

# Personal Lines Examination Content Outline

(95 scored questions. 120 minute time limit)

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## GENERAL KNOWLEDGE

(75 scored questions, 5 pretest questions)

### I. TYPES OF PROPERTY POLICIES

- A. Homeowners
    - 1. HO-2
    - 2. HO-3
    - 3. HO-4
    - 4. HO-5
    - 5. HO-6
    - 6. HO-8
  - B. Dwelling policies
    - 1. DP-1
    - 2. DP-2
    - 3. DP-3
  - C. Inland marine, Personal Articles floaters
  - D. National Flood Insurance Program
  - E. Others
    - 1. Earthquake
    - 2. Mobile Homes
    - 3. Watercraft
    - 4. Windstorm
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### II. TYPES OF CASUALTY POLICIES

- A. Automobile: personal auto
    - 1. Liability
      - a. Bodily Injury
      - b. Split Limits
      - c. Property Damage
      - d. Combined Single Limit
    - 2. Medical Payments
    - 3. Physical Damage
    - 4. Uninsured motorists
    - 5. Underinsured motorists
    - 6. Who is an insured
  - 7. Types of Auto
    - a. Owned
    - b. Non-owned
    - c. Hired
    - d. Temporary Substitute
    - e. Newly Acquired Autos
    - f. Transportation Expense
    - g. Rental Reimbursement Expense
  - 8. Exclusions
  - B. Umbrella/Excess liability
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### III. PROPERTY AND CASUALTY INSURANCE TERMS AND RELATED CONCEPTS

- A. Insurance
    - 1. Law of Large Numbers
  - B. Insurable interest
  - C. Risk
    - 1. Pure vs. Speculative Risk
  - D. Hazard
    - 1. Moral
    - 2. Morale
    - 3. Physical
  - E. Peril
  - F. Loss
    - 1. Direct
    - 2. Indirect
  - G. Loss Valuation
    - 1. Actual cash value
    - 2. Replacement cost
    - 3. Market value
    - 4. Stated value
    - 5. Salvage value
  - H. Proximate cause
  - I. Deductible
  - J. Indemnity
  - K. Limits of liability
  - L. Coinsurance/Insurance to value
  - M. Occurrence
  - N. Cancellation
  - O. Nonrenewal
  - P. Vacancy and unoccupancy
  - Q. Liability (absolute, strict, vicarious)
  - R. Negligence
  - S. Binder
  - T. Endorsements
  - U. Blanket vs. Specific
  - V. Burglary, Robbery, Theft, and Mysterious Disappearance
  - W. Warranties
  - X. Representations
  - Y. Concealment
  - Z. Deposit Premium/Audit
  - AA. Certificate of Insurance
  - BB. Damages
    - 1. Compensatory
      - a. General
      - b. Special
    - 2. Punitive
  - CC. Compliance with Provisions of Fair Credit Reporting Act
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#### IV. PROPERTY AND CASUALTY POLICY PROVISIONS AND CONTRACT LAW

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|---|--|
| A. Declarations                         | M. Subrogation   |
| B. Insuring agreement                   | N. Elements of a contract  |
| C. Conditions                           | O. Sources of underwriting information                           |
| D. Exclusions                           | P. Fair Credit Reporting Act                                     |
| E. Definition of the insured            | Q. Privacy Protection (Gramm Leach Bliley)                       |
| F. Duties of the insured after a loss   | R. Policy Application  |
| G. Obligations of the insurance company | S. Terrorism Risk Insurance Act (TRIA)                           |
| H. Mortgagee rights                     | T. Cancellation and nonrenewal provisions                        |
| I. Proof of loss                        | U. Supplementary payments  |
| J. Notice of claim                      | V. Loss settlement provisions including consent to settle a loss |
| K. Appraisal                            | W. Territory   |
| L. Other Insurance Provision            |  |
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#### PERSONAL LINES IDAHO SPECIFIC

(22 scored questions)

