

ENROLLED ACT NO. 14, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2004 BUDGET SESSION

AN ACT relating to insurance; amending provisions relating to the regulation of insurers; modifying provisions relating to actuarial opinions of reserves; authorizing the use of electronic systems for holding and transferring securities; authorizing other electronic filings; prohibiting certain indemnification agreements; amending filing and other deadlines; and providing for an effective date.

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

**Section 1.** W.S. 26-8-201 through 26-8-204 are created to read:

CHAPTER 8  
ADMINISTRATION OF ASSETS AND DEPOSITS

ARTICLE 2  
HOLDING OF SECURITIES

**26-8-201. Definitions.**

(a) As used in this article:

(i) "Clearing corporation" means a corporation as defined in W.S. 34.1-8-102(a)(v), except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, clearing corporation may include a corporation which is organized or existing under the laws of any foreign country and is legally qualified under those

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laws to effect transactions in securities by computerized book-entry;

(ii) "Direct participant" means a bank or trust company or other institution which maintains an account in its name in a clearing corporation and through which an insurer participates in a clearing corporation;

(iii) "Federal reserve book-entry system" means the computerized systems sponsored by the United States department of the treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and those agencies and instrumentalities, respectively, in federal reserve banks through banks which are members of the federal reserve system or which otherwise have access to the computerized systems;

(iv) "Bank" means a financial institution insured by the federal deposit insurance corporation through which an insurer participates in the federal reserve book-entry system;

(v) "Security" means as defined in W.S. 34.1-8-102(a) (xv).

**26-8-202. Use of book-entry systems.**

(a) Notwithstanding any other provision of law, but subject to W.S. 26-24-129, a domestic insurer may deposit or arrange for the deposit of securities held in or purchased for its general account and its separate accounts in a clearing corporation or the federal reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in

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bulk in the name of the nominee of the clearing corporation with any other securities deposited with the clearing corporation by any person, regardless of the ownership of the securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of any bank through which an insurer holds securities in the federal reserve book-entry system, and the records of any custodian banks through which an insurer holds securities in a clearing corporation, shall at all times show that the securities are held for the insurer and the accounts in which they are held. Ownership of, and other interests in, the securities may be transferred by bookkeeping entry on the books of the clearing corporation or in the federal reserve book-entry system without, in either case, physical delivery of certificates representing the securities.

(b) The commissioner is authorized to promulgate rules and regulations governing the deposit by insurance companies of securities with clearing corporations and in the federal reserve book-entry system.

**26-8-203. Deposit of securities by domestic insurance companies.**

Notwithstanding any other provision of law, the securities qualified for deposit under this chapter may be deposited with a clearing corporation or held in the federal reserve book-entry system through a bank located in this state. Securities deposited with a clearing corporation or held in the federal reserve book-entry system and used to meet the deposit requirements set forth in this chapter shall be under the control of the commissioner and shall not be withdrawn by the insurer without the approval of the commissioner. Any insurer holding securities as provided in this section shall provide to the commissioner evidence

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issued by its custodian or bank through which the insurer has deposited the securities in a clearing corporation or through which the securities are held in the federal reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or other direct participant or bank, and that the records of the custodian, other participant or bank reflect that the securities are held subject to the order of the commissioner.

**26-8-204. Deposit of securities by foreign insurance companies.**

Notwithstanding any other provision of law, securities eligible for deposit under the insurance laws of this state relating to deposit of securities by an insurer as a condition of commencing or continuing to do an insurance business in this state may be deposited with a clearing corporation or held in the federal reserve book-entry system through a bank located in this state. Securities deposited with a clearing corporation or held in the federal reserve book-entry system and used to meet the deposit requirements under the insurance laws of this state shall be under the control of the commissioner and shall not be withdrawn by the insurer without the approval of the commissioner. Any insurer holding securities as provided in this section shall provide to the commissioner evidence issued by its custodian or a bank through which the insurer has deposited securities with a clearing corporation or held in the federal reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or other direct participant or bank and evidence that the records of the custodian, other participant or bank reflect that the securities are held subject to the order of the commissioner.

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**Section 2.** W.S. 26-3-123(d), 26-3-204(a) and (c), 26-3-301(b)(i), 26-3-302(a) by creating a new paragraph (iii) and by renumbering (iii) as (iv), 26-3-306(a), (b) and by creating a new subsection (f), 26-6-208(c), 26-29-226(a), 26-34-110(c), 26-44-105(b)(intro) and 26-48-102(a)(intro) are amended to read:

**26-3-123. Annual and quarterly statement; required; form; verification; failure to file.**

(d) All annual and quarterly statements filed pursuant to this section shall be completed pursuant to the most recent National Association of Insurance Commissioners' accounting practices and procedures manual and accompanied by ~~a computer diskette~~ an electronic version containing the same information as the statement. The commissioner may specify the ~~size and~~ format of the ~~computer diskette~~ electronic version. The commissioner may accept, for any foreign insurer required to file any statement under this section, an electronic filing with the National Association of Insurance Commissioners meeting the requirements of this section as a filing with the commissioner. The commissioner may refuse to continue or may suspend or revoke the certificate of authority of any insurer failing to file its annual or quarterly statement when due.

