocable beneficiary may  
9 obtain any vested interest in the proceeds of any certificate until the certificate has become due  
10 and payable in conformity with the provisions of the benefit contract.

11 A society may provide for the payment of funeral benefits to the extent of the portion of any  
12 payment under a certificate as might reasonably appear to be due to any person equitably entitled  
13 to it by reason of having incurred expense occasioned by the burial of the member. However,  
14 the portion so paid may not exceed the sum of ~~five hundred~~ ten thousand dollars.

15 If, at the death of any person insured under a benefit contract, there is no lawful beneficiary



1 to whom the proceeds are payable, the amount of the benefit, except to the extent that funeral  
2 benefits may be paid as provided in this chapter, is payable to the estate of the deceased insured  
3 the same as other property not exempt. However, if the owner of the certificate is other than the  
4 insured, the proceeds are payable to the owner.

5 Section 2. That § 58-33-23 be amended to read as follows:

6 58-33-23. All ~~burial~~ life insurance benefits shall be paid in cash to the beneficiary. No  
7 insurer engaged in the business of ~~burial~~ life insurance shall contract to pay or pay such  
8 insurance benefits to any funeral director, undertaker, or undertaking business. Violation of this  
9 section is a Class 2 misdemeanor. This section does not prohibit an insurer from paying life  
10 insurance ~~or burial insurance~~ benefits to a funeral director, undertaker, or undertaking business,  
11 whether or not an assignment of the policy has been made pursuant to § 58-11-36, if the insurer  
12 makes the payment pursuant to an assignment made by the beneficiary of the insurance benefits  
13 to a person or entity which performed burial or funeral services for the insured or contracted  
14 after the death of the insured to perform burial or funeral services for the insured. If the cost of  
15 the burial or funeral services performed is less than the benefit amount to be paid under the life  
16 insurance ~~or burial insurance~~ policy, the insurer shall pay the excess to the named beneficiary  
17 in accordance with the terms of the contract.

18 This section does not prohibit a fraternal benefit society from paying the proceeds of a life  
19 insurance policy in accordance with the provisions of § 58-37A-17. An insurer that is not a  
20 fraternal benefit society may pay the proceeds of a life insurance policy in the same manner and  
21 subject to the same restrictions as provided for by § 58-37A-17.