

AN ACT

ENTITLED, An Act to revise certain provisions relating to private placement policies.

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

Section 1. That § 58-11-1 be amended to read as follows:

58-11-1. Premium is the consideration for insurance by whatever name called. Any assessment, or any membership, policy, survey, inspection, service, or similar fee or other charge in consideration for an insurance contract is deemed part of the premium. For a private placement policy, with the consent of the insurer, premium may be in the form of assets to be held by the insurer in a separate account, as long as the fair value of the assets are independently verified at the time of receipt by the insurer. However, the premium for title insurance shall be the rates filed and approved in § 58-25-7.

Section 2. That § 58-15-15 be amended to read as follows:

58-15-15. There shall be a provision that after three full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer shall advance, on proper assignment or pledge of the policy and on the sole security thereof, an amount not to exceed the loan value of the policy. However, in the case of a private placement policy, the obligation of the insurer to advance the loan value of the policy, or any portion of the loan value, is subject to the liquidity of separate account assets comprising such loan value, and the insurer shall advance the loan value of the policy, or any portion of the loan value, as and when the separate account assets from which the loan is to be made, can be, by their respective terms, converted to cash.

Section 3. That § 58-15-17 be amended to read as follows:

58-15-17. In the case of policies issued on or after the operative date specified in § 58-15-42, the loan value referred to in § 58-15-15 shall be the cash surrender value at the end of the current policy year as required by § 58-15-33. The policy shall reserve to the insurer the right to defer the granting

of a loan, other than for the payment of any premium to the insurer, for six months after application of the loan. For any private placement policy, the loan value shall be equal to the portion of the cash surrender value that can immediately be converted to cash, pursuant to the policyholder's consent. A private placement policy may reserve to the insurer the right to defer the granting of a loan, or any portion of the loan, until the policy separate account assets, from which the loan is to be made, can be, by their respective terms, converted to cash.

Section 4. That § 58-15-26 be amended to read as follows:

58-15-26. There shall be a provision that when a policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy or proof of the interest of the claimant, or both. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period may not exceed two months from the receipt of such proof. For any private placement policy, settlement may be made in cash or, if allowed under the policy, by distributing assets of the separate account to the claimant with the consent of the policyholder, as long as the fair market value of the assets are independently verified at the time of disbursement by the insurer. In any private placement policy, the obligation of the insurer to settle that portion of the policy attributable to separate account assets is subject to the liquidity of such assets, and the insurer shall settle such portion of the policy as and when such assets can be, by their respective terms, either converted to cash, which may be later than two months after the insurer's receipt of due proof of death, or otherwise dispersible by the insurer.

Section 5. That § 58-15-26.2 be amended to read as follows:

58-15-26.2. Interest payable pursuant to § 58-15-26.1 shall be computed from the date of death of the insured until the date of payment and shall be at the rate of four percent per annum or not less than the current rate of interest on death proceeds left on deposit with the insurer under an interest settlement option, whichever rate is greater. For any private placement policy, the interest shall be

computed commencing the latter of sixty days succeeding the date of death of the insured or the date proof of death has been received by the insurer in good order until the date of payment. In any private placement policy, the obligation of the insurer to pay interest on that portion of the policy attributable to separate account assets may only be computed as and when such assets are, by their respective terms, either converted to cash or otherwise dispersible by the insurer.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1158

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. 1158
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