

HOUSE BILL NO. HB0059

Insurance department regulation.

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

A BILL

for

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

9

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

11

12 **Section 1.** W.S. 26-8-201 through 26-8-205 are created
13 to read:

14

15

CHAPTER 8

16

ADMINISTRATION OF ASSETS AND DEPOSITS

1

2

ARTICLE 2

3

HOLDING OF SECURITIES

4

5

26-8-201. Purpose.

6

7 The purpose of this article is to authorize insurers to
8 utilize modern systems for holding and transferring
9 securities without physical delivery of securities
10 certificates, subject to appropriate regulations of the
11 commissioner.

12

13

26-8-202. Definitions.

14

15

(a) As used in this article:

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(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

1 of any foreign country and is legally qualified under those
2 laws to effect transactions in securities by computerized
3 book-entry;

4
5 (ii) "Direct participant" means a bank or trust
6 company or other institution which maintains an account in
7 its name in a clearing corporation and through which an
8 insurer participates in a clearing corporation;

9
10 (iii) "Federal reserve book-entry system" means
11 the computerized systems sponsored by the United States
12 department of the treasury and certain agencies and
13 instrumentalities of the United States for holding and
14 transferring securities of the United States government and
15 those agencies and instrumentalities, respectively, in
16 federal reserve banks through banks which are members of
17 the federal reserve system or which otherwise have access
18 to the computerized systems;

19
20 (iv) "Member bank" means a national bank, state
21 bank or trust company which is a member of the federal
22 reserve system and through which an insurer participates in
23 the federal reserve book-entry system;

24

1 (v) "Security" means as defined in W.S.
2 34.1-8-102(a)(xv).

3

4 **26-8-203. Use of book-entry systems.**

5

6 (a) Notwithstanding any other provision of law, but
7 subject to W.S. 26-24-129, a domestic insurer may deposit
8 or arrange for the deposit of securities held in or
9 purchased for its general account and its separate accounts
10 in a clearing corporation or the federal reserve book-entry
11 system. When securities are deposited with a clearing
12 corporation, certificates representing securities of the
13 same class of the same issuer may be merged and held in
14 bulk in the name of the nominee of the clearing corporation
15 with any other securities deposited with the clearing
16 corporation by any person, regardless of the ownership of
17 the securities, and certificates representing securities of
18 small denominations may be merged into one (1) or more
19 certificates of larger denominations. The records of any
20 member bank through which an insurer holds securities in
21 the federal reserve book-entry system, and the records of
22 any custodian banks through which an insurer holds
23 securities in a clearing corporation, shall at all times
24 show that the securities are held for the insurer and the

1 accounts in which they are held. Ownership of, and other
2 interests in, the securities may be transferred by
3 bookkeeping entry on the books of the clearing corporation
4 or in the federal reserve book-entry system without, in
5 either case, physical delivery of certificates representing
6 the securities.

7

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

12

13 **26-8-204. Deposit of securities by domestic insurance**
14 **companies.**

15

16 Notwithstanding any other provision of law, the securities
17 qualified for deposit under this chapter may be deposited
18 with a clearing corporation or held in the federal reserve
19 book-entry system through a member bank located in this
20 state. Securities deposited with a clearing corporation or
21 held in the federal reserve book-entry system and used to
22 meet the deposit requirements set forth in this chapter
23 shall be under the control of the commissioner and shall
24 not be withdrawn by the insurer without the approval of the

1 commissioner. Any insurer holding securities as provided in
2 this section shall provide to the commissioner evidence
3 issued by its custodian or member bank through which the
4 insurer has deposited the securities in a clearing
5 corporation or through which the securities are held in the
6 federal reserve book-entry system, respectively, in order
7 to establish that the securities are actually recorded in
8 an account in the name of the custodian or other direct
9 participant or member bank, and that the records of the
10 custodian, other participant or member bank reflect that
11 the securities are held subject to the order of the
12 commissioner.