Ref: All references are to Idaho Insurance Laws Title 41 unless otherwise noted

#### I. IDAHO STATUTES, RULES, AND REGULATIONS COMMON TO ALL LICENSES

- A. Responsibilities of the Director of the Department of Insurance ... *Ref: 41-202, 41-203, 41-210 to 41-213, 41-117, 41-117A, 41-219, 41-220, 41-232, 41-235, 41-247, 41-1016, 41-1321*
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|---------------------------------------|------------------------------|
| 1. Appointment                        | 2. General duties and powers |
| 3. Examinations                       | 4. Penalties                 |
| 5. Hearings/notice of hearings/orders |                              |
- B. Definitions ... *Ref: 41-106, 41-110 to 41-112, 41-301, 41-302, 41-305, 41-306, 41-1003, 41-2902, 41-3201, 41-3210*
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| 1. Domestic, Foreign or Alien companies  | 7. Certificate of authority              |
| 4. Fraternal company                     | 6. Stock, mutual, reciprocals, companies |
| 9. Negotiate                             | 8. Transacting insurance                 |
| 5. Authorized and unauthorized companies |  |
- C. Licensing ... *Ref: 41-1003 to 41-1013, 41-1016 to 41-1019, 41-1026, 41-1036, 41-1103, 41-1104, IDAPA 18.01.02, IDAPA 18.06.04*
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| 1. Persons required to be licensed                 | 4. Maintaining a license                |
| a. Producer  | a. Record keeping                       |
| b. Resident/nonresident                            | b. Continuing education                 |
| b. Continuing education                            | c. License expiration                   |
| 2. Producer appointment/termination of appointment | d. Fees/renewal                         |
| 3. Obtaining a license                             | e. Felony convictions                   |
| a. Qualifications                                  | e. Suspension or revocation of licenses |
| c. Written examinations                            | f. Change of address/place of business  |
| e. License denial/refusal                          |   |
| b. License application                             |   |
| d. Exemptions/exceptions                           |   |
- D. Producer responsibilities ... *Ref: 41-1017, 41-1021, 41-1024, 41-1030, 41-1323, 41-1325, 41-1803, IDAPA 18.06.02, IDAPA 18.06.03*
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|---------------------------------|---|
| 1. Fiduciary capacity           | 2. Reporting of actions                         |
| 3. Commissions and compensation | 4. Charging of fees and disclosure requirements |
- E. Insurance contracts ... *Ref: 41-1328, 41-1807, 41-1812, 41-1828*
- |  |                      |
|--|----------------------|
| 1. Filing and approval of policy forms | 3. Power to contract |
| 2. Payment of claims                   |                      |
- F. Marketing practices ... *Ref: 41-117, 41-258, 41-290, 41-293, 41-1016, 41-1303 to 41-1306, 41-1308 to 41-1315, 41-1327, 41-1328, 41-1329, 41-1329A, 41-1839, 41-3611, Bulletin 03-08*
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|----------------------------------|------------------------------------|
| 1. Unfair claims practices       | b. Fraud                           |
| 2. Unfair methods of competition | d. Defamation                      |
| a. Rebating                      | f. Coercion of borrower            |
| c. Twisting                      | h. Misrepresentation               |
| e. Unfair discrimination         | j. Boycott, coercion, intimidation |
| g. False financial statements    | 3. Penalties                       |
| i. False advertising             |                                    |
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**II. IDAHO STATUTES, RULES, AND REGULATIONS COMMON TO PROPERTY, CASUALTY AND PERSONAL LINES INSURANCE ONLY**

- A. Insurance contracts ... *Ref: 41-1806, 41-1811, 41-1814, 41-1815, 41-1817, 41-1828, 41-1831, 41-1841, 41-1850, 41-2401, 41-2506 to 41-2510, IDAPA 18.01.02*
1. Renewal, nonrenewal, cancellation
  2. Homeowners, personal auto, and casualty Policies
  3. Certificate of insurance
- B. Countersignature requirements ... *Ref: 41-337, 41-338, 41-1023*
- C. Rate filings ... *Ref: 41-1401, 41-1402, 41-1405*
- D. Idaho Property and Casualty Guaranty Association Act ... *Ref: 41-3603, 41-3606, 41-3607*
- E. Binders ... *Ref: 41-1823*
- F. Insurance Rates and Credit Rating ... *Ref: 41-1843; IDAPA 18.02.01*
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**III. IDAHO STATUTES, RULES, AND REGULATIONS PERTINENT TO PERSONAL LINES INSURANCE ONLY**

- A. Auto insurance ... *Ref: 41-1212, 41-1232, 41-1441, 41-1823, 41-1825, 41-2502 to 41-2504, 41-2507, 41-2508, 41-2510, 41-2515, 49-117, 49-1208, 49-1225, IDAPA 18.02.03*
1. Financial responsibility
    - a. Proof of financial responsibility defined
    - b. Persons required to show proof
    - c. Penalty for noncompliance
    - d. Methods of satisfying financial responsibility
  2. Uninsured/underinsured motorists
  3. Policy cancellation/nonrenewal/expiration
  4. Accident prevention courses
  5. Assigned risk plan
- B. Inland marine ... *Ref: 41-505*
- C. Comparative Negligence ... *Ref: 6-802*
- D. Fraud ... *Ref: 41-290, 293; Bulletin 03-08*
- E. National Flood Insurance Program (NFIP) ... *Ref: Bulletin 07-1*

## Statutes, Bulletins and IDAPAs for the Idaho Knowledge Portion of the Exam

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### **41-106. "Domestic," "foreign," "alien" insurer defined.**

- (1) A "domestic" insurer is one formed under the laws of this state or an insurer which has transferred its domicile pursuant to section 41-342, Idaho Code, to this state.
  - (2) A "foreign" insurer is one formed under the laws of a jurisdiction other than this state.
  - (3) An "alien" insurer is one formed under the laws of any country other than the United States of America, its states, districts, territories, and commonwealths.
  - (4) Except where distinguished by context, "foreign" insurers includes also "alien" insurers.
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### **41-110. "AUTHORIZED," "UNAUTHORIZED" INSURER DEFINED.**

- (1) An "authorized" insurer is one duly authorized by a subsisting certificate of authority issued by the director to transact insurance in this state.
  - (2) An "unauthorized" insurer is one not so authorized.
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### **41-111. "CERTIFICATE OF AUTHORITY," "LICENSE" DEFINED.**

- (1) A "certificate of authority" is one issued by the director evidencing the authority of an insurer to transact insurance in this state.
  - (2) A "license" is authority granted by the director pursuant to this code authorizing the licensee to engage in a business or operation of insurance in this state other than as an insurer, and the certificate by which such authority is evidenced.
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### **41-112. "TRANSACTIONING INSURANCE" DEFINED.**

"Transacting insurance" includes any of the following:

- (1) Solicitation and inducement.
  - (2) Preliminary negotiations.
  - (3) Effectuation of a contract of insurance.
  - (4) Transaction of matters subsequent to effectuation of a contract of insurance and arising out of it.
  - (5) Mailing or otherwise delivering any written solicitation to any person in this state by an insurer or any person acting on behalf of the insurer for fee or compensation.
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### **41-117. GENERAL PENALTY.**

Each violation of this code for which a greater penalty is not provided by another provision of this code or by other applicable laws of this state, shall in addition to any applicable prescribed denial, suspension, or revocation of certificate of authority or license be punishable by an administrative penalty of not more than one thousand dollars (\$1,000) for any individual or natural person and not more than five thousand dollars (\$5,000) for any other person, imposed by the director, and upon conviction by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment in the discretion of the court. Each instance of violation may be considered a separate offense.

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### **41-117A. PENALTY FOR TRANSACTIONING INSURANCE WITHOUT PROPER LICENSING.**

The director may impose an administrative penalty not to exceed fifteen thousand dollars (\$15,000), for deposit in the general account of the state of Idaho, upon any person who transacts insurance of any kind or character or transmits for a person, other than himself, an application for a policy of insurance without proper licensing, or after such licensing shall have been suspended or revoked.

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### **41-202. DIRECTOR -APPOINTMENT -TERM -QUALIFICATIONS.**

- (1) The director of the department of insurance shall be the chief executive officer of the department of insurance.
  - (2) The director shall be appointed by the governor and shall hold office for a term of four (4) years, subject to earlier removal by the governor. A vacancy in the office of director shall be filled for the balance of the unexpired term only.
  - (3) The governor shall not appoint as director any individual, and no individual shall hold the office of director, who is not qualified therefor as follows:
    - (a) Must be a qualified elector of the state of Idaho; and
    - (b) Must have had at least five (5) years' practical experience in one or more of the types of insurance business subject to regulation by the director, or have had other professional or business experience reasonably adequate in character and scope to equip him to discharge the duties and fulfill the responsibilities of the office of director.
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### **41-203. TERMS CONSTRUED.**

Wherever the words "commissioner of insurance" or "insurance commissioner" appear in title 41, Idaho Code, or elsewhere in the Idaho Code, they shall be understood and construed to mean the director of the department of insurance.

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### **41-210. GENERAL POWERS, DUTIES.**

- (1) The director shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code.
- (2) The director shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code. (3) The director may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.
- (4) For any document required to be filed with the director or the department of insurance under the laws of this state, the director may specify the place and manner of filing of the document, including whether an electronic or paper filing is required or acceptable.

