



Certification Page
Regular and Emergency Rules

Revised May 2014

Emergency Rules (After completing all of Sections 1 and 2, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name

Wyoming Department of Insurance

b. Agency/Board Address
106 E. 6th Avenue

c. City
Cheyenne

d. Zip Code
82001

e. Name of Contact Person
Heather Canarecci

f. Contact Telephone Number
307-777-6916

g. Contact Email Address
heather.canarecci1@wyo.gov

h. Adoption Date
December 7, 2015

i. Program
General

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:				
Chapter Number: 3	Chapter Name: Regulation Governing the Transaction of Controlled Business by Title Insurers and Title Agents	<input type="checkbox"/> New	<input checked="" type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number: 18	Chapter Name: Regulation Governing Consultants	<input type="checkbox"/> New	<input checked="" type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

d. The Statement of Reasons is attached to this certification.

e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State:
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Legislative Service Office:
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Attorney General:

September 22, 2015

September 21, 2015

August 12, 2015

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. Yes No N/A
b. A public hearing was held on the proposed rules. Yes No

If "Yes":	Date:	Time:	City:	Location:
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5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature:

December 7, 2015

b. Date on which final rules were sent to the Legislative Service Office:

December 7, 2015

c. Date on which a PDF of the final rules was electronically sent to the Secretary of State:

December 7, 2015

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual

(Blue ink as per Rules on Rules, Section 7)



Printed Name of Signatory

Tom Glause

Signatory Title

Commissioner

Date of Signature

12-7-15

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature

Date of Signature

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to Criss.Carlson@wyoleg.gov; clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SOS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

DEPARTMENT OF INSURANCE

STATE OF WYOMING

IN THE MATTER OF THE AMENDMENT)
TO CHAPTER 3 OF THE WYOMING)
DEPARTMENT OF INSURANCE RULES)
AND REGULATIONS,) Docket No. 15-45

STATEMENT OF PRINCIPAL REASONS

FOR

Amendment of Chapter 3 of Wyoming Insurance Department Regulation

Regulations Governing the Transaction of Controlled Business By
Title Insurers and Title Agents

Wyoming Statutes § 26-23-301, et seq., known collectively as the Wyoming Title Insurance Act (“the Act”), was signed into law by Governor Edgar Herschler with an effective date of May 27, 1983. Among other things, the Act was designed to protect Wyoming consumers by requiring full disclosure of any instance of controlled business when purchasing title insurance. Pursuant to W.S. § 26-23-303(a)(vi), controlled business is defined as “any portion of a title insurer’s or title agent’s business of title insurance in this state, referred to it by any producer of title business or by any associate of such producer, if the producer of title business, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred.” Chapter 3 of the Wyoming Insurance Department Regulations was promulgated shortly after the effective date of the Act on October 28, 1983, and has not been substantially modified since that time. The Wyoming Insurance Department has amended Chapter 3 to clarify the wording in an attempt to reduce any ambiguity.

In addition, on or about November 25, 2013, Governor Mead required all State Agencies to reduce their Rules both in number and in length. Changes have been made to reduce and reorganize the existing rule to comply with the Governor's directive. Such changes include utilization of consistent language, removing unnecessary and duplicative language, and eliminating reiteration of statutory language in the regulation. The revisions to Chapter 3 have resulted in a reduction of words in the regulation from approximately 1,562 words in the prior version to approximately 499 words in the amended version. This represents a reduction of approximately 68%.

STATEMENT OF PRINCIPAL REASONS
FOR
Amendment of Chapter 18 of Wyoming Insurance Department Regulation
REGULATION GOVERNING CONSULTANTS

Wyoming Statute § 26-9-220 was signed into law by Governor Edgar Herschler in 1979, with an effective date of May 25, 1979. The Wyoming Insurance Department originally promulgated Chapter 18 of its regulations regarding Insurance Consultants in 1988, and it has not been substantially modified since that time. The Wyoming Insurance Department has amended Chapter 18 to update and clarify the wording in an attempt to reduce any ambiguity.

In addition, on or about November 25, 2013, Governor Mead required all State Agencies to reduce their Rules both in number and in length. Changes have been made to reduce and reorganize the existing rule to comply with the Governor's directive. Such changes include utilization of consistent language, removing unnecessary and duplicative language, and eliminating reiteration of statutory language in the regulation. The revisions to Chapter 18 have resulted in a reduction of words in the regulation from approximately 742 words in the prior version, to approximately 436 words in the amended version. This represents a reduction of approximately 41%.

CHAPTER 3
REGULATIONS GOVERNING THE TRANSACTION
OF CONTROLLED BUSINESS BY
TITLE INSURERS AND TITLE AGENTS

Section 1. Authority

These regulations governing the transaction of controlled business by title insurers and title agents supplement the provisions of W.S. § 26-23-301, et seq. They are promulgated by the authority of and pursuant to the Wyoming Administrative Procedure Act, W.S. §§ 16-3-101 through 16-3-115, W.S. § 26-23-333 and W.S. § 26-2-110.

Section 2. Definitions

All definitions shall be as identified in W.S. § 26-23-303.

Section 3. Disclosure by Producer of Controlled Business

Title insurers or agents may not transact any business for title insurance or title services if they know or have reason to believe that the insurance referral involves controlled business unless fully disclosed to the buyer, seller, or lender. The disclosure must be made by the producer or the producer's associate in writing on forms prescribed by the commissioner. The title insurer or agent shall maintain the disclosure forms for a period of five (5) years.

Section 4. Forms Showing Financial Interest to Be Filed with Commissioner

Each title insurer and title agent shall file with the commissioner, on forms prescribed by the commissioner, reports setting forth the names and addresses of those persons, if any, who have had a financial interest in the title insurer or title agent during the calendar year, who are known or reasonably believed by the title insurer or title agent to be producers or the producer's associates of title business.

(a) Each title insurer shall file the report required under this section with its application for a license, and upon renewal by March 1.

(b) Each title agent shall file the report required under this section upon initial application, and annually upon license renewal. An updated report shall be filed any time the information provided in the last report has changed.

Section 5. Restrictions upon the Writing of Controlled Business

No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, receive or retain any premium or charge in connection with any title insurance transaction if:

(a) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent, and

(b) Twenty-five percent (25%) or more of the gross operating revenue of that title insurer or title agent in the calendar year in which the transaction takes place is derived from controlled business.

Section 6. Exemption

The restrictions imposed by these regulations shall not apply to any producer or associate who, on or before October 28, 1983, a financial interest in any title insurer or title agent to which business is referred and no additional financial interest in any title insurer or title agency has since been acquired.

Section 7. Effective Date

These regulations are effective immediately upon filing with the Secretary of State.

CHAPTER 3
REGULATIONS GOVERNING THE TRANSACTION
OF CONTROLLED BUSINESS BY
TITLE INSURERS AND TITLE AGENTS

Section 1. **Section 1.** **Authority**

These regulations governing the transaction of controlled business by title insurers and title agents supplement the provisions of W.S. § 26-23-301, et seq. They are promulgated by the authority of and pursuant to the Wyoming Administrative Procedure Act, W.S. §§ 16-3-101 through 16-3-115, W.S. § 26-23-333 and W.S. § 26-2-110.

Section 2. **Purpose**

The purpose of these regulations is to protect the interests of the insuring public by placing limitations on the writing of controlled business in the State of Wyoming.

Section 3. **Applicability**

These regulations shall apply to all title insurers and all title agents transacting the business of title insurance in the State of Wyoming.

Section 2. **Section 4.** **Definitions**

All definitions shall be as identified in W.S. § 26-23-303.

- (a) "Applicant" means a person, whether or not a prospective insured, who applies to a title insurer or title agent for a title insurance policy and who, at the time of application, is not a title agent.
- (b) "Associate" means any:
 - (i) Business organized for profit in which a producer of title business is a director, officer, partner, employee or owner of five percent (5%) or more of the equity capital thereof;
 - (ii) Employee of a producer of title business;
 - (iii) Franchisor or franchisee of a producer of title business;
 - (iv) Spouse, parent or child of a producer of title business who is a natural person;
 - (v) Person, other than a natural person, that controls, is controlled by or is under common control with a producer of title business; or
 - (vi) Person with whom a producer of title business or any associate of such producer

~~has any agreement, arrangement or understanding, or pursues any course of conduct, the purpose or substantial effect of which is to evade the provisions of this chapter.~~

~~(e) "Charge" means any fee billed by a title agent or title insurer or both for the performance of services, other than fees that fall within the definition of premium in paragraph "f" of this section and includes but is not limited to fees for document preparation, fees for the handling of escrows, settlements or closings and fees for services commenced but not completed. "Charge" does not include the fees collected by a title insurer or title agent in an escrow, settlement or closing when the fees are limited to the amount billed for services rendered by an entity independent of the title insurer or title agent;~~

~~(d) "Controlled business" means any portion of a title insurer's or title agent's business of title insurance in this state, referred to it by any producer of title business or by any associate of such producer, if the producer of title business, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred;~~

~~(e) "Financial interest" means any interest that entitles the holder in any manner to five percent (5%) or more of the net profits or net worth of the entity in which the interest is held;~~

~~(f) "Premium" means fees for:~~

~~(i) Issuing a title insurance policy, including any service charge administration fee for the issuance of a title insurance policy;~~

~~(ii) Abstracting, searching and examining title when conducted or performed in contemplation of or in conjunction with the issuance of a title insurance policy;~~

~~(iii) Preparing or issuing preliminary reports, property profiles, commitments, binders or like products;~~

~~(iv) Assuming liability under a contract of reinsurance.~~

~~(g) "Producer of title business" or "producer" for the purpose of these regulations means any person including any officer, director or owner of five percent (5%) or more of the equity or capital of any person engaged in this state in the trade, business, occupation or profession of:~~

~~(i) Buying or selling interests in real property;~~

~~(ii) Making loans secured by interests in real property; or~~

~~(a) (iii) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with such interest as security.~~

~~(b) "Refer" or "referred" means a direct or cause to be directed or to exercise any power or influence over the direction of title insurance business, whether or not the consent or approval of~~

~~any other person is sought or obtained with respect to the referral.~~

~~(b) "Title insurance agent" or "agent" means any person authorized in writing by a title insurer to do any of the following but does not include approved attorneys, officers or employees of a title insurer:~~

~~(i) Solicit title insurance business;~~

~~(ii) Determine insurability in accordance with underwriting rules and standards prescribed by the title insurer; or~~

~~(iii) Issue policies of the title insurer.~~

~~(c) "Title insurance policy" or "policy" means a contract wherein, subject to the stated terms and conditions, a title insurer insures, guarantees or indemnifies owners of real or personal property or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of:~~

~~(i) Defects in, adverse claims, liens or encumbrances in the title to the stated property;~~

~~(ii) Unmarketability of the title to the stated property;~~

~~(iii) Guaranteeing, warranting or otherwise insuring by a title insurance company the correctness of searches relating to the title to property;~~

~~(iv) Defects in the authorization, execution or delivery of an encumbrance upon such property;~~

~~(v) The insuring by a title insurance company the validity and enforceability of evidences of indebtedness secured by an encumbrance upon the title or interest in such property;~~

~~(vi) The invalidity, unenforceability or loss of priority of an insured mortgage resulting from a change in rate of interest or principal balance, or both, which change is in accordance with the provisions of the insured mortgage.~~

~~(d) "Title insurer" or "insurer" means a company organized under the laws of this state for the purpose of transacting as insurer the business of title insurance and any foreign or alien title insurer engaged in this state in the business of title insurance as insurer.~~

Section 2. Section 3. Disclosure by Producer of Controlled Business

~~No title insurer or title insurance agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant~~

~~was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate or both have a financial interest in the title insurers or agents may not accept transact any order for business for title insurance or title services if they it knows or have reason to believe that the insurance referral involves controlled business unless fully disclosed to the buyer, seller, or lender. title insurer or title agent to which the business is referred unless the producer has disclosed to the buyer, or seller or lender the financial interest of the producer of title business or associate referring the title business.~~ The disclosure must be made by the producer or the producer's associate in writing on forms prescribed by the commissioner. The title insurer or agent shall maintain the disclosure forms for a period of three five (5) years.

Section 3. Section 4. Forms Showing Financial Interest to Be Filed with Commissioner

Each title insurer and title agent shall file with the commissioner, on forms prescribed by the commissioner, reports setting forth the names and addresses of those persons, if any, who have had a financial interest in the title insurer or title agent during the calendar year, who are known or reasonably believed by the title insurer or title agent to be producers or the producer's associates of title business. or associates of producers.

(a) Each title insurer shall file the report required under this subsection with its application for a license, and upon renewal by March 1. and at a~~An updated report shall be filed any time there is a change in the information provided in the last report has changed.~~

(b) Each title insurer or title agent licensed on the effective date of these regulations shall file the report required under this subsection upon initial application, -and annually within 90 days after the effective date~~upon license renewal. An updated report shall be filed any time the information provided in the last report has changed.~~

Section 4. Section 5. Restrictions upon the Writing of Controlled Business

No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, receive or retain any premium or charge in connection with any title insurance transaction if:

(a) (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent, and

(b) (ii) Twenty-five percent (25%) or more of the gross operating revenue of that title insurer or title agent in the calendar year in which the transaction takes place is derived from controlled business.

Section 5. Section 6. Exemption

The restrictions imposed by these regulations ~~on the writing of controlled business~~ shall not apply to any producer or associate who, on or before ~~the effective date of these regulations~~December 31, 1996 ~~has~~October 28, 1983, ~~has~~ a financial interest in any title insurer or

title agent to which business is referred ~~and no~~ provided, however, that no such producer or associate is permitted to acquire any additional financial interest in any title insurer or title agency has since been acquired ~~since [bml]~~.

Section 6. Percentage Limitation in First Calendar Year

~~For purposes of Section 7 of these regulations, the percentage limitation set forth in "ii" of Section 7 shall be fifty percent (50%) in the first calendar year after the effective date of these regulations and twenty five percent (25%) in any later calendar year.~~

Section 7. Effect upon License or Certificate of Authority for Violation of These Regulations

~~No license or certificate of authority may be issued, renewed or continued for a title insurer or title agent who fails to comply with these regulations.~~

Section 8. Section 7. Effective Date

These regulations are effective immediately upon filing with the Secretary of State.

CHAPTER 18

REGULATION GOVERNING CONSULTANTS

Section 1. Authority

These regulations governing consultants are promulgated by the authority of and pursuant to the Wyoming Administrative Procedure Act, W.S. §§ 16-3-101 through 16-3-115, W.S. § 26-2-110, W.S. § 26-9-217 and W.S. § 26-9-220.

Section 2. Definitions

(a) As used in these regulations "Consultant" means any person who, for a fee, engages in the business of offering to another person any advice, counsel, opinion or service with respect to insurance needs, insurance risks, or concerning the benefits, coverages or provisions under any policy of insurance that could be issued in this state, or involving the advantages or disadvantages of any such policy of insurance, or any formal plan of managing pure risk and is not compensated by an insurer, or insurance producer for the advice given.

(i) Consultants as defined in this section shall include:

(A) A public adjustor or

(B) Any other person who, for compensation as an independent contractor, or as the employee of an independent contractor, or for fee or commission, on behalf of the insured investigates and negotiates settlement of claims arising under insurance contracts or who is engaged in the business of advising insureds with respect to the benefits or advantages promised under insurance contracts that could be or have been issued in this state.

(ii) Consultants, as defined in this section shall not include: A licensed attorney;

(A) Any licensed insurance producer who gives advice incidental to the normal course of insurance business and does not charge a fee other than commissions received from the insurance written; or

(B) Any person who gives incidental advice in the normal course of a business or professional activity, other than insurance consulting, if neither that person nor that person's employer receives compensation, direct or indirect, on account of any insurance transaction that results from that advice.

Section 3. Qualifications

(a) In addition to the requirements contained in W.S. § 26-9-220, to be licensed as a consultant the applicant shall:

- (i) Be at least 18 years old;
- (ii) Be a resident of Wyoming or of another state which permits residents of Wyoming to act as consultants in that state;
- (iii) Not have committed any act that is grounds for denial, suspension or revocation set forth in W.S. § 26-9-211; and
- (iv) Have and maintain an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license except that this provision does not prohibit maintenance of the office in the licensee's home.