13

14 **26-8-205. Deposit of securities by foreign insurance**
15 **companies.**

16

17 Notwithstanding any other provision of law, securities
18 eligible for deposit under the insurance laws of this state
19 relating to deposit of securities by an insurer as a
20 condition of commencing or continuing to do an insurance
21 business in this state may be deposited with a clearing
22 corporation or held in the federal reserve book-entry
23 system through a member bank located in this state.
24 Securities deposited with a clearing corporation or held in

1 the federal reserve book-entry system and used to meet the
2 deposit requirements under the insurance laws of this state
3 shall be under the control of the commissioner and shall
4 not be withdrawn by the insurer without the approval of the
5 commissioner. Any insurer holding securities as provided in
6 this section shall provide to the commissioner evidence
7 issued by its custodian or a member bank through which the
8 insurer has deposited securities with a clearing
9 corporation or held in the federal reserve book-entry
10 system, respectively, in order to establish that the
11 securities are actually recorded in an account in the name
12 of the custodian or other direct participant or member bank
13 and evidence that the records of the custodian, other
14 participant or member bank reflect that the securities are
15 held subject to the order of the commissioner.

16

17 **Section 2.** W.S. 26-3-123(d), 26-3-204(a) and (c),
18 26-3-301(b)(i), 26-3-302(a) by creating a new paragraph
19 (iii) and by renumbering (iii) as (iv), 26-3-306(a), (b)
20 and by creating a new subsection (f), 26-6-208(c),
21 26-29-226(a), 26-34-110(c), 26-44-105(b)(intro) and
22 26-48-102(a)(intro) are amended to read:

23

1 **26-3-123. Annual and quarterly statement; required;**
2 **form; verification; failure to file.**

3

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

20

21 **26-3-204. Filing requirements; penalty.**

22

23 (a) Each domestic, foreign or alien insurer
24 authorized to transact insurance in this state shall

1 annually on or before March 1, file with the National
2 Association of Insurance Commissioners a copy of its annual
3 statement convention blank along with such additional
4 filings prescribed by the commissioner for the preceding
5 year. The information filed with the National Association
6 of Insurance Commissioners shall be in the same format and
7 scope as that required by the commissioner and shall
8 include the signed jurat page and the actuarial
9 certification. Any amendments and addenda to the annual
10 statement filing subsequently filed with the commissioner
11 shall also be filed with the National Association of
12 Insurance Commissioners. Each insurer shall concurrently
13 provide the National Association of Insurance Commissioners
14 with a copy of the ~~computer diskette~~ electronic filing
15 containing its annual statement as required by W.S.
16 26-3-123.

17

18 (c) Each domestic, foreign or alien insurer
19 authorized to transact insurance in this state shall
20 quarterly on or before forty-five (45) days after the end
21 of the quarter being reported, file with the National
22 Association of Insurance Commissioners a copy of its
23 quarterly statement blank. The information filed with the
24 National Association of Insurance Commissioners shall be in

1 the same format and scope as that required by the
2 commissioner and shall include the signed jurat page. Any
3 amendments and addenda to the quarterly statement filing
4 subsequently filed with the commissioner shall also be
5 filed with the National Association of Insurance
6 Commissioners. Each insurer shall concurrently provide the
7 National Association of Insurance Commissioners with a copy
8 of the ~~computer diskette~~ electronic filing containing its
9 quarterly statement as required by W.S. 26-3-123.

10

11 **26-3-301. Scope of article.**

12

13 (b) Foreign or alien insurers filing audited
14 financial reports in another state, pursuant to that
15 state's requirement of audited financial reports which has
16 been found by the commissioner to be substantially similar
17 to the requirements of this article, are exempt from this
18 article if:

19

20 (i) A copy of the audited financial report,
21 report on significant deficiencies in internal controls,
22 and the accountant's letter of qualifications which are
23 filed with the other state are filed with the ~~commissioner~~
24 National Association of Insurance Commissioners in

1 accordance with the filing dates specified in W.S.
2 26-3-303, 26-3-310 and 26-3-311, respectively. Canadian
3 insurers may submit accountants' reports as filed with the
4 Canadian dominion department of insurance; and

5

6 **26-3-302. Definitions.**

7

8 (a) As used in this article:

9

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

18

19 ~~(iii)~~ (iv) "Insurer" means as defined in W.S.
20 26-1-102(a) (xvi).

