

WORKING DRAFT

SENATE FILE NO. _____

Homeowner property insurance regulation.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to insurance; imposing certain restrictions
2 relating to the issuance, renewal and cancellation of
3 specified contracts of property insurance; and providing
4 for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8

ISSUE 1. Acts of God

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10

***** STAFF COMMENTS *****

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This section would prohibit cancellation and nonrenewal of homeowner's policies for acts of nature. Except for the last sentence in subsection (c), regarding remedies, it is patterned after an Arkansas statute which applies more broadly to any policy covering damages to property.

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Section 1. W.S. 26-13-125 is created to read:

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1 **23-13-125. Cancellation of homeowner's insurance**
2 **policies for natural causes prohibited.**

3

4 (a) No homeowner's insurance policy shall be canceled
5 nor the renewal thereof denied solely as a result of claims
6 arising from natural causes.

7

8 (b) As used in this section "natural cause" means an
9 act occasioned exclusively by the violence of nature where
10 all human agency is excluded from creating or entering into
11 the cause of the damage or injury.

12

13 (c) Any insurer which violates the provisions of this
14 section shall be subject to the procedures and penalties
15 provided under this chapter. Following the procedures in
16 this chapter, the commissioner may order the reinstatement,
17 with no lapse in coverage, of any policy cancelled or
18 nonrenewed in violation of this section.

19

20 **ISSUE 2. What is a "claim".**

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***** STAFF COMMENTS *****

22 **The following section was created to attempt to**
23 **address the issue of nonrenewals based upon**
24 **"inquiries." Note that under subsection (b) the**
25 **commissioner can rectify unlawful practices for**
26 **all situations, but there is no individual remedy**
27 **for a person refused coverage initially, an**

1 individual remedy is provided only for those with
2 existing coverage. The interest rate was taken
3 from failure to pay claims in a timely manner -
4 W.S. 26-15-124(c). Testimony at the last meeting
5 suggested reviewing the Missouri definition of
6 "claim" - it is provided at the end of this
7 section. The amendment to 26-3-131 is not
8 necessary to effectuate the new 23-13-126, but is
9 included for the Committee's review at this time.
10

11 23-13-126. Restrictions on underwriting for homeowner
12 policies.
13

14 (a) No insurer shall cancel, refuse to renew or offer
15 to renew at a higher premium a homeowner's insurance policy
16 based in any manner upon the claims history of a named
17 insured or of an applicant for insurance unless the claims
18 history is based upon written request for payment under the
19 policy made by the named insured, the applicant or a person
20 who would be a named insured under the policy.
21

22 (b) Any insurer which violates the provisions of this
23 section shall be subject to the procedures and penalties
24 provided under this chapter. Following the procedures in
25 this chapter, the commissioner may order the reinstatement,
26 with no lapse in coverage, of any policy cancelled or
27 nonrenewed in violation of this section. If the
28 commissioner finds a policy was renewed at a higher premium

1 in violation of this section he may order the return of any
2 unauthorized increase in premium together with interest at
3 a rate of ten percent (10%) per year.

4

5 **Missouri law: "Claim" means a request or demand for payment**
6 **of a loss which may be within the terms of coverage of an**
7 **insurance policy.**

8

9

***** STAFF COMMENTS *****

10 The following repeal would make section 26-3-131
11 applicable to homeowner's insurance. According
12 to the Insurance Department the current law was
13 intended to address problems in the commercial
14 insurance market and thus was not made applicable
15 to homeowner's insurance. The entire section is
16 set forth so the Committee can readily see the
17 effect. In any introduced bill only the repeal
18 of subsection (d) would be shown.

19

20 **26-3-131. Disclosure of loss information; penalties.**

21

22 (a) Any insurer writing property or casualty
23 insurance in this state as defined in W.S. 26-5-104 and 26-
24 5-106, shall provide the following information to the named
25 insured within thirty (30) days of receipt of the insured's
26 written request, but in no event more frequently than once
27 in any twelve (12) month period:

28

1 (i) Information on claims involving the insured
2 closed within the preceding two (2) years limited to the
3 date and description of occurrence and amount of payments,
4 if any;

5

6 (ii) Information on open claims involving the
7 insured limited to the date and description of occurrence,
8 amount of claim and amount of payment, if any;

9

10 (iii) Information on notices of occurrence
11 involving the insured limited to the date and description
12 of occurrence and amount of claim; and

13

14 (iv) The total amount of reserve on open claims
15 provided no insurer shall be required to provide
16 information on any reserve specifically applicable to or
17 identifying any claim which is or may become subject to
18 proceedings before state or federal courts.

19

20 (b) An insurer which elects to cancel or nonrenew any
21 policy of insurance subject to this section, for any reason
22 other than nonpayment of premium, shall cause to be
23 delivered to the insured, at the time such notice of
24 cancellation or nonrenewal is given, a brief statement

1 advising the insured of his right to request the
2 information required to be given under this section.

3

4 (c) Any insurer who violates this section is subject
5 to monetary penalties or license revocation or suspension
6 as provided by W.S. 26-1-107 and 26-3-116.

7

8 ~~(d) This section does not apply to home owner's~~
9 ~~property insurance.~~

10

11 **ISSUE 3. Cancellation of binders, or failure to issue**
12 **policies.**

13 ***** STAFF COMMENTS *****

14 At the last meeting there was testimony that a
15 binder will be issued and cancelled shortly
16 before or after closing. The following is based
17 upon an Arizona statute addressing the issue of
18 binders. Through the definition, the Arizona
19 statute is limited to personal insurance rather
20 than commercial. The provision has not been
21 amended in this draft to specify that it is
22 limited to homeowner's policies. Wyoming law on
23 binders generally is shown at the end of the
24 section.

25

26 **Section 1.** W.S. 26-2-125 is created to read:

27

28 **26-2-125. Use of insurance support organizations**
29 **limited.**

30

1 (a) If an insurer uses for underwriting purposes for
2 insurance policies information from a report provided by,
3 or database maintained by, an insurance support
4 organization, or consumer reporting agency, related to the
5 premises that is the subject of the application or to the
6 person applying for insurance, the insurer shall obtain
7 that information as soon as practicable on application by a
8 person for insurance coverage and before the issuance of a
9 binder of insurance coverage. Failure of the insurer to
10 timely obtain the information required by this subsection
11 precludes the insurer from declining insurance coverage or
12 terminating a binder of insurance coverage based on the
13 information. This subsection does not apply to a policy
14 renewal.

15

16 (b) After thirty (30) days from the application by an
17 insured for insurance coverage, no declination or
18 termination of insurance coverage shall be based on
19 information from a consumer report, including a consumer
20 report provided by, or database maintained by, an insurance
21 support organization or consumer reporting agency, related
22 to the premises that is the subject of the application or
23 to the person applying for insurance. Notwithstanding any
24 other law, an insurer may decline or terminate insurance

1 coverage based on the condition of the premises as
2 determined through a physical inspection of the premises.

3

4 **Section 2.** W.S. 26-1-102(a) by creating new paragraphs
5 (xxxvii) through (xl) is amended to read:

6 **26-1-102. Definitions.**

7 (a) As used in this act:

8 (xxxvii) "Consumer reporting agency" means any
9 person who does any of the following:

10 (A) Regularly engages, in whole or in part,
11 in the practice of assembling or preparing consumer reports
12 for a monetary fee;

13 (B) Obtains information primarily from
14 sources other than insurers;

15 (C) Furnishes consumer reports to other
16 persons.

17 (xxxviii) "Insurance support organization" means:

18 (A) Any person who regularly engages, in
19 whole or in part, in the practice of assembling or
20 collecting information about natural persons for the primary

1 purpose of providing the information to an insurance
2 institution or insurance producer for insurance
3 transactions, including the furnishing of consumer reports
4 or investigative consumer reports to an insurer or insurance
5 producer for use in connection with an insurance transaction
6 or the collection of personal information from insurers,
7 insurance producers or other insurance support organizations
8 for the purpose of detecting or preventing fraud, material
9 misrepresentation or material nondisclosure in connection
10 with insurance underwriting or insurance claim activity.

11 (B) Notwithstanding subparagraph (A) of this
12 paragraph the following persons are not considered insurance
13 support organizations for purposes of this code:

14 (I) Insurance producers;

15 (II) Government institutions;

16 (III) Insurers;

17 (IV) Medical care institutions;

18 (V) Medical professionals.

19 (xxxix) "Insurance transaction" for the purposes
20 of paragraph (xxxviii) of this subsection, means any
21 transaction involving insurance primarily for personal,

1 family or household needs rather than business or
2 professional needs and which entails the determination of an
3 individual's eligibility for an insurance coverage, benefit
4 or payment or the servicing of an insurance application,
5 policy, contract or certificate.

6 (xl) "Investigative consumer report" means a
7 consumer report or portion of a consumer report in which
8 information about a natural person's character, general
9 reputation, personal characteristics or mode of living is
10 obtained through personal interviews with the person's
11 neighbors, friends, associates, acquaintances or others who
12 may have knowledge concerning those items of information.

13
14 **26-15-119. Binder and other contracts for temporary**
15 **insurance.**

16
17 (a) Binders or other contracts for temporary
18 insurance may be made orally or in writing and include all
19 the usual terms of the policy as to which the binder is
20 given together with applicable endorsements as are
21 designated in the binder, except as superseded by the terms
22 of the binder.

23
24 (b) No binder is valid beyond the issuance of the
25 policy with respect to which it is given, or beyond ninety
26 (90) days from its effective date, whichever period is
27 shorter.