Section 4. Effective Date

This regulation becomes effective immediately upon filing with the Secretary of State.

CHAPTER 18 REGULATION GOVERNING CONSULTANTS

Section 1. Section 1. Authority

These regulations governing consultants are promulgated by the authority of and pursuant to the Wyoming Administrative Procedure Act, W.S. §§ 16-3-101 through 16-3-115, W.S. § 26-2-110, W.S. § 26-9-217 and W.S. 26-9-139§ 26-9-220.

Section 2. Purpose

~~The purpose of these regulations is to protect the interest of the public by providing for the definition and the regulation of consultants and by supplementing W.S. 26-9-139.~~

Section 3. Scope

~~These regulations shall apply to all persons who fall within the definition of consultant.~~

Section 2. Section 4. Definitions

(a) As used in these regulations "Consultant" means any person who, for a fee, engages in the business of offering to another person any advice, counsel, opinion or service with respect to insurance needs, insurance risks, or concerning the benefits, coverages or provisions under any policy of insurance that could be issued in this state, or involving the advantages or disadvantages of any such policy of insurance, or any formal plan of managing pure risk and is not compensated by an insurer, or insurance producer for the advice given.

(i) Consultants, as defined in this section shall include:

(A) A public adjustor or

(B) ~~any~~ other person who, for compensation as an independent contractor, or as the employee of an independent contractor, or for fee or commission, on behalf of the insured investigates and negotiates settlement of claims arising under insurance contracts or who is engaged in the business of advising insureds with respect to the benefits or advantages promised under insurance contracts that could be and or have been issued in this state.

(ii) "Person" means an individual, firm, corporation or public entity.

Consultants, as defined in this section shall not include:

Section 5. Exclusions

~~The following are not included in the definition of a consultant:~~

(A) (ai) A licensed attorney at law who is licensed to practice in this state; and

(B) Any licensed agent or broker insurance producer who gives advice incidental to the normal course of the agent's or broker's insurance business and does not charge a fee other than commissions received from the insurance written; or-

(C) (e) Any person who gives incidental advice in the normal course of a business or professional activity, other than insurance consulting, if neither that person nor that person's employer receives compensation, direct or indirect, on account of any insurance transaction that results from that advice.

Section 3. Section 6. Qualifications

(a) In addition to the requirements contained in W.S. § 26-9-220, to be licensed as a consultant the applicant shall:

(i) (i) Be an adult Be at least 18 years old;

(ii) (ii) Be a resident of Wyoming or of another state which permits residents of Wyoming to act as consultants in that state;

(iii) (iii) Be trustworthy and of good reputation Not have committed any act that is grounds for denial, suspension or revocation set forth in W.S. § 26-9-211; and

(iv) (iv) Pass any written examination required for a consultant's license under Chapter 9 of the Wyoming Insurance Code; and

(v) (v) Have and maintain an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license except that this provision does not prohibit maintenance of the office in the licensee's home.

(b) The Commissioner may, in his discretion, waive the requirement of passing a written examination after a consideration of the person's knowledge, skill, and experience in the area of consulting and any other factors deemed relevant to the Commissioner.

Section 7. Revocation of License and Penalties

The commissioner upon ten day's written notice to the licensee by registered mail stating the contemplated action and the grounds therefore, and upon reasonable opportunity to be heard, may revoke or suspend any consultant's license or impose a fine as set forth in W.S. 26-1-107 if he finds that:

(a) The licensee has failed to pay the annual license fee;

~~(b) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of these rules and regulations or any order lawfully made pursuant to and within the authority of these rules and regulations and the Wyoming Insurance Code W.S. 26-1-101, et seq.; and~~

~~(c) Any fact or condition exists at the time of the proposed revocation which, if it had existed at the time of the original application for such license, clearly would have justified the commissioner in refusing originally to issue such license.~~

Section 8. Severability

~~If any provision of these rules and regulations or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of these rules and regulations and the application of such provision to other persons and circumstances shall not be affected thereby.~~

Section 4. Section 9. Effective Date

This regulation becomes effective immediately upon filing with the Secretary of State.