

**WORKING DRAFT**

HOUSE BILL NO. \_\_\_\_\_

Insurance department-accreditation.

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

A BILL

for

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

8

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

10

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

13

14

ARTICLE 4

15

## 1 PROPERTY AND CASUALTY ACTUARIAL OPINIONS

2

3 **26-6-401. Short title.**

4

5 This article shall be known as the property and casualty  
6 actuarial opinion law.

7

8 **26-6-402. Actuarial opinion of reserves and**  
9 **supporting documentation**

10

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

19

20 (b) Every property and casualty insurance company  
21 domiciled in this state that is required to submit a  
22 statement of actuarial opinion shall annually submit an  
23 actuarial opinion summary, written by the company's  
24 appointed actuary. This actuarial opinion summary shall be

1 filed in accordance with the appropriate National  
2 Association of Insurance Commissioners property and  
3 casualty annual statement instructions and shall be  
4 considered as a document supporting the actuarial opinion  
5 required in subsection (a) of this section. A company  
6 licensed but not domiciled in this state shall provide the  
7 actuarial opinion summary upon request.

8

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

23

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

7

8           **26-6-403. Confidentiality.**

9

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

15

16           (b)   Documents, materials or other information in the  
17 possession or control of the department that are considered  
18 an actuarial report, workpapers or actuarial opinion  
19 summary provided in support of the opinion, and any other  
20 material provided by the company to the commissioner in  
21 connection with the actuarial report, workpapers or  
22 actuarial opinion summary, shall be confidential by law and  
23 privileged, shall not be subject to inspection under W.S.  
24 16-4-201 through 16-4-205, shall not be subject to

1 subpoena, and shall not be subject to discovery or  
2 admissible in evidence in any private civil action. This  
3 provision shall not be construed to limit the  
4 commissioner's authority to release the documents to the  
5 actuarial board for counseling and discipline established  
6 by the American academy of actuaries so long as the  
7 material is required for the purpose of professional  
8 disciplinary proceedings and that the actuarial board for  
9 counseling and discipline establishes procedures  
10 satisfactory to the commissioner for preserving the  
11 confidentiality of the documents. Nor shall this section  
12 be construed to limit the commissioner's authority to use  
13 the documents, materials or other information in  
14 furtherance of any regulatory or legal action brought as  
15 part of the commissioner's official duties.

16

17 (c) Neither the commissioner nor any person who  
18 received documents, materials or other information while  
19 acting under the authority of the commissioner shall be  
20 permitted or required to testify in any private civil  
21 action concerning any confidential documents, materials or  
22 information subject to subsection (b) of this section.

23

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

3

4           (i)     Share documents, materials or other  
5 information, including the confidential and privileged  
6 documents, materials or information subject to subsection

7 (b) of this section with other state, federal and  
8 international regulatory agencies, with the National  
9 Association of Insurance Commissioners and its affiliates  
10 and subsidiaries, and with state, federal and international  
11 law enforcement authorities, provided that the recipient  
12 agrees to maintain the confidentiality and privileged  
13 status of the document, material or other information and  
14 has the legal authority to maintain confidentiality;

15

16           (ii)    Receive documents, materials or  
17 information, including otherwise confidential and  
18 privileged documents, materials or information, from the  
19 National Association of Insurance Commissioners and its  
20 affiliates and subsidiaries, and from regulatory and law  
21 enforcement officials of other foreign or domestic  
22 jurisdictions, and shall maintain as confidential or  
23 privileged any document, material or information received  
24 with notice or the understanding that it is confidential or

1 privileged under the laws of the jurisdiction that is the  
2 source of the document, material or information; and

3

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

6

7 (e) No waiver of any applicable privilege or claim of  
8 confidentiality in the documents, materials or information  
9 shall occur as a result of disclosure to the commissioner  
10 under this section or as a result of sharing as authorized  
11 in subsection (d) of this section.

