

WY INS DEPT & TITLE INS INTERACTION

Licensing

Record Retention

Financial

Statutory Compliance

Consumer Complaints



§ 26-23-302. APPLICABILITY OF ARTICLE; CONSTRUCTION WITH OTHER LAWS.

(a) This article applies to all title insurers, title insurance rating organizations, title agents, applicants for title insurance, title insurance policyholders, and all persons engaged in title insurance transactions in this state.

(b) Except as otherwise expressly provided in this article, and except where the context otherwise requires, all provisions of this code [title 26] applying to insurance and insurance companies generally apply to title insurance and title insurance companies.

(c) Nothing in this article shall be construed to authorize the practice of law by any person who is not admitted to practice law in this state nor shall it be construed to authorize the commissioner to regulate the practice of law.

W. S. 26-9-203. LICENSE REQUIRED

A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.

W. S. 26-9-216 REPORTING ACTIONS.

(a) A resident or nonresident insurance producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(b) Within thirty (30) days of the initial pretrial hearing date, a resident or nonresident insurance producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

W. S. 26-9-211. LICENSE DENIAL, NONRENEWAL OR REVOCATION

(a) The commissioner may, after appropriate notice and opportunity for hearing pursuant to the Wyoming Administrative Procedure Act and in accordance with W.S. 26-2-125 through 26-2-129, place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or other license issued under this code, *or may levy a civil penalty in accordance with W.S. 26-1-107 or any combination of actions,* for any one (1) or more of the following causes:

(i) Providing incorrect, misleading, incomplete or materially untrue information in the license application;...

W. S. 26-9-211

- ...(ii) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;**
- (iii) Obtaining or attempting to obtain a license through misrepresentation or fraud;**
- (iv) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;**
- (v) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;**
- (vi) Having been convicted of a felony;**
- (vii) Having admitted or been found to have committed any insurance unfair trade practice or fraud;...**

... (viii) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(ix) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(x) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(xi) Improperly using notes or any other reference material to complete an examination for an insurance license; or

(xii) Failing to comply with an administrative or court order imposing a child support obligation...

