

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:

16

17

(i) "Clearing corporation" means a corporation  
18 as defined in W.S. 34.1-8-102(a)(v), except that with  
19 respect to securities issued by institutions organized or  
20 existing under the laws of any foreign country or  
21 securities used to meet the deposit requirements pursuant  
22 to the laws of a foreign country as a condition of doing  
23 business therein, clearing corporation may include a  
24 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) "Bank" means a financial institution  
21 insured by the federal deposit insurance corporation  
22 through which an insurer participates in the federal  
23 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 bank through which an insurer holds securities in the  
21 federal reserve book-entry system, and the records of any  
22 custodian banks through which an insurer holds securities  
23 in a clearing corporation, shall at all times show that the  
24 securities are held for the insurer and the accounts in

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

6  
7 (b) The commissioner is authorized to promulgate  
8 rules and regulations governing the deposit by insurance  
9 companies of securities with clearing corporations and in  
10 the federal reserve book-entry system.

11  
12 **26-8-204. Deposit of securities by domestic insurance**  
13 **companies.**

14  
15 Notwithstanding any other provision of law, the securities  
16 qualified for deposit under this chapter may be deposited  
17 with a clearing corporation or held in the federal reserve  
18 book-entry system through a bank located in this state.  
19 Securities deposited with a clearing corporation or held in  
20 the federal reserve book-entry system and used to meet the  
21 deposit requirements set forth in this chapter shall be  
22 under the control of the commissioner and shall not be  
23 withdrawn by the insurer without the approval of the  
24 commissioner. Any insurer holding securities as provided in

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

11

12 **26-8-205. Deposit of securities by foreign insurance**  
13 **companies.**

14

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

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

14

15 **Section 2.** W.S. 26-3-123(d), 26-3-204(a) and (c),  
16 26-3-301(b)(i), 26-3-302(a) by creating a new paragraph  
17 (iii) and by renumbering (iii) as (iv), 26-3-306(a), (b)  
18 and by creating a new subsection (f), 26-6-208(c),  
19 26-29-226(a), 26-34-110(c), 26-44-105(b)(intro) and  
20 26-48-102(a)(intro) are amended to read:

21

22 **26-3-123. Annual and quarterly statement; required;**  
23 **form; verification; failure to file.**

24

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

17

18 **26-3-204. Filing requirements; penalty.**

19

20 (a) Each domestic, foreign or alien insurer  
21 authorized to transact insurance in this state shall  
22 annually on or before March 1, file with the National  
23 Association of Insurance Commissioners a copy of its annual  
24 statement convention blank along with such additional



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

14

15 (c) Each domestic, foreign or alien insurer  
16 authorized to transact insurance in this state shall  
17 quarterly on or before forty-five (45) days after the end  
18 of the quarter being reported, file with the National  
19 Association of Insurance Commissioners a copy of its  
20 quarterly statement blank. The information filed with the  
21 National Association of Insurance Commissioners shall be in  
22 the same format and scope as that required by the  
23 commissioner and shall include the signed jurat page. Any  
24 amendments and addenda to the quarterly statement filing

1 subsequently filed with the commissioner shall also be  
2 filed with the National Association of Insurance  
3 Commissioners. Each insurer shall concurrently provide the  
4 National Association of Insurance Commissioners with a copy  
5 of the ~~computer diskette~~ electronic filing containing its  
6 quarterly statement as required by W.S. 26-3-123.

7

8 **26-3-301. Scope of article.**

9

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

16

17 (i) A copy of the audited financial report,  
18 report on significant deficiencies in internal controls,  
19 and the accountant's letter of qualifications which are  
20 filed with the other state are filed with the ~~commissioner~~  
21 National Association of Insurance Commissioners in  
22 accordance with the filing dates specified in W.S.  
23 26-3-303, 26-3-310 and 26-3-311, respectively. Canadian

1 insurers may submit accountants' reports as filed with the  
2 Canadian dominion department of insurance; and

3

4 **26-3-302. Definitions.**

5

6 (a) As used in this article:

7

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

16

17 ~~(iii)~~ (iv) "Insurer" means as defined in W.S.  
18 26-1-102(a) (xvi).

19

20 **26-3-306. Qualifications of independent certified**  
21 **public accountant.**

22

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.

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3

(END)