

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0223

HOUSE BILL NO. 1044

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

1 FOR AN ACT ENTITLED, An Act to clarify the application of certain provisions relating to
2 the exemption of debt cancellation contracts from insurance regulation.

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

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

5 58-1-3. No provision of this title applies with respect to:

6 (1) Fraternal benefit societies, except as stated in chapter 58-37A;

7 (2) Bail bondsmen, other than corporate sureties and their agents, except as stated in
8 chapter 58-22;

9 (3) Motor vehicle service contracts which are contracts or agreements to perform or
10 indemnify for a specific duration the repair, replacement, or maintenance of motor
11 vehicles for operational or structural failure due to a defect in materials,
12 workmanship, or normal wear and tear, with or without additional provisions for
13 incidental payment of indemnity under limited circumstances, including towing,
14 rental, and emergency road service. Consideration for a motor vehicle service
15 contract shall be stated separately from the price of the motor vehicle;



- 1 (4) Service agreements or extended warranty plans for which the primary purpose is to
2 provide service, repair, or replacement on consumer goods or products including
3 appliances, merchandise, or equipment, or mechanical/electrical systems in single or
4 multiple-family dwellings. Incidental indemnity payments under such plans where
5 service, repair, or replacement is not feasible or economical does not void this
6 exemption;
- 7 (5) Any person, trust, or other entity proven to be under the exclusive regulatory
8 authority of the federal government or another state agency;
- 9 (6) Any agreement to provide liability protection entered into pursuant to chapter 1-24
10 is exempt from the regulatory requirements of Title 58, except to forms of insurance
11 coverage provided by an insurer otherwise subject to the insurance laws of this state;
- 12 (7) Any church plan, as defined in section 414(e) of the Internal Revenue Code of 1986,
13 as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee
14 Retirement Income Security Act of 1974 (29 U.S.C. § 1002(33)(C)(i)); or any church
15 benefits board, as described in section 414(e)(3)(A) of the Internal Revenue Code of
16 1986, as amended through December 31, 1999, and section (3)(33)(C)(i) of the
17 Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(33)(C)(i));
- 18 (8) Any debt cancellation contract or debt suspension contract as defined by subdivisions
19 ~~51A-1-2(6A) and (6B)~~ 51A-1-2(10) and (11);
- 20 (9) Any damage guarantee program for renters administered by a nonprofit corporation
21 that is recognized as an exempt organization under § 501(c)(3) of the Internal
22 Revenue Code and whose mission is to increase the availability of affordable housing
23 to low and moderate income tenants.