

SENATE FILE NO. SF0023

Insurance code updates.

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

A BILL

for

1 AN ACT relating to insurance; expanding the authority to
2 transmit certain insurance notices or documents
3 electronically; modifying provisions governing nonadmitted
4 insurance; imposing additional requirements on the selection
5 of members of the Wyoming health and life guarantee
6 association board of directors; authorizing a service fee on
7 surplus lines brokers; and providing for an effective date.

8

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

10

11 **Section 1.** W.S. 26-3-501, 26-3-503(a)(intro),
12 26-11-102(a)(intro), 26-11-103(a)(i), (v), (xiv), (xviii) and
13 (xix), 26-11-104(a)(intro), (i), (ii) and (iii)(A),
14 26-11-105(b), 26-11-106(a), 26-11-107(d) and by creating a
15 new subsection (h), 26-11-109(a) and (b) (intro), 26-11-110,

1 26-11-115, 26-11-117(a), (b) (intro) and (c), 26-11-118(e)
2 and by creating a new subsection (j), 26-11-120(c),
3 26-11-124(a), (b) and by creating a new subsection (d) and
4 26-42-105(a) are amended to read:

5

6 **26-3-501. Applicability.**

7

8 (a) This article shall apply ~~only~~ to property and
9 casualty insurance, life insurance and disability insurance,
10 including:-

11

12 (i) Accident only insurance;

13

14 (ii) Accidental death or dismemberment insurance;

15

16 (iii) Credit insurance;

17

18 (iv) Dental or vision care insurance;

19

20 (v) Medicare supplemental insurance as defined by
21 section 1882(g)(i) of the federal Social Security Act;

22

1 (vi) Long-term care insurance, including nursing
2 home fixed indemnity insurance;

3
4 (vii) Disability income or a combination of
5 accident only and disability income insurance;

6
7 (viii) Insurance issued as a supplement to
8 liability insurance;

9
10 (ix) Specified disease insurance;

11
12 (x) Workers' compensation insurance;

13
14 (xi) Medical payment insurance coverage provided
15 under a motor vehicle insurance policy;

16
17 (xii) Hospital confinement indemnity insurance;

18
19 (xiii) Limited benefit insurance that is offered
20 and marketed as supplemental health insurance and not as a
21 substitute for hospital or medical insurance or major medical
22 expense insurance.

23

1 **26-3-503. Posting of policies on the internet.**

2

3 (a) Notwithstanding any other provisions of W.S.
4 26-3-502, standard ~~property and casualty~~ insurance policies
5 and endorsements to which this article is applicable that do
6 not contain personally identifiable information may be
7 mailed, delivered or posted on the insurer's web site. If
8 the insurer elects to post insurance policies and
9 endorsements on its web site in lieu of mailing or delivering
10 them to the insured, it shall comply with all of the following
11 conditions:

12

13 **26-11-102. Home state regulation of nonadmitted**
14 **insurance; exemptions.**

15

16 (a) This chapter does not apply to reinsurance or to
17 the following insurances when placed by licensed ~~agents~~
18 insurance producers or surplus ~~line-lines~~ brokers of this
19 state or when procured directly by an insured from a
20 nonadmitted insurer:

21

22 **26-11-103. Definitions.**

23

1 (a) As used in this chapter:

2

3 (i) "Admitted insurer" means an insurer ~~licensed~~
4 ~~authorized~~ to ~~engage in~~ ~~transact~~ the business of insurance in
5 this state;

6

7 (v) "Nonadmitted insurance" means any property and
8 casualty, accident and health or sickness or disability
9 insurance permitted to be placed directly or through a surplus
10 lines broker with a nonadmitted insurer eligible to accept
11 the insurance;