**26-3-204. Filing requirements; penalty.**

(a) Each domestic, foreign or alien insurer authorized to transact insurance in this state shall annually on or before March 1, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank along with such additional filings prescribed by the commissioner for the preceding

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year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and addenda to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners. Each insurer shall concurrently provide the National Association of Insurance Commissioners with a copy of the ~~computer diskette~~ electronic filing containing its annual statement as required by W.S. 26-3-123.

(c) Each domestic, foreign or alien insurer authorized to transact insurance in this state shall quarterly on or before forty-five (45) days after the end of the quarter being reported, file with the National Association of Insurance Commissioners a copy of its quarterly statement blank. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page. Any amendments and addenda to the quarterly statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners. Each insurer shall concurrently provide the National Association of Insurance Commissioners with a copy of the ~~computer diskette~~ electronic filing containing its quarterly statement as required by W.S. 26-3-123.

**26-3-301. Scope of article.**

(b) Foreign or alien insurers filing audited financial reports in another state, pursuant to that state's requirement of audited financial reports which has been found by the commissioner to be substantially similar

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to the requirements of this article, are exempt from this article if:

(i) A copy of the audited financial report, report on significant deficiencies in internal controls, and the accountant's letter of qualifications which are filed with the other state are filed with the commissioner National Association of Insurance Commissioners in accordance with the filing dates specified in W.S. 26-3-303, 26-3-310 and 26-3-311, respectively. Canadian insurers may submit accountants' reports as filed with the Canadian dominion department of insurance; and

**26-3-302. Definitions.**

(a) As used in this article:

(iii) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives;

(iii) (iv) "Insurer" means as defined in W.S. 26-1-102(a) (xvi).

**26-3-306. Qualifications of independent certified public accountant.**

(a) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant ~~that~~ if that person or firm:

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(i) Is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; ~~;~~ or

(ii) Has either directly or indirectly entered into an agreement of indemnification with respect to the audit of the insurer.

(b) Except as otherwise provided in this section, the commissioner shall recognize an independent certified public accountant ~~shall be recognized~~ as qualified as long as he conforms to the standards of his profession, as contained in the code of professional ethics of the American Institute of Certified Public Accountants and rules and regulations and code of ethics and rules of professional conduct of the Wyoming board of certified public accountants, or similar code.

(f) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under chapter 28 of this code, the mediation or arbitration provisions shall operate at the option of the statutory successor.

**26-6-208. Actuarial opinion of reserves.**

(c) Every life insurer, except as exempted by regulation, shall also annually include in the opinion required by subsection (b) of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when



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considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts. The commissioner may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary deems necessary in order to render the opinion required by this section.

**26-29-226. Reports.**

(a) Every society transacting business in this state shall annually, on or before March 1, unless for cause shown the time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a two hundred fifty dollar (\$250.00) filing fee. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner. The statement shall be completed pursuant to the most recent National Association of Insurance Commissioners' accounting practices and procedures manual. The commissioner may accept, for any society not domiciled in this state which is required to file any statement or valuation under this section, an electronic filing with the National Association of Insurance Commissioners meeting the requirements of this subsection as a filing with the commissioner.

**26-34-110. Annual report.**

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(c) All annual and quarterly statements filed pursuant to this section shall be accompanied by ~~a computer diskette~~ an electronic version containing the same information as the statement. The commissioner may specify the ~~size and~~ format of the ~~computer diskette~~ electronic version. The commissioner may accept, for any health maintenance organization not domiciled in this state which is required to file any statement under this section, an electronic filing with the National Association of Insurance Commissioners meeting the requirements of this section as a filing with the commissioner. The commissioner may refuse to continue or may suspend or revoke the certificate of authority of any health maintenance organization failing to file its annual or quarterly statement when due.

**26-44-105. Transactions within a holding company system.**

(b) The following transactions involving a domestic insurer and any person in its holding company system shall not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least ~~twenty (20)~~ thirty (30) days prior to the transaction or a shorter period as the commissioner may permit and the commissioner has not disapproved it within that period. In assessing transactions under this subsection, the commissioner shall consider whether the transactions comply with subsection (a) of this section and whether they may adversely affect the interests of policyholders. The transactions to be considered are:

**26-48-102. Risk-based capital reports.**

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(a) Every domestic insurer shall, annually on or prior to March ~~15~~1, prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing information as required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

**Section 3.** This act is effective July 1, 2004.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk