

SENATE FILE NO. SF0019

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 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

PROPERTY AND CASUALTY ACTUARIAL OPINIONS

16

1 **26-6-401. Short title; effective date.**

2

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

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

4
5 **26-8-202. Use of book-entry systems.**

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

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

8
9 (b) The commissioner is authorized to promulgate
10 rules and regulations governing the deposit by ~~insurance~~
11 ~~companies~~ insurers of securities with clearing
12 corporations, ~~and in the federal reserve book entry system~~
13 including establishing standards for national banks, state
14 banks and trust companies to qualify as custodians for
15 insurance company securities.

16
17 **26-8-203. Deposit of securities by insurers.**

18
19 Notwithstanding any other provision of law, the securities
20 qualified for deposit under this chapter may be deposited
21 with a clearing corporation, ~~or held in the federal reserve~~
22 ~~book entry system through a bank located in this state.~~
23 Securities deposited with a clearing corporation ~~or held in~~
24 ~~the federal reserve book entry system~~ and used to meet the

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

16

17 **26-8-204. Deposit of securities by foreign insurers.**

18

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

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

18

19 **26-29-226. Reports.**

20

21 (a) Every society transacting business in this state
22 shall annually, on or before March 1, unless for cause
23 shown the time has been extended by the commissioner, file
24 with the commissioner a true statement of its financial

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

16

17 **26-34-110. Annual report.**

18

19 (c) All annual and quarterly statements filed
20 pursuant to this section shall be accompanied by an
21 electronic version containing the same information as the
22 statement. The commissioner may specify the format of the
23 electronic version. The commissioner may accept, for any
24 health maintenance organization not domiciled in this state

1 which is required to file ~~any statement~~ annual, quarterly
2 and audited financial statements under this section, an
3 electronic filing with the National Association of
4 Insurance Commissioners meeting the requirements of this
5 section as a filing with the commissioner. The commissioner
6 may refuse to continue or may suspend or revoke the
7 certificate of authority of any health maintenance
8 organization failing to file its annual or quarterly
9 statement when due.

10

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

13

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

15

16

(END)