
Bulletin 98-4

DATE: April 15, 1998

TO: Life and Health Insurers

FROM: Darla L. Lyon, Director

RE: trusts

This Bulletin will outline the division's position with respect to the use of trusts in the marketing of life and health insurance. The alteration in the division's position was in part necessitated by the statutory change to SDCL 58-11-12. The prior method of handling such trusts is not valid as such trusts can not be filed for informational purposes if the insurance is to be marketed in this state. Therefore, for those trusts which are subject to prior approval requirements, the following requirements must be followed:

1.
 1. **The trust must be established by an employer, labor union or association. The association itself must meet the requirements of SDCL 58-18-3 and may not be a multiple association trust.**
 2. **Employers who are in an unrelated industry may not join the trust for purposes of obtaining insurance. The statutes require that the employers insured through a trust must be in the same or related industry.**
 3. **The statute allowing employers to form a trust to which insurance can be issued only allows coverage to be issued to those employers who established the trust. Other employers may not simply join the trust once formed. Additional employers could only be "added" by re-forming the trust.**

The requirements of this bulletin are applicable to all filings made from this date forward. Any filing approved prior to this date which involved the issuance of coverage through a trust in a method that does not comply with this Bulletin may only continue to be used until July 1, 1998 unless an extension is granted by the

division. No new filings will be approved which are not in compliance with this Bulletin.