

ORIGINAL HOUSE
BILL NO. HB0016

ENROLLED ACT NO. 9, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

AN ACT relating to insurance; providing for supervision of internationally active insurance groups; providing duties and responsibilities; providing definitions; conforming provisions; and providing for an effective date.

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

Section 1. W.S. 26-44-119 is created to read:

26-44-119. Group wide supervision of internationally active insurance groups.

(a) The commissioner is authorized to act as the group wide supervisor for any internationally active insurance group in accordance with this section. However, the commissioner may acknowledge a regulatory official from another jurisdiction as the group wide supervisor for an internationally active insurance group where the internationally active insurance group:

(i) Does not have substantial insurance operations in the United States;

(ii) Has substantial insurance operations in the United States, but not in Wyoming; or

(iii) Has substantial insurance operations in the United States and Wyoming, but the commissioner has determined pursuant to the factors set forth in subsections (c) and (j) of this section that the other regulatory official is the appropriate group wide supervisor.

(b) An insurance holding company system that is not an internationally active insurance group may request that the

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commissioner make a determination or acknowledgement as to a group wide supervisor pursuant to this section.

(c) In cooperation with other state, federal and international regulatory agencies, the commissioner shall identify one (1) group wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in Wyoming. However, the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group wide supervisor for the internationally active insurance group. The commissioner shall consider the following factors when making a determination or acknowledgment:

(i) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets or liabilities;

(ii) The place of domicile of the top tiered insurer in the insurance holding company system of the internationally active insurance group;

(iii) The location of the executive offices or largest operational offices of the internationally active insurance group;

(iv) Whether another regulatory official seeks to act as the group wide supervisor under a regulatory system the commissioner determines:

(A) To be substantially similar to the system of regulation provided under the laws of Wyoming; or

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(B) Sufficiently provides group wide supervision, enterprise risk analysis and cooperation with other regulatory officials.

(v) Whether another regulatory official provides the commissioner with reasonably reciprocal recognition and cooperation.

(d) If the commissioner is identified under this section as the group wide supervisor, the commissioner may determine that it is appropriate to acknowledge another supervisor to serve as the group wide supervisor. The acknowledgment of the group wide supervisor shall be made after consideration of the factors listed in paragraphs (c)(i) through (v) of this section and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group and in consultation with the internationally active insurance group.

(e) Notwithstanding any other provision of law, when a regulatory official, other than the commissioner, is acting as the group wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group wide supervisor. However, the commissioner shall make a determination or acknowledgement under subsection (c) or (d) of this section as to the appropriate group wide supervisor for an internationally active insurance group if a material change in the internationally active insurance group results in either of the following:

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(i) The internationally active insurance group's insurers domiciled in Wyoming holding the largest share of the group's premiums, assets or liabilities;

(ii) Wyoming being the place of domicile of the top tiered insurer in the internationally active insurance group's insurance holding company system.

(f) Pursuant to W.S. 26-44-109, the commissioner may collect from any insurer registered under W.S. 26-44-104 all information necessary to determine whether the commissioner may act as the group wide supervisor of an internationally active insurance group or if the commissioner may acknowledge another regulatory official to act as the group wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to W.S. 26-44-104 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than thirty (30) days from the date of notification to provide the commissioner with additional information pertinent to the pending determination.

(g) The commissioner shall publish on the department's website the identity of each internationally active insurance group that the commissioner has determined is subject to group wide supervision by the commissioner.

(h) If the commissioner is the group wide supervisor for an internationally active insurance group, the commissioner may do any of the following:

(i) Assess the enterprise risks within the internationally active insurance group to ensure that:

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(A) The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management; and

(B) Reasonable and effective mitigation measures are in place to address the identified enterprise risks.

(ii) Request from any member of an internationally active insurance group subject to the commissioner's supervision information necessary and appropriate to assess enterprise risk including information about the members of the internationally active insurance group regarding any of the following:

(A) Governance, risk assessment and management;

(B) Capital adequacy; and

(C) Material intercompany transactions.

(iii) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(iv) Subject to the confidentiality provisions of W.S. 26-44-110, communicate with other state, federal and

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international regulatory agencies for members within the internationally active insurance group and share relevant information through supervisory colleges as set forth in W.S. 26-44-118 or otherwise;

(v) Enter into agreements with or obtain documentation from any insurer registered under W.S. 26-44-104, any member of the internationally active insurance group or any other state, federal or international regulatory agency on behalf of members of the internationally active insurance group that provide the basis for or otherwise clarify the commissioner's role as group wide supervisor, including provisions for resolving disputes with other regulatory officials. The agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in Wyoming is doing business in Wyoming or is otherwise subject to the jurisdiction of the state of Wyoming;

(vi) Conduct any other group wide supervision activities consistent with this section as deemed necessary by the commissioner.

(j) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group wide supervisor of an internationally active insurance group, the commissioner may reasonably cooperate through a supervisory college or otherwise with group wide supervision undertaken by the group wide supervisor, provided that:

(i) The commissioner's cooperation complies with the laws of Wyoming; and

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(ii) The regulatory official acknowledged as the group wide supervisor also recognizes and cooperates with the commissioner's activities as a group wide supervisor for other internationally active insurance groups as applicable. Where the recognition and cooperation is not reasonably reciprocal, the commissioner may refuse recognition and cooperation.

(k) The commissioner may enter into agreements with or obtain documentation from any insurer registered under W.S. 26-44-104, any affiliate of the insurer or any other state, federal or international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group wide supervisor.

(m) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the costs to engage attorneys, actuaries or other professionals and all reasonable travel costs.

Section 2. W.S. 26-44-101(a) by creating new paragraphs (xii) and (xiii) and by amending and renumbering (xii) as (xiv) and 26-44-110(a) are amended to read:

26-44-101. Definitions.

(a) As used in this act:

(xii) "Group wide supervisor" means the regulatory official authorized to conduct and coordinate group wide supervision activities who is determined or acknowledged by the commissioner to have sufficient significant contacts with

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the internationally active insurance group under W.S. 26-44-119;

(xiii) "Internationally active insurance group" means an insurance holding company system that:

(A) Includes an insurer registered under W.S. 26-44-104; and

(B) Meets all of the following criteria:

(I) Writes premiums in at least three (3) countries;

(II) The percentage of its gross premiums written outside of the United States is at least ten percent (10%) of its total gross written premiums;

(III) Based on a three (3) year rolling average, its total assets are at least fifty billion dollars (\$50,000,000,000.00) or its total gross written premiums are at least ten billion dollars (\$10,000,000,000.00).

~~(xii)~~(xiv) "This act" means W.S. 26-44-101 through ~~26-44-118~~26-44-119.

26-44-110. Confidential treatment.

(a) All information, documents and copies of the documents and information obtained by or disclosed to the commissioner or any other person in the course of an examination made pursuant to W.S. 26-44-109 and all information reported pursuant to W.S. 26-44-103(b)(xii) and (xiii), ~~and~~ 26-44-104 through 26-44-108 and 26-44-119 shall be confidential, shall not be subject to subpoena and shall

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not be disclosed by the commissioner, the National Association of Insurance Commissioners, or any person, except as authorized by and in accordance with the provisions of W.S. 26-2-113(d), without the prior written consent of the insurer to which the information pertains. The commissioner, after giving the insurer and its affiliates notice and opportunity to be heard, may determine that the interest of policyholders, shareholders or the public will be served by the publication of the information, in which event he may publish all or any part of the information as he deems appropriate.

Section 3. This act is effective July 1, 2019.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk