

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

367I0643

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1180 - 02/11/2003

Introduced by: Representatives Peterson (Bill) and Bartling and Senators Dempster, Knudson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to repeal the effective date for the sunseting of certain
2 provisions related to insurance taxes and to revise certain provisions related to policies
3 having cash surrender values exceeding one million dollars.

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

5 Section 1. That section 8 of chapter 54 of the 2001 Session Laws be repealed.

6 ~~Section 8. The amendments in section 1 of this Act are repealed on July 1, 2002.~~

7 Section 2. That chapter 60 of the 2002 Session Laws be repealed.

8 ~~Section 1. That section 8 of chapter 54 of the 2001 Session Laws be amended to read as~~
9 follows:

10 ~~Section 8. The amendments in section 1 of this Act are repealed on July 1, 2002.~~

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

12 58-15-17. In the case of policies issued on or after the operative date specified in § 58-15-42,
13 the loan value referred to in § 58-15-15 shall be the cash surrender value at the end of the current
14 policy year as required by § 58-15-33. The policy shall reserve to the insurer the right to defer
15 the granting of a loan, other than for the payment of any premium to the insurer, for six months



1 after application therefor. For policies where the cash surrender value pursuant to § 58-15-33
2 is in excess of one million dollars, the loan value shall be equal to the portion of the cash
3 surrender value that can immediately be converted to cash, pursuant to the policyholder's
4 consent. ~~The consent of the policyholder shall be on a form prescribed by the director in rules
5 promulgated pursuant to chapter 1-26.~~

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

7 58-15-26. There shall be a provision that when a policy becomes a claim by the death of the
8 insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option,
9 surrender of the policy or proof of the interest of the claimant, or both. If an insurer shall specify
10 a particular period prior to the expiration of which settlement shall be made, such period may not
11 exceed two months from the receipt of such proof. For policies where the cash surrender value
12 pursuant to § 58-15-33 is in excess of one million dollars at the date of death, settlement may
13 be made in cash or, if allowed under the policy, by distributing assets of the separate account to
14 the claimant with the consent of the policyholder. ~~The consent of the policyholder shall be on a
15 form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

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

17 58-15-26.2. Interest payable pursuant to § 58-15-26.1 shall be computed from the date of
18 death of the insured until the date of payment and shall be at the rate of four percent per annum
19 or not less than the current rate of interest on death proceeds left on deposit with the insurer
20 under an interest settlement option, whichever rate is greater. For policies where the cash
21 surrender value pursuant to § 58-15-33 is in excess of one million dollars at the date of death,
22 and with the consent of the policyholder, the interest shall be computed commencing the latter
23 of sixty days succeeding the date of death of the insured or the date proof of death has been
24 received by the insurer in good order until the date of payment. ~~The consent of the policyholder~~

1 ~~shall be on a form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

2 Section 6. That § 58-15-33 be amended to read as follows:

3 58-15-33. Any cash surrender value available under the policy in the event of default in a
4 premium payment due on any policy anniversary, whether or not required by § 58-15-31 shall
5 be an amount not less than the excess, if any, of the present value on such anniversary, of the
6 future guaranteed benefits which would have been provided for by the policy, including any
7 existing paid-up additions, if there had been no default, over the sum of the then present value
8 of the adjusted premiums as defined in §§ 58-15-35 to 58-15-38, inclusive, and §§ 58-15-43.1
9 to 58-15-43.11, inclusive, corresponding to premiums which would have fallen due on and after
10 such anniversary, and the amount of any indebtedness to the insurer on the policy. Any cash
11 surrender value available within thirty days after any policy anniversary under any policy paid up
12 by completion of all premium payments or any policy continued under any paid-up nonforfeiture
13 benefit, whether or not required by § 58-15-31, shall be an amount not less than the present
14 value, on such anniversary, of the future guaranteed benefits provided for by the policy, including
15 any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

16 However, for any policy issued on or after the operative date of §§ 58-15-43.1 to
17 58-15-43.11, inclusive, which provides supplemental life insurance or annuity benefits at the
18 option of the insured and for an identifiable additional premium by rider or supplemental policy
19 provision, the cash surrender value referred to in the first paragraph of this section shall be an
20 amount not less than the sum of the cash surrender value as defined in that paragraph for an
21 otherwise similar policy issued at the same age without a rider or supplemental policy provision
22 and the cash surrender value as defined in that paragraph for a policy which provides only the
23 benefits otherwise provided by a rider or supplemental policy provision.

24 Further, for any family policy issued on or after the operative date of §§ 58-15-43.1 to

1 58-15-43.11, inclusive, which defines a primary insured and provides term insurance on the life
2 of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash
3 surrender value referred to in the first paragraph of this section shall be an amount not less than
4 the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy
5 issued at the same age without term insurance on the life of the spouse and the cash surrender
6 value as defined in that paragraph for a policy which provides only the benefits otherwise
7 provided by term insurance on the life of the spouse.

8 Any cash surrender value available within thirty days after any policy anniversary under any
9 policy paid-up by completion of all premium payments or any policy continued under any paid-up
10 nonforfeiture benefit, whether or not required by § 58-15-31, shall be an amount not less than
11 the present value, on such anniversary of the future guaranteed benefits provided for by the
12 policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on
13 the policy.

14 If the cash surrender value is in excess of one million dollars, the term, cash surrender value,
15 may include payment of assets to the policyholder as well as payment of cash, if allowed under
16 the policy, with the consent of the policyholder. ~~The consent of the policyholder shall be on a~~
17 ~~form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~