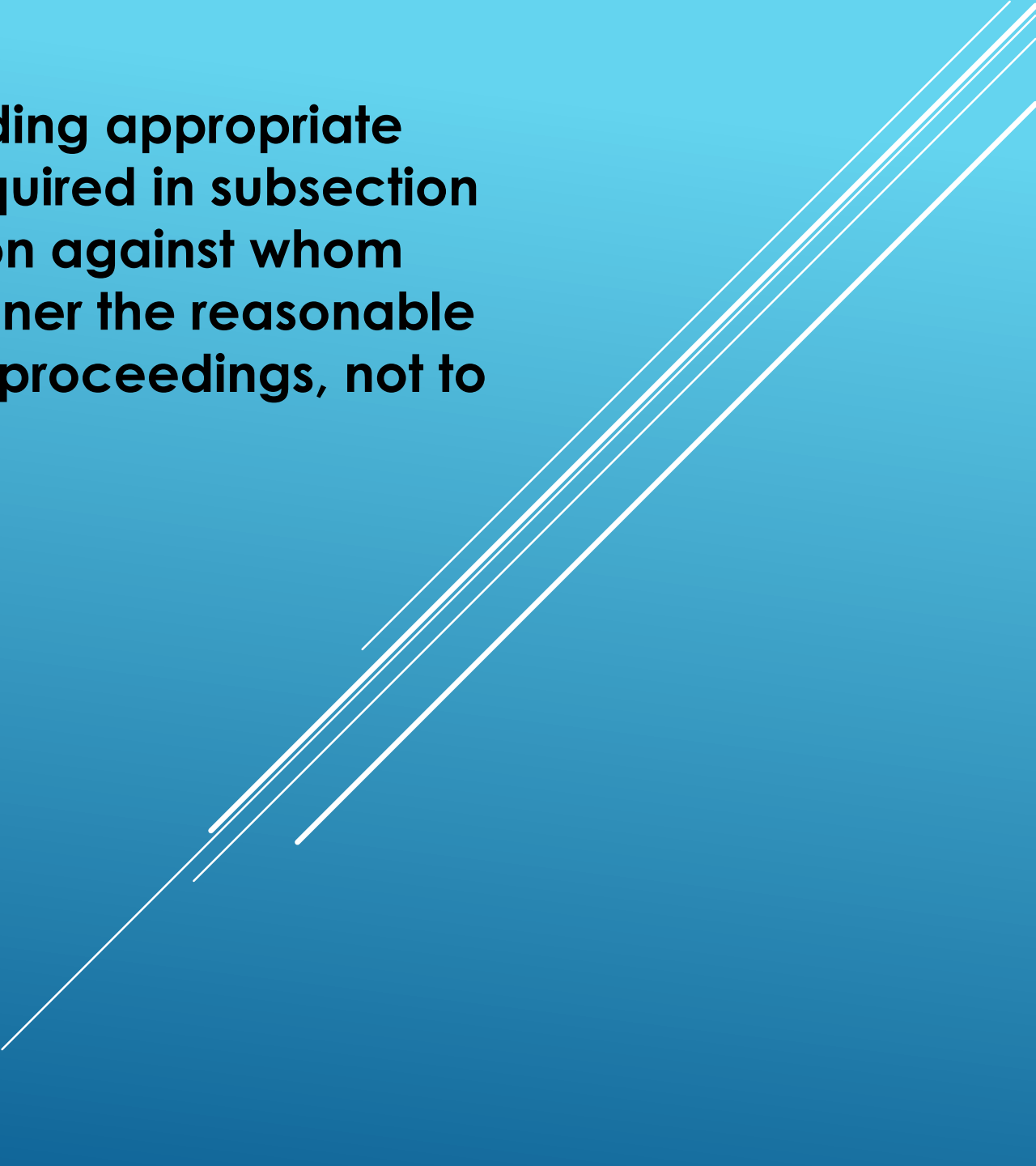
W. S. 26-9-211

...(b) The license of a business entity may be suspended, revoked or refused if the commissioner finds, after notice and opportunity for hearing, that an individual licensee's violation was known by one (1) or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.

(c) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and this code against any person who is under investigation for or charged with a violation of this chapter or this code even if the person's license or registration has been surrendered or has lapsed by operation of law...

26-9-211

...(d) The commissioner may, after providing appropriate notice and opportunity for hearing as required in subsection (a) of this section, levy against any person against whom action has been taken by the commissioner the reasonable costs of investigation and administrative proceedings, not to exceed five hundred dollars (\$ 500.00).

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W. S. 26-1-107 GENERAL CRIMINAL AND CIVIL PENALTIES

(a) Each violation of this code [title 26] for which a greater penalty is not provided by another provision of this code or by other applicable laws of this state, in addition to any applicable prescribed denial, suspension or revocation of certificate of authority or license, is a misdemeanor punishable upon conviction by a fine of not more than one thousand dollars (\$ 1,000.00), or by imprisonment in the county jail for not more than six (6) months, or both. Each violation is a separate offense.

(b) Any person who violates, or who instructs his agent or adjuster to violate, any provision of this code, any lawful rule or final order of the commissioner or any final judgment or decree made by any court, upon the commissioner's application, shall pay a civil penalty...

W. S. 26-1-107

...in an amount the commissioner determines of not more than five thousand dollars (\$ 5,000.00) for each offense, or fifty thousand dollars (\$ 50,000.00) in the aggregate for all offenses within any one (1) year period. In the case of individual agents or adjusters, the civil penalty shall be not more than one thousand dollars (\$ 1,000.00) for each offense or ten thousand dollars (\$ 10,000.00) in the aggregate for all offenses within any one (1) year period. The penalty shall be collected from the violator and paid by the commissioner, or the appropriate court, to the state treasurer and credited as provided in W.S. 8-1-109.

(c) Before the commissioner imposes a civil penalty, he shall notify the person, agent or adjuster accused of a violation, in writing, stating specifically the nature of the alleged violation and fixing a time and place, at least ten (10) days from the date of the notice, when a hearing of the matter shall be held...

W. S. 26-1-107

...After hearing or upon failure of the accused to appear at the hearing, the commissioner shall determine the amount of the civil penalty to be imposed in accordance with the limitations expressed in subsection (b) of this section. Each violation is a separate offense.

(d) A civil penalty may be recovered in an action brought thereon in the name of the state of Wyoming in any court of appropriate jurisdiction, and the court may review the penalty as to both liability and reasonableness of amount.

(e) The provisions of this section are in addition to and not instead of any other enforcement provisions contained in this code.