12

13 (xiv) "Nonadmitted insurer" means with respect to
14 a state, an insurer not ~~licensed~~ ~~authorized~~ to ~~engage in~~
15 ~~transact~~ the business of insurance in the state, but does not
16 include a health maintenance organization or a risk retention
17 group as that term is defined in section 2(a)(4) of the
18 Liability Risk Retention Act of 1986, 15 U.S.C. 3901(a)(4);

19

20 (xviii) "Qualified risk manager" means with
21 respect to a policyholder of commercial insurance, a person
22 who meets all of the requirements set forth by department
23 rule and regulation, which requirements shall be in

1 compliance with the Nonadmitted and Reinsurance Reform Act of
2 2010 or subsequent similar federal enactment;

3

4 (xix) "Surplus lines broker" means an individual
5 or business entity which is licensed in a state to sell,
6 solicit or negotiate insurance ~~on properties, risks or~~
7 ~~exposures located or to be performed in a state~~ with
8 nonadmitted insurers;

9

10 **26-11-104. Conditions for export.**

11

12 (a) If certain insurance coverages cannot be procured
13 from ~~authorized~~ admitted insurers, those coverages,
14 designated in this chapter as "surplus lines", may be procured
15 from nonadmitted insurers, subject to the following
16 conditions:

17

18 (i) The insurance shall be procured through a
19 licensed surplus ~~line~~ lines broker;

20

21 (ii) The full amount of insurance required is not
22 procurable, after diligent effort has been made by the
23 insurance producer to do so, from among the admitted insurers

1 authorized to transact and actually writing that kind and
2 ~~class-type~~ of insurance in this state, and the amount of
3 insurance exported shall be only the excess over the amount
4 procurable from ~~authorized-admitted~~ insurers. The surplus
5 lines broker shall verify that a properly conducted diligent
6 effort search was performed and documented as prescribed by
7 the commissioner;

8

9 (iii) The insurance shall not be exported for the
10 purpose of securing advantages either as to:

11

12 (A) A lower premium rate than would be
13 accepted by an ~~authorized-admitted~~ insurer; or

14

15 **26-11-105. Surplus lines transaction report.**

16

17 (b) The report shall be ~~on forms~~ in the form and manner
18 prescribed by the commissioner.

19

20 **26-11-106. Open lines for export.**

21

22 (a) The commissioner, by order, may declare eligible
23 for export generally and without compliance with W.S.

1 26-11-104(a)(ii) and (iii), any ~~class-type~~ of insurance
2 coverage or risk for which he finds, after notice and a
3 hearing, ~~of which notice is given to each insurer authorized~~
4 ~~to transact those classes in this state,~~ that there is not a
5 reasonable or adequate market among ~~authorized~~ admitted
6 insurers either as to acceptance of the risk, contract terms,
7 premium or premium rate. The order shall continue in effect
8 during the existence of the conditions upon which predicated,
9 but subject to the commissioner's earlier termination.

10
11 **26-11-107. Requirements for eligible nonadmitted**
12 **insurers; publication of eligible insurers.**

13
14 (d) The commissioner ~~from time to time~~ may publish
15 create and maintain a list of all ~~surplus lines nonadmitted~~
16 insurers ~~he deems that qualify as~~ eligible ~~currently and shall~~
17 ~~mail a copy of the list to each broker at his office last of~~
18 ~~record with the commissioner~~ nonadmitted insurers in Wyoming.
19 To qualify for inclusion on the list, the nonadmitted insurer
20 shall annually file an application with the commissioner and
21 any other appropriate information as required by the
22 commissioner. This subsection does not obligate the
23 commissioner to determine the actual financial condition or

1 claims practices of any nonadmitted insurer. The status of
2 eligibility, if granted by the commissioner, indicates only
3 that the insurer appears to be sound financially and to have
4 satisfactory claims practices, and that the commissioner has
5 no credible evidence to the contrary. While any such list is
6 in effect the surplus lines broker shall restrict to the
7 insurers listed all surplus line business he places.

