

FINDINGS

1. BANCINSURE, INC. (BANCINSURE) is an Oklahoma-domiciled insurer licensed to transact property and casualty insurance, including worker's compensation insurance, in Idaho since 1995 under Certificate of Authority No. 2815.

2. On June 4, 2012, BANCINSURE represented to the Department that its worker's compensation reinsurance coverage will terminate on August 31, 2012. In such letter, BANCINSURE requested that it be authorized to cancel all of its Idaho worker's compensation policies currently in effect, as of August 31, 2012.

3. The Oklahoma Insurance Department, the insurance regulator of BANCINSURE's state of domicile, has deemed BANCINSURE to be in hazardous financial condition and has accepted a risk-based capital (RBC) filing from such company, which filing contemplates BANCINSURE discontinuing all new insurance business and the runoff of existing insurance business.

4. A Department financial analyst has conducted an independent review of BANCINSURE's financial condition and has reached the following conclusions:

- a. BANCINSURE's risk-based capital decreased from 467% in 2010 to 150% in 2011, based on the 2011 RBC report for BANCINSURE from the National Association of Insurance Commissioners (NAIC);
- b. BANCINSURE reported net underwriting losses each of the last five (5) years, with the specific amounts listed chronologically as follows: (a) \$23.5 million (2011); (b) \$11.1 million (2010); (c) \$9.2 million (2009); (d) \$13.5 million (2008); and (e) \$1.7 million (2007).

- c. Net cash from BANCINSURE's operations was negative in three (3) of the last three (3) years (\$12.7 million in 2011, \$9.5 million in 2009, and \$2.3 million in 2008), and was a negative \$2.7 million as of March 31, 2012.

5. The Department analyst's conclusions referenced in paragraph 4 above, in view of the termination on August 31, 2012, of BANCINSURE's worker's compensation reinsurance coverage, resulted in the Department analyst's finding that BANCINSURE is in hazardous financial condition as defined in Idaho law.

6. Idaho Code § 41-1841(1) provides a process by which an insurer may implement a block cancellation or block nonrenewal of insurance policies. Such process requires notice to the Director of at least one hundred twenty (120) days of such intended action. BANCINSURE's notice to the Director that its worker's compensation reinsurance was terminating on August 31, 2012, posing a risk to its policyholders, and requesting that it be allowed to cancel or non-renew its worker's compensation policies issued to Idaho residents, was received by the Director on June 4, 2012, less than ninety (90) days prior to the termination of BANCINSURE's worker's compensation reinsurance. Because the one hundred twenty (120) day notice requirement of Idaho Code § 41-1841(1) cannot be met under these circumstances, the Director finds it necessary to act through an emergency proceeding, pursuant to Idaho Code § 67-5247, due to the immediate danger to policyholders that would be caused by delaying the issuance of this Order for the purposes of complying with the time requirements of Idaho Code § 41-1841(1), and also due to the danger to policyholders that would result from BANCINSURE's current hazardous financial condition.

CONCLUSIONS OF LAW

7. Rule 66 of the rules promulgated pursuant to the Idaho Insurance Code, title 41 of the Idaho Code, which rule is located at IDAPA 18.01.66 (Rule 66), is entitled “Director’s Authority for Companies Deemed to Be in Hazardous Financial Condition.”

8. Rule 66.011, parts 01. through 20., sets forth standards that may be considered by the Director in determining whether the continued operation of any insurer transacting insurance business in Idaho may be deemed to be hazardous to its policyholders or creditors or to the general public.

Termination of Reinsurance

9. Rule 66.011.04 provides that the sufficiency of an insurer’s reinsurance is a standard that may be considered in determining whether the insurer is in hazardous financial condition. The termination of BANCINSURE’s worker’s compensation reinsurance as of August 31, 2012, as referenced in paragraph 2 above, supports the conclusion that BANCINSURE is in hazardous financial condition pursuant to Rule 66.011.

Decrease in Risk-Based Capital (RBC)

10. Idaho Code § 41-5403(1)(a)(i) provides that the filing of an RBC report by an insurer which indicates that the insurer’s total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC triggers a “company action level event.” BANCINSURE’S RBC report for 2011 from the NAIC, as referenced in paragraph 4.a. above, indicates a decrease in RBC to a “company action level event.” According to the Department’s analyst who conducted a review of BANCINSURE’s financial condition, this factor contributes to the conclusion that BANCINSURE is in hazardous financial condition pursuant to Rule 66.011.

Net Underwriting Losses in Five of the Last Five Years

11. Rule 66.011.05 provides that in determining whether an insurer is in hazardous financial condition, the Director may consider whether the insurer's operating loss in the last twelve (12) month period, or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to the shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.

12. Rule 66.011.06 provides that in determining whether an insurer is in hazardous financial condition, the Director may consider whether the insurer's operating loss in the last twelve (12) month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required.

13. Applying the standards included in Rule 66.011.05 and 66.011.06 to BANCINSURE's net underwriting losses as referenced in paragraph 4.b. above, the Department's analyst has concluded such underwriting losses indicate that BANCINSURE is in hazardous financial condition pursuant to Rule 66.011.

Negative Net Cash from Operations

14. Rule 66.011.16 provides that in determining whether an insurer is in hazardous financial condition, the Director may consider whether an insurer has experienced or will experience in the foreseeable future cash flow and/or liquidity problems.

15. Applying this standard to the negative cash flow from operations reflected in paragraph 4.c. above, the Department's analyst has concluded that such negative cash flow from

operations indicates that BANCINSURE is in hazardous financial condition pursuant to Rule 66.011.

ORDER

NOW, THEREFORE, based on the findings and the Department analyst's analysis and conclusions set forth above, THE DIRECTOR HEREBY FINDS, pursuant to Rule 66.012.02, that BANCINSURE is in hazardous financial condition, and that its continued operation in Idaho will be hazardous to its policyholders, its creditors, and to the general public.

Based on such findings, IT IS HEREBY ORDERED, pursuant to Rule 66.012.02.b. and Idaho Code § 67-5247, that BANCINSURE is SUSPENDED from accepting or renewing insurance business in Idaho, effective immediately, until such time as the Director finds that BANCINSURE's financial condition has sufficiently improved to justify a finding that it is no longer in hazardous financial condition and has obtained adequate reinsurance, or some other event has occurred that would justify rescinding the suspension or taking other appropriate action.

IT IS FURTHER ORDERED that BANCINSURE immediately provide notice to all Idaho policyholders of the cancellation of worker's compensation policies issued to Idaho residents on August 31, 2012. FURTHER, BANCINSURE shall immediately provide notice to every person authorized to write business in the state of Idaho on its behalf, to immediately cease any further writing of such business. BANCINSURE shall certify to the Director that such notice has been timely given immediately after providing such notice as required by this Order.

NOTIFICATION OF RIGHTS

This is a final order of the Director. As authorized by Rule 66.012.02.03, BANCINSURE may request a hearing to review this Order, pursuant to the Idaho Insurance Code, title 41,

chapter 2, Idaho Code. Such request for a hearing must be filed with the Director within twenty-one (21) days of the service date of this Order. In the event that a request for hearing is timely filed, a hearing shall be scheduled and conducted in accordance with the provisions of such chapter, and with the Idaho Administrative Procedure Act, title 67, chapter 52, Idaho Code.

DATED this 29TH day of JUNE, 2012.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

A handwritten signature in black ink, appearing to read "William W. Deal", written over a horizontal line.

WILLIAM W. DEAL
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 29th day of June 2012, I caused a true and correct copy of the foregoing ORDER SUSPENDING TRANSACTION OF INSURANCE BUSINESS IN IDAHO to be served upon the following by the designated means:

BancInsure, Inc.
5104 N. Francis Avenue, Suite 101
Oklahoma City, OK 73118

- ☒ first class mail
- ☒ certified mail
- ☐ hand delivery
- ☐ via facsimile

Oklahoma Insurance Department
John D. Doak, Commissioner
Five Corporate Plaza
3625 NW 56th, Suite 100
Oklahoma City, OK 73112-4511

- ☒ first class mail
- ☐ certified mail
- ☐ hand delivery
- ☐ via facsimile

A. René Martin
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- ☐ first class mail
- ☐ certified mail
- ☒ hand delivery
- ☐ via facsimile



Teresa Jones,
Assistant to the Director