

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to insurance; amending provisions as necessary to maintain department accreditation; providing for actuarial opinions for property and casualty insurance providers; providing for filing of specified reports; providing definitions; providing for custody of insurance company securities; making conforming amendments; and providing for effective dates.

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

Section 1. W.S. 26-6-401 through 26-6-403 are created to read:

ARTICLE 4
PROPERTY AND CASUALTY ACTUARIAL OPINIONS

26-6-401. Short title; effective date.

This article shall be known as the property and casualty actuarial opinion law. W.S. 26-6-402 and 26-6-403 shall be effective beginning January 1, 2008 and shall be applicable to filings submitted after January 1, 2009.

26-6-402. Actuarial opinion of reserves and supporting documentation.

(a) Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an appointed actuary entitled "statement of actuarial opinion." This opinion shall be filed in accordance with the appropriate National Association of Insurance Commissioners property and casualty annual statement instructions.

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(b) Every property and casualty insurance company domiciled in this state that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with the appropriate National Association of Insurance Commissioners property and casualty annual statement instructions and shall be considered as a document supporting the actuarial opinion required in subsection (a) of this section. A company licensed but not domiciled in this state shall provide the actuarial opinion summary upon request.

(c) An actuarial report and underlying workpapers as required by the appropriate National Association of Insurance Commissioners property and casualty annual statement instructions shall be prepared to support each actuarial opinion required under this article. If the insurance company fails to provide a supporting actuarial report or workpapers at the request of the commissioner or the commissioner determines that the supporting actuarial report or workpapers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or workpapers.

(d) The appointed actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary.

26-6-403. Confidentiality.

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(a) The statement of actuarial opinion required under W.S. 26-6-402 shall be provided with the annual statement in accordance with National Association of Insurance Commissioners property and casualty annual statement instructions and shall be treated as a public document.

(b) Documents, materials or other information in the possession or control of the department that are considered an actuarial report, workpapers or actuarial opinion summary provided in support of the opinion, and any other material provided by the company to the commissioner in connection with the actuarial report, workpapers or actuarial opinion summary, shall be confidential by law and privileged, shall not be subject to inspection under W.S. 16-4-201 through 16-4-205, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. This provision shall not be construed to limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline established by the American academy of actuaries so long as the material is required for the purpose of professional disciplinary proceedings and that the actuarial board for counseling and discipline establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents. Nor shall this section be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(c) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

action concerning any confidential documents, materials or information subject to subsection (b) of this section.

(d) In order to assist in the performance of the commissioner's duties, the commissioner may:

(i) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (b) of this section with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information and has the legal authority to maintain confidentiality;

(ii) Receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(iii) Enter into agreements governing sharing and use of information consistent with this section.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

under this section or as a result of sharing as authorized in subsection (d) of this section.

Section 2. W.S. 26-3-301(b)(i), 26-3-308, 26-8-201(a)(i) and by creating a new paragraph (vi), 26-8-202, 26-8-203, 26-8-204, 26-29-226(a) and 26-34-110(c) are amended to read:

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 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 and a copy of the audited financial report which is on file with the other state is filed with the 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

26-3-308. Scope of examination and report of independent certified public accountant.

Financial statements furnished pursuant to W.S. 26-3-304 shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

accepted auditing standards. Consideration shall be given to the procedures illustrated in the financial condition examiner's handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

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 laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes the "treasury/reserve automated debt entry securities system" and the "treasury direct" book-entry securities systems established pursuant to 31 U.S.C. § 3100, et seq., 12 U.S.C part 391 and 5 U.S.C. part 301;

(vi) "Custodian" means a national bank, state bank or a trust company which participates in a clearing corporation.

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

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

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 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 custodian~~ 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~~ insurers of securities with clearing corporations, ~~and in the federal reserve book entry system~~ including establishing standards for national banks, state banks and trust companies to qualify as custodians for insurance company securities.

26-8-203. Deposit of securities by insurers.

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.~~

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

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 3 of this code 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~~ in this manner shall provide to the commissioner evidence 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 insurers.

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~~ in this manner shall provide to the commissioner evidence issued by its custodian ~~or a bank through which the insurer has deposited securities with a~~

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

~~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.

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~~ subsection, 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.

(c) All annual and quarterly statements filed pursuant to this section shall be accompanied by an electronic version containing the same information as the statement. The commissioner may specify the format of the

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

electronic version. The commissioner may accept, for any health maintenance organization not domiciled in this state which is required to file ~~any statement~~ annual, quarterly and audited financial statements 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.

Section 3. W.S. 26-8-201(a)(ii) through (iv) is repealed.

Section 4. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk

ORIGINAL SENATE
FILE NO. 0019

ENROLLED ACT NO. 14, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION