

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0203

HOUSE BILL NO. 1029

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

1 FOR AN ACT ENTITLED, An Act to repeal certain producer licensing requirements, to revise
2 certain producer and administrator standards for licensure, and to provide procedural
3 requirements for certain disciplinary proceedings.

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

5 Section 1. That § 58-29D-24 be amended to read as follows:

6 58-29D-24. The director may not issue a license if the director determines that the
7 administrator, or any individual responsible for the conduct of affairs of the administrator as
8 defined in subdivision 58-29D-22(3), is not qualified for licensure by reason of §§ ~~58-30-23 and~~
9 ~~58-30-23.1~~ § 58-30-167.

10 Section 2. That § 58-30-2.1 be repealed.

11 ~~—58-30-2.1. Upon written application and payment of the fee prescribed in § 58-2-29, the~~
12 ~~director of the Division of Insurance may issue or renew a resident broker's license to an agent~~
13 ~~licensed in good standing in this state for the immediate past three years or licensed in good~~
14 ~~standing in his previous state of residence for the immediate past three years. The license shall~~
15 ~~expire on April thirtieth of each year, unless renewed, and shall only cover the same property and~~



1 ~~casualty and bond lines of insurance for which the individual holds a resident license. All business~~
 2 ~~placed by a broker shall be through a licensed resident agent who is appointed by the insurer~~
 3 ~~involved in the transaction.~~

4 ~~— Under such a license, the licensee may solicit and place insurance with admitted insurers~~
 5 ~~although he is not appointed with the insurer and he may receive compensation from the insurer~~
 6 ~~or a resident agent. Policies of insurance so placed shall be countersigned by a resident agent~~
 7 ~~appointed with the company issuing the policy, and the name of the resident broker shall be~~
 8 ~~printed on the face of the policy. The broker and resident agent shall maintain adequate records~~
 9 ~~for each brokered transaction for a period of at least four years. The records shall include but not~~
 10 ~~be limited to applications, declaration pages, endorsements, accounts receivable, accounts~~
 11 ~~payable, accounts current, and any request for policy changes.~~

12 Section 3. That § 58-30-68 be amended to read as follows:

13 58-30-68. The director may issue to an applicant qualified therefor under this title a limited
 14 lines insurance producer's license as follows:

- 15 (1) To transportation ticket-selling agents of common carriers, covering personal accident
 16 insurance under ticket policies;
- 17 (2) To transportation ticket-selling agents of common carriers, covering baggage
 18 insurance;
- 19 (3) ~~License covering only credit insurance, as such insurance is defined in § 58-9-20, and~~
 20 ~~no individual so licensed may during the same period hold a license as an insurance~~
 21 ~~producer as to any other or additional kind of insurance;~~
- 22 ~~—(4)—Travel accident insurance producers of motor service clubs.~~

23 Section 4. That § 58-30-111 be amended to read as follows:

24 58-30-111. The director ~~shall~~ may not again issue a license under this title to ~~or as to~~ any

1 person whose license has been revoked ~~or renewal refused~~, until after expiration of one year from
 2 the date of such revocation ~~or refusal~~ or if judicial review of such revocation ~~or refusal~~ is sought,
 3 then within one year from the date of final court order or decree affirming the revocation ~~or~~
 4 ~~refusal~~. ~~In the event~~ If the former licensee again files application for a license under this title, the
 5 director may require the applicant to show good cause why the prior revocation ~~or refusal~~ to
 6 ~~renew his license shall~~ should not be ~~deemed~~ a bar to the issuance of a new license.

7 Section 5. That § 58-30-116 be amended to read as follows:

8 58-30-116. In each two-year period, each licensee shall furnish evidence to the director of
 9 the Division of Insurance that the licensee has satisfactorily completed the following continuing
 10 education requirements:

11 (1) Any licensee who holds a property casualty life, accident/health, or variable contract
 12 qualification shall obtain a minimum of ten continuing education credit hours in
 13 courses certified for each such classification. However, no more than twenty hours
 14 of continuing education may be required of any licensee holding multiple insurance
 15 producer licenses; and

16 (2) Any licensee who holds only a crop hail qualification shall obtain a minimum of four
 17 credit hours certified for that line; ~~and~~

18 ~~(3) Any licensee of a mutual insurer incorporated under chapter 58-35 shall obtain a~~
 19 ~~minimum of six credit hours certified for those lines which the insurer is authorized~~
 20 ~~to write.~~

21 Section 6. That § 58-30-148 be amended to read as follows:

22 58-30-148. A person applying for a resident insurance producer license shall make
 23 application to the director on an application form or format as prescribed by the director and
 24 declare under penalty of refusal, suspension, or revocation of the license that the statements

1 made in the application are true, correct, and complete to the best of the individual's knowledge
2 and belief. The director shall consider the use of a uniform application form or format.

3 Before approving the application, the director shall find that the individual:

- 4 (1) Is at least eighteen years of age;
- 5 (2) Has ~~as~~ not committed any act that is a ground for denial, suspension, or revocation
6 set forth in ~~§ 58-30-166~~ § 58-30-167;
- 7 (3) Has paid the fees set forth in § 58-2-29; and
- 8 (4) Has successfully passed the examinations for the lines of authority for which the
9 person has applied.

10 Section 7. That § 58-30-160 be amended to read as follows:

11 58-30-160. A licensee as nonresident insurance producer shall at all times be qualified for and
12 hold in the licensee's home state of domicile the license of that home state as a resident insurance
13 producer covering all kinds of insurance covered or to be covered under the South Dakota
14 nonresident license. A hearing is not necessary in order to revoke ~~or~~, suspend, terminate, or
15 nonrenew a nonresident insurance producer's license in this state if that insurance ~~producer's~~
16 license is revoked or suspended producer no longer has a producer license in the insurance
17 producer's home state of domicile.

18 Section 8. That § 58-30-167 be amended to read as follows:

19 58-30-167. The director may suspend for not more than twelve months, or may revoke or
20 refuse to continue, any license issued under this chapter, or any license of a surplus lines broker
21 after a hearing. Notice of such hearing and of the charges against the licensee shall be given to
22 the licensee and to the insurers represented by such licensee or to the appointing agent of a
23 producer at least twenty days before the hearing. The director may suspend, revoke, or refuse
24 to issue or renew an insurance producer's license or may accept a monetary penalty in

1 accordance with § 58-4-28.1 or any combination thereof, for any one or more of the following
2 causes:

3 (1) Providing incorrect, misleading, incomplete, or materially untrue information in the
4 license application;

5 (2) Violating any insurance laws or rules, subpoena, or order of the director or of another
6 state's insurance director, commissioner, or superintendent;

7 (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

8 (4) Withholding, misappropriating, or converting any monies or properties received in the
9 course of doing insurance business;

10 (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract
11 or application for insurance;

12 (6) Having been convicted of a felony;

13 (7) Having admitted or been found to have committed any insurance unfair trade practice
14 or fraud;

15 (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence,
16 untrustworthiness, or financial irresponsibility in the conduct of business in this state
17 or elsewhere;

18 (9) Having an insurance producer license, or its equivalent, denied, suspended, or
19 revoked in any other state, province, district, or territory;

20 (10) Forging another's name to an application for insurance or to any document related to
21 an insurance transaction;

22 (11) Using notes or any other reference material to complete an examination for an
23 insurance license;

24 (12) Knowingly accepting insurance business from an individual who sells, solicits, or

1 negotiates insurance and is not licensed; or

2 (13) Failing to comply with an administrative or court order imposing a child support

3 obligation.