W. S. 26-23-334. ENFORCEMENT

(a) Except as otherwise specifically provided in this article, any person who violates this article in addition to or instead of suspension or revocation of the violator's license, is subject to a civil penalty of five hundred dollars (\$ 500.00) per violation. For purposes of this article each individual transaction which is not in conformance with this article is considered a violation.

(b) This article is enforceable only by the commissioner and shall not create any private cause of action or other private legal recourse.

(c) The commissioner may invoke the aid of the courts in enforcing this article.

W. S. 26-23-305 TITLE INSURERS; AUTHORIZED ACTIVITIES.

(a) Each title insurer may:

(i) Engage in the title insurance business in this state if licensed to do so by the commissioner;

(ii) Subject to the limitations of this article, provide any other service related or incidental to the sale and transfer of property; or

(iii) Conduct its operations on a direct basis through a branch office located within the state without using a title agent.

APPOINTMENTS

§ 26-23-316.

Title agents; license required; requirements as to license.

APPOINTMENTS W. S. 26-13-316

- (a) No person shall act as a title agent unless licensed in accordance with this article.
- (b) No license shall be issued to, continued or permitted to exist for any person to act as a title agent unless the person:
- (i) Is at least eighteen (18) years of age;
 - (ii) *Is a bona fide resident of and resides within this state or any other state which has entered into a reciprocal title agent licensing agreement with the commissioner;*
 - (iii) *Is appointed as a title agent by a title insurer, subject to the issuance of the title agent's license;*
 - (iv) Passes an examination given by the commissioner or any testing service selected by the commissioner covering the search and examination of title to real property, insurance principles relating to title insurance and the fiduciary duties and procedures of escrows, closings and settlements of real estate transactions...

...(c) Any person, other than a natural person, to whom a title insurance agent's license is issued shall designate to the commissioner those natural persons who are or will be exercising the powers and performing the duties of the title insurance agent. The designated individuals are subject to paragraphs (b)(i) and (iii) of this section. Persons performing only clerical functions are not subject to the requirements of subsection (b) of this section.

(d) Any person, other than a natural person, to whom a title insurance agent's license is issued shall demonstrate that each natural person designated to exercise the powers and perform the duties of the title insurance agent meets the requirements of subsection (b) of this section.

W. S. 26-9-213, REGULATION CHAPTER 16,
W. S. 26-9-206

**Additional references to Appointments and Business
Entity licensing (establishing Designated Licensed
Producer- DLP).**