21

22 **26-3-306. Qualifications of independent certified**
23 **public accountant.**

24

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

4
5 (i) Is not in good standing with the American
6 Institute of Certified Public Accountants and in all states
7 in which the accountant is licensed to practice, or, for a
8 Canadian or British company, that is not a chartered
9 accountant; ~~or~~

10
11 (ii) Has either directly or indirectly entered
12 into an agreement of indemnification with respect to the
13 audit of the insurer.

14
15 (b) Except as otherwise provided in this section, the
16 commissioner shall recognize an independent certified
17 public accountant ~~shall be recognized~~ as qualified as long
18 as he conforms to the standards of his profession, as
19 contained in the code of professional ethics of the
20 American Institute of Certified Public Accountants and
21 rules and regulations and code of ethics and rules of
22 professional conduct of the Wyoming board of certified
23 public accountants, or similar code.

24

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

8
9 **26-6-208. Actuarial opinion of reserves.**

10
11 (c) Every life insurer, except as exempted by
12 regulation, shall also annually include in the opinion
13 required by subsection (b) of this section, an opinion of
14 the same qualified actuary as to whether the reserves and
15 related actuarial items held in support of the policies and
16 contracts specified by the commissioner by regulation, when
17 considered in light of the assets held by the insurer with
18 respect to the reserves and related actuarial items,
19 including but not limited to the investment earnings on the
20 assets and the considerations anticipated to be received
21 and retained under the policies and contracts, make
22 adequate provision for the insurer's obligations under the
23 policies and contracts, including but not limited to the
24 benefits under and expenses associated with the policies

1 and contracts. The commissioner may provide by regulation
2 for a transition period for establishing any higher
3 reserves which the qualified actuary deems necessary in
4 order to render the opinion required by this section.

5

6 **26-29-226. Reports.**

7

8 (a) Every society transacting business in this state
9 shall annually, on or before March 1, unless for cause
10 shown the time has been extended by the commissioner, file
11 with the commissioner a true statement of its financial
12 condition, transactions and affairs for the preceding
13 calendar year and pay a two hundred fifty dollar (\$250.00)
14 filing fee. The statement shall be in general form and
15 context as approved by the National Association of
16 Insurance Commissioners for fraternal benefit societies and
17 as supplemented by additional information required by the
18 commissioner. The statement shall be completed pursuant to
19 the most recent National Association of Insurance
20 Commissioners' accounting practices and procedures manual.

21 The commissioner may accept, for any society not domiciled
22 in this state which is required to file any statement or
23 valuation under this section, an electronic filing with the
24 National Association of Insurance Commissioners meeting the

1 requirements of this subsection as a filing with the
2 commissioner.

3
4 **26-34-110. Annual report.**

5
6 (c) All annual and quarterly statements filed
7 pursuant to this section shall be accompanied by ~~a computer~~
8 ~~diskette~~ an electronic version containing the same
9 information as the statement. The commissioner may specify
10 the ~~size and~~ format of the ~~computer diskette~~ electronic
11 version. The commissioner may accept, for any health
12 maintenance organization not domiciled in this state which
13 is required to file any statement under this section, an
14 electronic filing with the National Association of
15 Insurance Commissioners meeting the requirements of this
16 section as a filing with the commissioner. The commissioner
17 may refuse to continue or may suspend or revoke the
18 certificate of authority of any health maintenance
19 organization failing to file its annual or quarterly
20 statement when due.

21
22 **26-44-105. Transactions within a holding company**
23 **system.**

24

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

13

14 **26-48-102. Risk-based capital reports.**

15

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

22

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

2

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(END)