



2021 South Dakota Legislature

House Bill 1072

Introduced by: **Representative Willadsen**

1 **An Act to revise a certain provision regarding standard nonforfeiture amounts for**
 2 **individual deferred annuities.**

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

4 **Section 1.** That § 58-15-85 be AMENDED.

5 **58-15-85. Minimum values based on minimum nonforfeiture amounts--**

6 **Minimum nonforfeiture amounts defined.**

7 The minimum values as specified in §§ 58-15-86 to 58-15-89, inclusive, and 58-
 8 15-91 of any paid-up annuity, cash surrender, or death benefits available under an annuity
 9 contract shall be based upon minimum nonforfeiture amounts as defined in this section:

- 10 (1) The minimum nonforfeiture amount at any time at or prior to the commencement
 11 of any annuity payments shall be equal to an accumulation up to such time at rates
 12 of interest as indicated in the second paragraph of this section of considerations (as
 13 hereinafter defined) paid prior to such time, decreased by the sum of the following:
- 14 (a) Any prior withdrawals from or partial surrenders of the contract accumulated
 15 at rates of interest as indicated in the second paragraph of this section; and
 - 16 (b) An annual contract charge of fifty dollars accumulated at rates of interest as
 17 indicated in second paragraph of this section;
 - 18 (c) Any premium tax paid by the company for the contract, accumulated at rates
 19 of interest as indicated in second paragraph of this section; and
 - 20 (d) The amount of any indebtedness to the company on the contract, including
 21 interest due and accrued;
- 22 (2) The net considerations for a given contract year used to define the minimum
 23 nonforfeiture amount shall be an amount equal to eighty-seven and one-half
 24 percent of the gross considerations credited to the contract during that contract
 25 year.

1 The interest rate used in determining minimum nonforfeiture amounts shall be an
2 annual rate of interest determined as the lesser of three percent per annum and the
3 following, which shall be specified in the contract if the interest rate will be reset:

- 4 (1) The five-year constant maturity treasury rate reported by the Federal Reserve as
5 of a date, or average over a period, rounded to the nearest one-twentieth of one
6 percent, specified in the contract no longer than fifteen months prior to the contract
7 issue date or redetermination date pursuant to this section;
- 8 (2) Reduced by one hundred twenty-five basis points;
- 9 (3) Where the resulting interest rate is not less than ~~one percent~~ fifteen-hundredths of
10 one percent; and
- 11 (4) The interest rate shall apply for an initial period and may be redetermined for
12 additional periods.

13 The redetermination date, basis, and period, if any, shall be stated in the contract. The
14 basis is the date or average over a specified period that produces the value of the five-year
15 constant maturity treasury rate to be used at each redetermination date.

16 During the period or term that a contract provides substantive participation in an
17 equity indexed benefit, it may increase the reduction described above by up to an
18 additional one hundred basis points to reflect the value of the equity index benefit. The
19 present value at the contract issue date, and at each redetermination date thereafter, of
20 the additional reduction may not exceed the market value of the benefit. The director may
21 require a demonstration that the present value of the additional reduction does not exceed
22 the market value of the benefit. Lacking such a demonstration that is acceptable to the
23 director, the director may disallow or limit the additional reduction.

24 The director may promulgate rules pursuant to chapter 1-26 to implement the
25 provisions of this section and to provide for further adjustments to the calculation of
26 minimum nonforfeiture amounts for contracts that provide substantive participation in an
27 equity index benefit and for other contracts that the director determines adjustments are
28 justified.