8
9 (h) Insurance policy rate and form filings applicable
10 to admitted insurers do not apply to nonadmitted insurers
11 issuing policies under the provisions of this chapter.

12
13 **26-11-109. Required information on surplus lines**
14 **contracts; duty to notify insured.**

15
16 (a) ~~Any~~ Every new or renewed insurance contract,
17 certificate, cover note or other confirmation of insurance
18 that is procured and delivered as a surplus lines coverage
19 pursuant to this chapter shall have stamped or printed upon
20 it, in at least ten (10) point bold type font, the name and
21 address of the surplus ~~line~~ lines broker who procured the
22 coverage, and the following disclosure: "This insurance
23 contract is issued pursuant to the Wyoming Nonadmitted

1 Insurance Laws by an insurer neither licensed by nor under
2 the jurisdiction of the Wyoming Insurance Department. In the
3 event of insolvency of the surplus lines insurer, losses will
4 not be paid by the Wyoming Insurance Guaranty Association or
5 the Wyoming Life and Health Guarantee Association."

6
7 (b) ~~No contract of insurance placed by a surplus lines~~
8 ~~broker under this chapter shall be binding upon the insured~~
9 ~~and no premium charged shall be due and payable until the~~
10 ~~surplus lines broker shall have notified the insured in~~
11 ~~writing, The insurance producer shall give written notice to~~
12 ~~every person applying for insurance with a nonadmitted~~
13 ~~insurer. The notice shall provide the disclosure required by~~
14 ~~subsection (a) of this section and any additional information~~
15 ~~required by the commissioner. The applicant shall sign and~~
16 ~~date a copy of the notice acknowledging receipt. The notice~~
17 ~~shall be~~ in a form acceptable to the commissioner, a signed
18 copy of which shall be maintained by the surplus lines broker
19 with the records of the contract and available for ~~possible~~
20 examination, ~~that~~ by the commissioner.

21
22 **26-11-110. Enforceability and validity of nonadmitted**
23 **insurance.**

1

2 Insurance contracts procured from ~~unauthorized~~nonadmitted
3 insurers in accordance with this chapter are fully valid and
4 enforceable as to all parties and shall be given recognition
5 in all matters and respects to the same effect as like
6 contracts issued by ~~authorized~~admitted insurers.

7

8 **26-11-115. Surplus lines broker may accept and place**
9 **business from producers.**

10

11 A licensed surplus ~~line~~lines broker may accept and place
12 surplus line business for any insurance ~~agent~~producer
13 licensed in this state for the kind of insurance involved and
14 may compensate the ~~agent~~producer therefor.

15

16 **26-11-117. Surplus lines broker affidavit report.**

17

18 (a) Each surplus lines broker, ~~annually,~~ on or before
19 ~~March 1~~February 15, May 15, August 15 and November 15 of
20 each year, if applicable, shall file with the commissioner a
21 ~~verified~~an affidavit report ~~of~~verifying that all surplus
22 ~~line~~lines insurance ~~he~~ transacted during the preceding

1 calendar ~~year~~quarter has been submitted as required by the
2 commissioner.

3
4 (b) The affidavit report of the surplus lines broker
5 shall be ~~on forms~~in the form and manner the commissioner
6 prescribes.~~and~~ The report shall ~~show~~include a statement as
7 to the diligent efforts made to place the coverage with
8 admitted insurers, the results thereof and any additional
9 information required by the commissioner.

10

11 (c) ~~More frequent~~An alternative reporting and tax
12 payment period may be required by participation in a
13 multistate compact, reciprocal agreement or clearinghouse
14 pursuant to W.S. 26-11-123.

15

16 **26-11-118. Tax on surplus lines.**

17

18 (e) ~~Annually, on or before March 1,~~At the time of
19 filing an affidavit report required by W.S. 26-11-117, each
20 surplus lines broker shall pay the premium tax due for ~~the~~
21 ~~policies written during the preceding~~each calendar ~~year~~as
22 ~~shown by his annual report filed with~~quarter's business as
23 reported, in the manner prescribed by the commissioner.

