

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0194

HOUSE BILL NO. 1026

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the Department of
2 Labor and Regulation.

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

4 Section 1. That § 10-55A-7 be amended to read as follows:

5 10-55A-7. A recovery refund shall be paid to an eligible taxpayer on warrants drawn by the
6 state auditor on vouchers approved by the secretary of the Department of ~~Revenue, or his~~
7 ~~designee~~ Labor and Regulation.

8 Section 2. That § 10-55A-9 be amended to read as follows:

9 10-55A-9. As used in this chapter, ~~unless the context otherwise requires, " the term,~~
10 ~~secretary",~~ means the secretary of ~~revenue~~ labor and regulation.

11 Section 3. That § 36-14-5 be amended to read as follows:

12 36-14-5. The Board of Barber Examiners ~~shall have authority to~~ may employ, in conformity
13 ~~with chapter 3-6A, such inspectors, clerks, and other assistants, as it may deem~~ the board deems
14 necessary to carry out the provisions of this chapter.

15 Section 4. That § 36-15-6 be amended to read as follows:



1 36-15-6. The commission may, ~~in conformity with chapter 3-6A,~~ employ such personnel as
2 it deems necessary to administer and enforce the provisions of this chapter. The commission
3 may pay the travel and subsistence expenses of ~~such employees~~ each employee pursuant to the
4 provisions of § 3-9-2. However, no employee of the commission may be connected or associated
5 in any manner with any school.

6 Section 5. That § 36-25-10 be amended to read as follows:

7 36-25-10. The commission is ~~authorized to~~ may employ, in accordance with chapter 3-6A,
8 ~~such~~ inspectors and assistants as ~~may be~~ it deems necessary to administer and enforce the
9 provisions of this chapter.

10 Section 6. That § 54-3A-17 be amended to read as follows:

11 54-3A-17. A creditor may, by written agreement with the buyer, refinance the unpaid
12 balance and may contract for and receive a finance charge based on the amount refinanced. Any
13 rebate ~~which would be~~ due to the buyer ~~under~~ pursuant to the provisions of § 54-3A-9 if ~~he were~~
14 the buyer was prepaying in full on the date of the refinancing ~~shall be~~ is excluded from the
15 amount to be refinanced, ~~and. No minimum finance charge,~~ for the purpose of computing this
16 rebate ~~no minimum charge shall be,~~ is allowed to the creditor. ~~However, any loan made pursuant~~
17 ~~to chapter 54-6 is not subject to this section, even though all or part of the proceeds of such loan~~
18 ~~are applied to the unpaid balance of a sale made under this chapter.~~

19 Section 7. That § 58-17E-39 be amended to read as follows:

20 58-17E-39. Any person subject to registration pursuant to § 58-17E-9 shall prominently and
21 boldly disclose that the product is not insurance. Any advertisements or solicitations made by
22 such a person are subject to the provisions of §§ 58-33A-2 to 58-33A-4, inclusive, and §§ 58-
23 33A-7 to 58-33A-8, inclusive, and §§ 58-33A-10 to 58-33A-12, inclusive. Any administrative
24 rule promulgated pursuant to § 58-33A-7 does not apply to those registered pursuant to the

1 provisions of §§ 58-17E-9, 58-17E-39, 58-17E-41, and 58-17E-45, inclusive, unless specifically
 2 referenced in the rule. If any ~~such~~ person fails to comply with these provisions or the provisions
 3 of §§ 58-17E-9, 58-17E-39, 58-17E-41, and 58-17E-45, inclusive, the director may ~~take action~~
 4 in the same manner as provided for by § ~~58-17C-67~~ issue an order to cease and desist pursuant
 5 to the provisions of chapter 58-4 and may revoke the registration. Any such action by the
 6 director is subject to notice and hearing as provided ~~by~~ pursuant to chapter 1-26 and § 58-4-7.
 7 A person acting as an agent as defined in chapter 58-30 who sells, solicits, or negotiates a plan
 8 or program containing insurance benefits shall meet the licensing and appointment requirements
 9 of that chapter if ~~such~~ the person is otherwise required to be licensed ~~by~~ pursuant to the
 10 provisions of chapter 58-30.

11 Section 8. That § 58-30-115.1 be amended to read as follows:

12 58-30-115.1. Any licensee meeting the exception under subdivision ~~58-30-115(3)~~ 58-30-
 13 115(2) shall renew his or her license pursuant to § 58-30-121. Nothing in that subdivision
 14 requires a licensee who has reached the age of sixty-five prior to July 1, 2006, and, as of July 1,
 15 2006, has been licensed for at least ten years, to meet the continuing education requirements of
 16 this chapter.

17 Section 9. That § 58-30-115.2 be amended to read as follows:

18 58-30-115.2. Any licensee meeting the exception ~~under~~ pursuant to subdivision ~~58-30-~~
 19 ~~115(4)~~ 58-30-115(3) shall renew the license pursuant to § 58-30-121.

20 Section 10. That § 58-32-39 be amended to read as follows:

21 58-32-39. Each broker shall keep in ~~his~~ the broker's office ~~in this state~~ a record of each
 22 surplus line coverage procured by ~~him~~ the broker, including a copy of each daily report, if any;
 23 a copy of each certificate issued by ~~him~~; the broker; and ~~such~~ of the following items as may be
 24 applicable:

- 1 (1) Amount of the insurance;
- 2 (2) Gross premium charged;
- 3 (3) Return premium paid, if any;
- 4 (4) Rate of premium charged upon the several items of property;
- 5 (5) Effective date of the contract, and the terms thereof;
- 6 (6) Name and address of each insurer on the direct risk and the proportion of the entire
- 7 risk assumed by such insurer if less than the entire risk;
- 8 (7) Name and address of the insured;
- 9 (8) Brief general description of the property or risk insured and where located or to be
- 10 performed; and
- 11 (9) Other information as may be required by the director.

12 ~~Violation~~ A violation of this section is a Class 2 misdemeanor.

13 Section 11. That § 58-32-40 be amended to read as follows:

14 58-32-40. The record ~~shall not be removed from this state and~~ shall at all times within five

15 years after issuance of the coverage to which it relates be open to examination by the director.

16 ~~Violation~~ A violation of this section is a Class 2 misdemeanor.

17 Section 12. That § 58-43-16.7 be amended to read as follows:

18 58-43-16.7. The audit committee shall require the accountant that performs for an insurer

19 any audit required by this chapter to report in a timely manner to the audit committee in

20 accordance with the requirements of ~~SAS 61~~ SAS 114, Communication with Audit Committees,

21 as of January 1, ~~2009~~ 2015, including:

- 22 (1) All significant accounting policies and material permitted practices;
- 23 (2) All material alternative treatments of financial information within statutory
- 24 accounting principles that have been discussed with management officials of the

- 1 insurer, ramifications of the use of the alternative disclosures and treatments, and the
- 2 treatment preferred by the accountant; and
- 3 (3) Other material written communications between the accountant and the management
- 4 of the insurer, such as any management letter or schedule of unadjusted differences.