

[Bulletin 16-01](#)

To: Life Insurance Issuers
From: Larry Deiter, Director
Date: March 1, 2016
Re: Assignment of Life Insurance to Funeral Homes

The Division of Insurance (“Division”) is issuing this Bulletin as guidance to South Dakota’s laws regarding the payment of life insurance benefits to funeral directors, undertakers, or funeral homes.

Pursuant to SDCL 58-33-23, an insurer may not pay benefits to a funeral director, undertaker, or undertaking business, unless the *beneficiary of the insurance benefits* has made an assignment to a person or entity which *performed burial services* or was contracted after the death of the insured to perform such services.

Despite the restrictions above, SDCL 58-33-23 permits both fraternal benefit societies and life insurers to pay the proceeds of a life insurance policy in accordance with SDCL 58-37A-17. SDCL 58-37A-17 allows the owner of a benefit contract to:

- Assign the insurance contract to a trust established by the insured, the insurance company, or the policy owner which provides for the payment of funeral or burial-related expenses;
- Collaterally assign the insurance contract to a funeral home solely for the payment of burial-related expenses;
- Designate an irrevocable beneficiary of a trust which provides for the payment of funeral or burial-related expenses; or
- Designate a funeral home as an irrevocable beneficiary solely for the payment of funeral or burial-related expenses.

A fraternal benefit society must honor any of the requests stated above *if* the request conforms to the laws and rules of the society. Pursuant to SDCL 58-33-23, other life insurers may, but are not required to, honor any of the requests stated above.