1 ~~unless more frequent~~ An alternative reporting and payment ~~is~~
2 period may be required by participation in a multistate
3 compact, reciprocal agreement or clearinghouse pursuant to
4 subsection (g) of this section. The surplus lines broker
5 shall pay interest on the amount of any delinquent tax due,
6 at the rate of nine percent (9%) per year, compounded
7 annually, beginning the day the amount becomes delinquent.

8
9 (j) The clearinghouse is authorized to collect from the
10 surplus lines broker a reasonable service fee, as approved by
11 the commissioner, as a percentage of total gross premiums of
12 each surplus lines policy or document reported under this
13 chapter to cover the cost of administrative services of the
14 clearinghouse. The service fee shall be paid by the insured.

15
16 **26-11-120. Service of process against nonadmitted**
17 **insurer.**

18
19 (c) ~~An unauthorized~~ A nonadmitted insurer issuing a
20 policy is deemed to have authorized service of process against
21 it in the manner and to the effect provided in this section.
22 The policy shall contain a provision stating the substance of
23 this section and designating the person to whom the

1 commissioner shall mail process as provided in subsection (b)
2 of this section.

3

4 **26-11-124. Independently procured insurance; duty to**
5 **report and pay tax.**

6

7 (a) Each insured ~~in whose home state is~~ this state ~~and~~
8 who ~~independently~~ procures, continues or renews insurance
9 with a nonadmitted insurer, ~~on properties, risks or exposures~~
10 ~~located or to be performed in whole or in part in this state,~~
11 other than insurance procured through a surplus lines broker,
12 shall, within forty-five (45) days after the date the
13 insurance was so procured, continued or renewed, file a report
14 with the commissioner, ~~upon forms~~ ~~in the form and manner~~
15 prescribed by the commissioner, showing the name and address
16 of the insured or insureds, name and address of the insurer,
17 the subject of insurance, a general description of the
18 coverage, the amount of premium currently charged and
19 additional pertinent information requested by the
20 commissioner.

21

22 (b) ~~At the time of filing the report required in~~
23 ~~subsection (a) of this section,~~ The insured is subject to the

1 same tax and clearinghouse service fee payment requirements
2 as apply to a surplus lines broker in W.S. 26-11-118.

3

4 (d) This section does not authorize independent
5 procurement of accident and health or sickness or disability
6 insurance.

7

8 **26-42-105. Board of directors.**

9

10 (a) The board of directors of the association consists
11 of not less than five (5) nor more than nine (9) member
12 insurers serving terms as established in the plan of operation
13 provided by W.S. 26-42-108. Membership on the board shall be
14 subject to the following:

15

16 (i) The members of the board ~~are~~ shall be selected
17 by member insurers subject to the approval of the
18 commissioner ~~i-~~

19

20 (ii) A majority of the members shall be domestic
21 insurers. If there are not enough domestic insurers for a
22 majority, then all domestic insurers shall be on the board.
23 The domestic insurers shall hold the positions of chairman

1 and at least one (1) other officer position on the board if
2 possible;

3
4 (iii) Each member insurer selected shall identify
5 the individual representing the member insurer on the board
6 and shall provide the individual's name, address,
7 biographical information and position in an affidavit to the
8 commissioner for review and approval;

9
10 (iv) Vacancies on the board ~~are~~ shall be filled
11 for the remaining period of the term by a majority vote of
12 the remaining board members subject to the approval of the
13 commissioner.

14
15 **Section 2.** W.S. 26-11-102(a)(ii), 26-11-103(a)(ii),
16 26-11-106(b) and (c), 26-11-109(b)(i) and (ii) and
17 26-11-117(b)(ii) through (vii) and (d) are repealed.

18
19 **Section 3.** This act is effective July 1, 2020.

20

21 (END)