

***Insurance Department***106 East 6<sup>th</sup> Avenue ♦ Cheyenne, Wyoming 82002Tom Gause  
Commissioner

## MEMORANDUM

TO: ALL TITLE INSURANCE COMPANIES AND TITLE AGENTS

FROM: WYOMING DEPARTMENT OF INSURANCE

RE: COMPLIANCE WITH WYOMING STATUTE § 26-23-308

DATE: NOVEMBER 25, 2016

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The Wyoming Department of Insurance issues the following guidance regarding what would be considered sufficient to comply with the requirements of Wyoming Statute § 26-23-308 regarding underwriting standards and records retention for title agents and title insurers.

Wyoming Statute § 26-23-308 states:

“No title insurance policy as to property in this state shall be written unless it is based upon adequate evidence of the current condition of title certified in writing as of the date of the policy . . . .”

The Department interprets this language to require that the file for any title insurance policy issued on property in this state contain a written certification as to the status of title dated as of the date of the closing on the sale or transfer of the property. This requirement is to ensure that there is full knowledge on the part of the insurer of all encumbrances or flaws in the title to the property for which the insurer is indemnifying. The certification as to the status of title shall be signed either by an attorney or by an individual who is qualified to act as an abstractor pursuant to Wyoming Statute § 33-2-101.

The certification shall include a statement regarding the documents of title that were examined, the dates the examination(s) of those title documents occurred, and an opinion as to the determination of the insurability of the property resulting from the review of the title documents. As stated in Wyoming Statute § 26-23-308, “the evidence of the examination of the title and determination of insurability shall be preserved and retained in the files of the title insurer or its title agent for a period of not less than fifteen (15) years after the title insurance policy has been issued.” The evidence of examination of the title and determination of insurability includes the written certification.

In addition, under Wyoming Statute § 26-23-308(b) no title insurer or title agent shall knowingly issue any title insurance policy or commitment to insure without showing all outstanding, enforceable, recorded liens or other interest against the property title which is to be insured.

Any questions regarding this guidance may be directed to Becky S. McFarland at (307) 777-6889.