28
29 (c) If the policy is not issued, a binder may be
30 extended or renewed beyond the ninety (90) days with the
31 commissioner's written approval or in accordance with rules
32 and regulations relative thereto the commissioner
33 promulgates.

1
2 (d) This section does not apply to life or disability
3 insurances.
4

5 ***** STAFF COMMENTS *****

6 **The following also applies to cancellations and**
7 **notices of cancellations. Homeowner's policies**
8 **are exempted for cancellation notice requirements**
9 **under current law. The amendment would change**
10 **that; the effect of the amendment can only be**
11 **seen by reading the remainder of the article,**
12 **which is included. This issue was noted by**
13 **testimony at the last meeting as something that**
14 **could be problematic, but the amendment is not**
15 **directly needed to address the binder-failure to**
16 **issue a policy problem.**
17

18 **26-35-201. Scope of article.**
19

20 This article applies to all property and casualty
21 insurance as defined in W.S. 26-5-104 and 26-5-106, except
22 this article does not apply to binders and other temporary
23 contracts for temporary insurance provided for under W.S.
24 26-15-119, ~~homeowners' policies~~ or personal lines auto
25 policies.
26

27 **26-35-202. Mid-term cancellation; grounds; notice;**
28 **exception.**
29

30 (a) An insurance policy or renewal shall not be
31 cancelled by an insurer prior to the expiration of the term
32 stated in the policy, except for any one (1) of the
33 following reasons:
34

35 (i) Failure to pay a premium when due;
36

37 (ii) Material misrepresentation of fact which if
38 known to the company would have caused the company not to
39 issue the policy;
40

41 (iii) Substantial change in the risk assumed,
42 except to the extent that the insurer should reasonably
43 have foreseen the change or contemplated the risk in
44 writing the policy; or
45

1 (iv) Substantial breaches of contractual duties,
2 conditions or warranties.

3
4 (b) Cancellation under paragraph (a)(i), (iii) or
5 (iv) of this section shall not be effective unless written
6 notice stating the precise reason for cancellation has been
7 made as provided in W.S. 26-35-101:

8
9 (i) Not less than ten (10) days prior to the
10 proposed effective date of cancellation if cancellation is
11 for the reason stated in paragraph (a)(i) of this section;
12 or

13
14 (ii) Not less than forty-five (45) days prior to
15 the proposed effective date of cancellation in all other
16 cases except paragraph (a)(ii) of this section.

17
18 (c) Subsections (a) and (b) of this section do not
19 apply to any insurance policy which has been in effect for
20 less than sixty (60) days and is not a renewal of a
21 previously existing policy for a term longer than sixty
22 (60) days.

23
24 (d) If an insurance company loses its reinsurance and
25 the loss threatens the solvency of the company, the company
26 shall:

27
28 (i) Continue coverage to the extent of its
29 retention as to each policyholder;

30
31 (ii) Notify each policyholder of the amount of
32 coverage still present; and

33
34 (iii) Refund the unearned premium.

35
36 **26-35-203. Nonrenewal; notice.**

37
38 (a) No insurance policy shall be nonrenewed by an
39 insurer except in accordance with the provisions of this
40 section and any nonrenewal attempted which is not in
41 compliance with this section is ineffective.

42
43 (b) A policy may be nonrenewed by the insurer at its
44 expiration or anniversary date by giving written notice of
45 nonrenewal as provided in W.S. 26-35-101, not less than
46 forty-five (45) days prior to the expiration or anniversary
47 date of the policy.

1
2 (c) Any notice of nonrenewal under this section shall
3 state the precise reason for nonrenewal. There shall be no
4 liability on the part of an insurer for stated reasons of
5 nonrenewal given in good faith pursuant to this article.

6
7 **26-35-204. Renewal with altered terms; notice.**

8
9 (a) If an insurer intends to renew a policy, but on
10 less favorable terms or at higher rates, the insurer shall
11 furnish to the insured and the agent of record, if any,
12 renewal terms and a statement of the amount of premium due
13 for the renewal policy period in accordance with this
14 section.

15
16 (b) The renewal terms and statement of premium due
17 shall be given pursuant to W.S. 26-35-101 not less than
18 forty-five (45) days prior to the expiration or
19 anniversary date of the original policy.

20
21 (c) If the insurer fails to furnish the renewal terms
22 and statement of premium due in the manner required by this
23 section, the insured may elect to cancel the renewal policy
24 within the forty-five (45) day period following receipt of
25 the renewal terms and statement of premium due. Earned
26 premium for any period of coverage shall be calculated pro
27 rata based upon the premium applicable to the original
28 policy and not the premium applicable to the renewal
29 policy.

30
31 **Section 3.** The provisions of this act shall apply to
32 insurance policies delivered, issued for delivery or
33 renewed in this state on or after the effective date of
34 this act.

35
36 **Section 4.** This act is effective July 1, 2004.

37
38 (END)

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