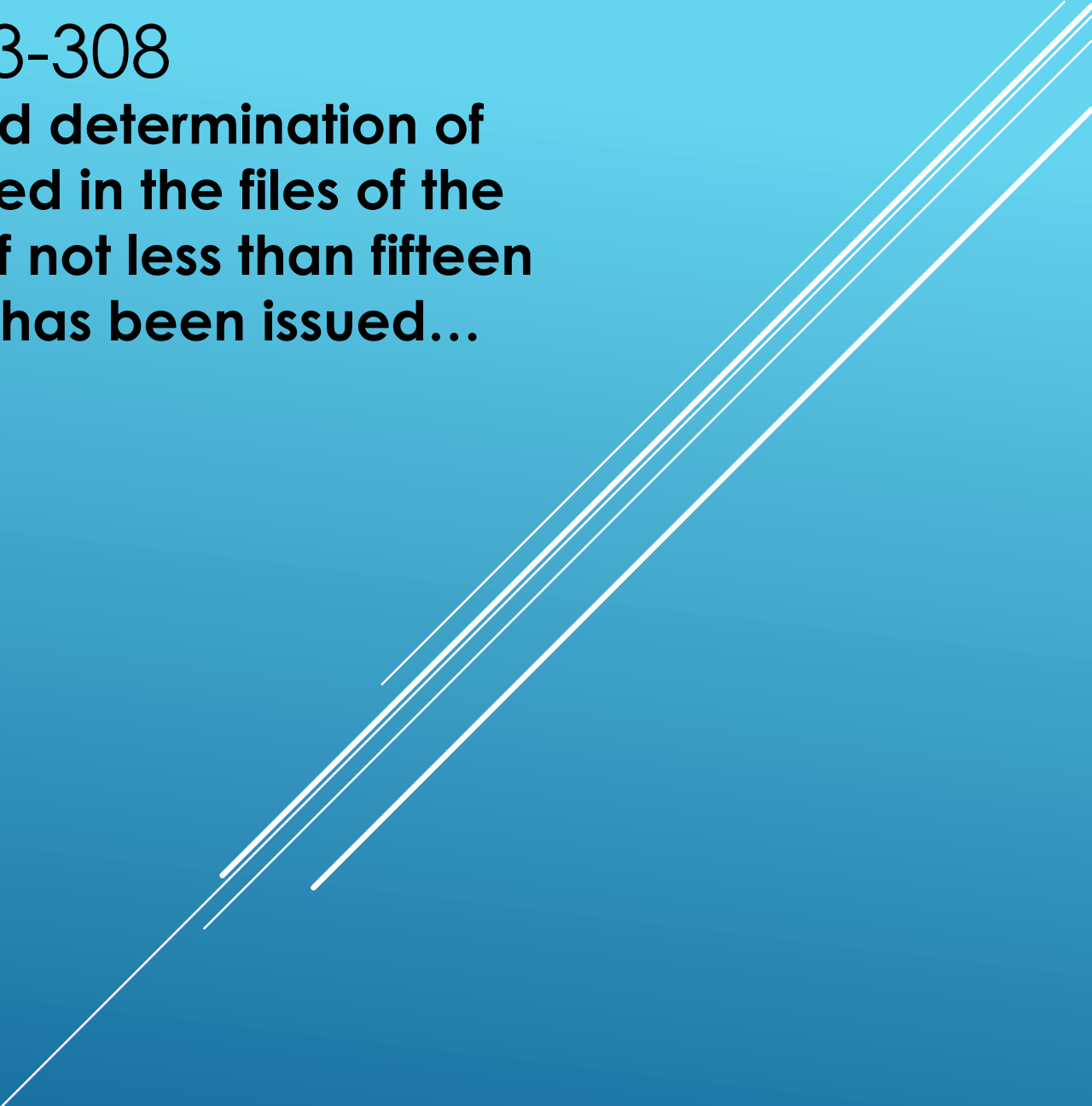
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W. S. 26-23-308 UNDERWRITING STANDARDS; RECORD RETENTION

(a) 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 by a person duly authorized under W. S. 33-2-101 to act as a title abstractor in the county where the property is situated, or based upon the opinion of an attorney authorized to practice law in this state as to the condition of the title following a review by the attorney of pertinent title records or abstracts...