12

13 **Section 2.** W.S. 26-3-301(b)(i), 26-3-308,  
14 26-8-201(a)(i), (v) and by creating a new paragraph (vi),  
15 26-8-202, 26-8-203, 26-8-204, 26-29-226(a) and 26-34-110(c)  
16 are amended to read:

17

18 **26-3-301. Scope of article.**

19

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

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

3  
4 (i) A copy of the ~~audited financial report,~~  
5 report on significant deficiencies in internal controls,  
6 and the accountant's letter of qualifications which are  
7 filed with the other state are filed with the commissioner  
8 and a copy of the audited financial report which is on file  
9 with the other state is filed with the National Association  
10 of Insurance Commissioners in accordance with the filing  
11 dates specified in W.S. 26-3-303, 26-3-310 and 26-3-311,  
12 respectively. Canadian insurers may submit accountants'  
13 reports as filed with the Canadian dominion department of  
14 insurance; and

15

16 **26-3-308. Scope of examination and report of**  
17 **independent certified public accountant.**

18

19 Financial statements furnished pursuant to W.S. 26-3-304  
20 shall be examined by an independent certified public  
21 accountant. The examination of the insurer's financial  
22 statements shall be conducted in accordance with generally  
23 accepted auditing standards. Consideration shall be given  
24 to the procedures illustrated in the financial condition

1 examiner's handbook promulgated by the National Association  
2 of Insurance Commissioners as the independent certified  
3 public accountant deems necessary.

4  
5 **26-8-201. Definitions.**

6  
7 (a) As used in this article:

8  
9 (i) "Clearing corporation" means a corporation  
10 as defined in W.S. 34.1-8-102(a)(v), except that with  
11 respect to securities issued by institutions organized or  
12 existing under the laws of any foreign country or  
13 securities used to meet the deposit requirements pursuant  
14 to the laws of a foreign country as a condition of doing  
15 business therein, clearing corporation may include a  
16 corporation which is organized or existing under the laws  
17 of any foreign country and is legally qualified under those  
18 laws to effect transactions in securities by computerized  
19 book-entry. Clearing corporation also includes the  
20 "treasury/reserve automated debt entry securities system"  
21 and the "treasury direct" book-entry securities systems  
22 established pursuant to 31 U.S.C. § 3100, et seq., 12 U.S.C  
23 part 391 and 5 U.S.C. part 301;

24

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

3

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

7

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

9

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

1 ~~the federal reserve book-entry system, and the records of~~  
2 ~~any custodian banks through which an insurer holds~~  
3 ~~securities in~~ a clearing corporation, shall at all times  
4 show that the securities are held for the insurer and the  
5 accounts in which they are held. Ownership of, and other  
6 interests in, the securities may be transferred by  
7 bookkeeping entry on the books of the clearing corporation  
8 ~~or in the federal reserve book-entry system~~ without, ~~in~~  
9 ~~either case,~~ physical delivery of certificates representing  
10 the securities.

11

12 (b) The commissioner is authorized to promulgate  
13 rules and regulations governing the deposit by ~~insurance~~  
14 ~~companies~~ insurers of securities with clearing  
15 corporations, ~~and in the federal reserve book-entry system~~  
16 including establishing standards for national banks, state  
17 banks and state trust companies to qualify as custodians  
18 for insurance company securities.

19

20 **26-8-203. Deposit of securities by insurers.**

21

22 Notwithstanding any other provision of law, the securities  
23 qualified for deposit under this chapter may be deposited  
24 with a clearing corporation. ~~or held in the federal reserve~~

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

19

20 **26-8-204. Deposit of securities by foreign insurers.**

21

22 Notwithstanding any other provision of law, securities  
23 eligible for deposit under the insurance laws of this state  
24 relating to deposit of securities by an insurer as a

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

21

22 **26-29-226. Reports.**

23

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

20

21           **26-34-110. Annual report.**

22

23           (c) All annual and quarterly statements filed  
24 pursuant to this section shall be accompanied by an

1 electronic version containing the same information as the  
2 statement. The commissioner may specify the format of the  
3 electronic version. The commissioner may accept, for any  
4 health maintenance organization not domiciled in this state  
5 which is required to file ~~any statement~~ annual, quarterly  
6 and audited financial statements under this section, an  
7 electronic filing with the National Association of  
8 Insurance Commissioners meeting the requirements of this  
9 section as a filing with the commissioner. The commissioner  
10 may refuse to continue or may suspend or revoke the  
11 certificate of authority of any health maintenance  
12 organization failing to file its annual or quarterly  
13 statement when due.

14

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

17

18 **Section 4.**

19

20 (a) Section 1 of this act is effective January 1,  
21 2009.

22

23 (b) Except as provided in subsection (a) of this  
24 section, this act is effective July 1, 2007.

1

2

(END)