W. S. 26-23-308

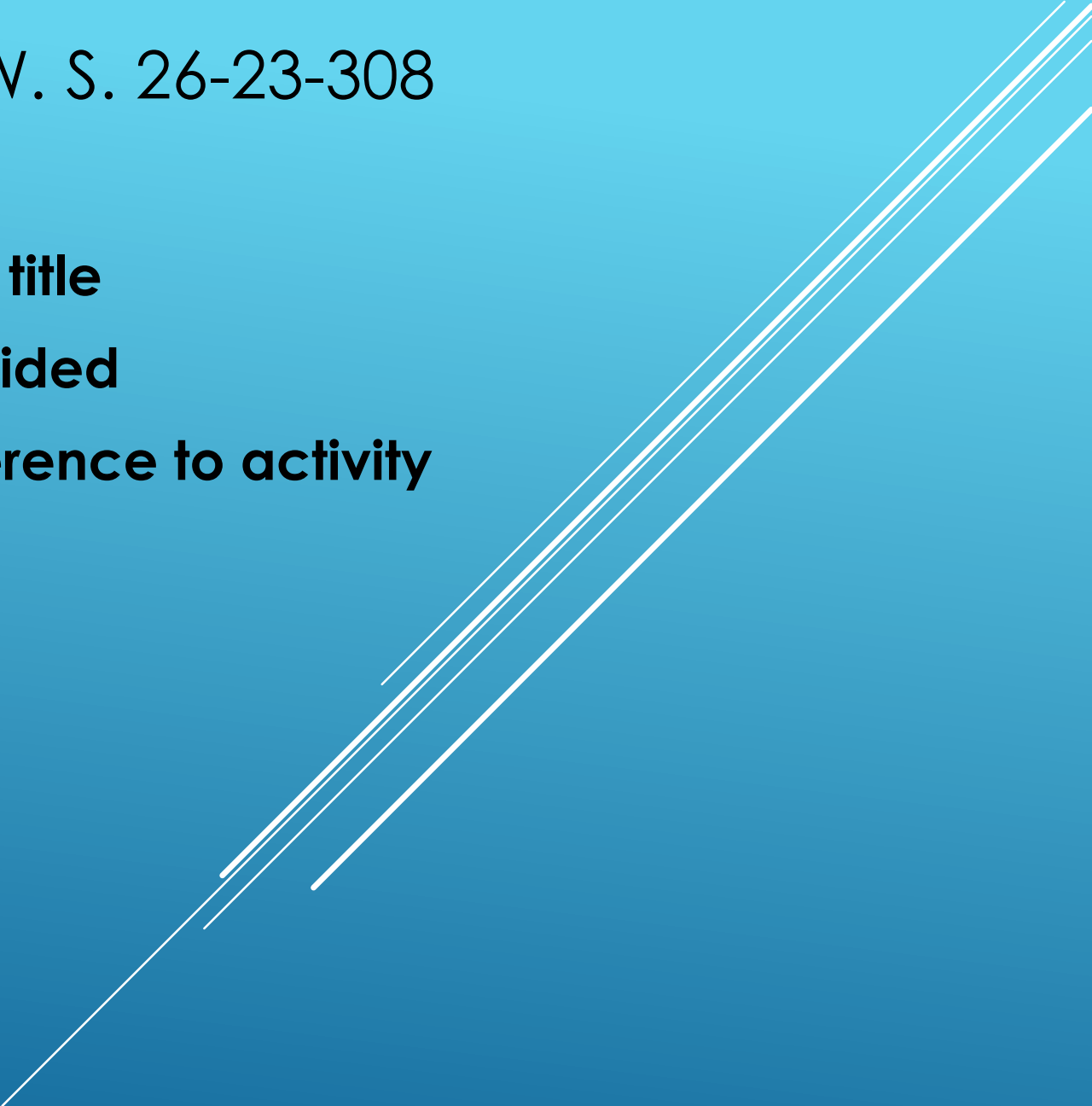
...Evidence of the examination of title and determination of insurability shall be preserved and retained in the files of the title insurer or its title agent for a period of not less than fifteen (15) years after the title insurance policy has been issued...

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W. S. 26-23-308

... (b) Except as allowed by regulations the commissioner promulgates, 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 interests against the property, title to which is to be insured.

CERTIFICATION LETTER W. S. 26-23-308

- **Is not part of the title insurance policy**
 - **Documentation of current condition of title**
 - **More than one Cert Letter can be provided**
 - **Assists consumers and Ins Dept for reference to activity**
 - **Complies with statute**
 - **Proof of Activity/work performed**
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COMPLIANCE WITH W. S. 26-23-308

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 .” ...

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...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...

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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...


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...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.

W. S. 26-23-308

- **Unnecessary to have brick & mortar for every Title Plant.**
 - **Unnecessary to have brick & mortar for every title agency.**
 - **Title agent compared to Title attorney**
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W. S. 26-23-314 CONDITIONS FOR PROVIDING ESCROW, CLOSING OR SETTLEMENT SERVICES, OR MAINTAINING TITLE INDEMNIFICATION ACCOUNTS.

(a) A title insurer or title agent may engage in the escrow, settlement, or closing business, or any combination of such businesses, and operate as an escrow, settlement, or closing agent, provided that:

(i) Funds deposited in connection with any escrow, settlement, closing or title indemnification shall be deposited in a separate fiduciary trust account or accounts in a bank or other financial institution insured by an agency of the federal government.

W. S. 26-23-314

...These funds are the property of the person or persons entitled thereto under the provisions of the escrow, settlement, closing or title indemnification and shall be segregated by escrow, settlement, closing or title indemnification in the records of the title insurer or title agent. Those funds are not subject to any debts of the title insurer or title agent and shall be used only in accordance with the terms of the individual escrow, settlement, closing or title indemnification under which the funds were accepted;...

W. S. 26-23-314

(ii) Interest received on funds deposited with the title insurer or title agent in connection with any escrow, settlement, closing or title indemnification shall be paid to the depositing party unless the instructions provide otherwise;

(iii) The title insurer or title agent shall maintain separate records of all receipts and disbursements of escrow, settlement, closing or title indemnification funds.