(5) The director shall have such additional powers and duties as may be provided by other laws of this state.

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#### **41-211. RULES.**

- (1) The director may make reasonable rules necessary for or as an aid to the effectuation of any provision of this code. No such rule shall extend, modify, or conflict with any law of this state or the reasonable implications thereof.
  - (2) Any such rule affecting persons or matters other than the personnel or the internal affairs of the department shall be made or amended in accordance with the provisions of chapter 52, title 67, Idaho Code.
  - (3) In addition to any other penalty provided, wilful violation of any such rule shall subject the violator to such suspension or revocation of certificate of authority or license as may be applicable under this code as for violation of the provision as to which such rule relates.
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#### **41-212. ORDERS, NOTICES.**

- (1) Orders and notices of the director shall be effective only when in writing signed by him or by his authority.
  - (2) Every such order shall state its effective date, and shall concisely state:
    - (a) Its intent or purpose.
    - (b) The grounds on which based.
    - (c) The provisions of this code pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the director of the right to rely thereon.
  - (3) Except as may be provided in this code respecting particular procedures, an order or notice may be given by:
    - (a) Personal service upon the person to be ordered or notified;
    - (b) Mailing it, postage prepaid, by regular United States mail, or by certified mail, return receipt requested, addressed to the person at his residence or principal place of business as last of record in the department; or
    - (c) Where a party has appeared in a contested case or has not yet appeared but has consented or agreed in writing to service by facsimile transmission (FAX) or e-mail as an alternative to personal service or service by mail, such orders or notices may be served by FAX or by e-mail in lieu of service by mail or personal service.
  - (4) Service of orders and notices is complete when a copy is personally served upon the person to be served, or when a copy properly addressed and postage prepaid is deposited in the United States mail or the statehouse mail, if the person is a state employee or state agency, or when there is an electronic verification that a FAX or an e-mail has been sent.
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#### **41-213. ENFORCEMENT.**

- (1) The director may institute such suits or other lawful proceedings as he may deem necessary for the enforcement of any provision of title 41, Idaho Code. If the director believes that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of title 41, Idaho Code, any other law the director has authority to enforce, or any rule or order of the director, the director may, in accordance with the procedures set forth in title 41, Idaho Code, and chapter 52, title 67, Idaho Code:
    - (a) Issue an order requiring the person to cease and desist from any prohibited act or practice;
    - (b) Issue an order affecting a person's license for such reasons as set forth in title 41, Idaho Code;
    - (c) Issue an order imposing an administrative penalty as provided in title 41, Idaho Code; and
    - (d) Initiate any action in district court for the same relief or any relief authorized by title 41, Idaho Code.
  - (2) If the director believes that any person is violating or about to violate any provision of title 41, Idaho Code, or any order or requirement of the director issued or promulgated pursuant to authority expressly granted the director by any provision of title 41, Idaho Code, or by other law, the director may bring an action against such person in the name of the people of the state of Idaho in a district court of this state to enjoin such person from continuing such violation or doing any act in furtherance thereof. In the action the court may enter such order or judgment granting such preliminary or final injunction as the court determines to be proper.
  - (3) If the director has reason to believe that any person has violated any provision of title 41, Idaho Code, or any provision of other law as applicable to insurance operations, for which criminal prosecution is provided and would be in order, he shall give the information relative thereto to the attorney general or county attorney having jurisdiction of any such violation. The attorney general or county attorney shall promptly institute such action or proceedings against such person as the information may require or justify.
  - (4) Whenever the director may deem it necessary, he shall employ counsel, or call upon the attorney general of this state for legal counsel and such assistance as may be necessary.
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#### **41-219. EXAMINATION OF INSURERS.**

- (1) For the purpose of determining its financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations, and compliance with the law, the director shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer, including the attorney in fact of a reciprocal insurer in so far as insurer transactions are concerned, as often as he deems advisable. The director or any of the director's examiners may conduct an examination, in accordance with the provisions of this section, of any company as often as the director in his sole discretion deems appropriate but shall, at a minimum, conduct an examination of every insurer licensed in this state not less frequently than once every five (5) years. In scheduling and determining the nature, scope and frequency of the examinations, the director shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiners' handbook adopted by the national association of insurance commissioners and in effect when the director exercises discretion under the provisions of this section.
- (2) Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States except as otherwise required by the director.
- (3) The director shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(4) In lieu of an examination under the provisions of this section, of any foreign or alien insurer licensed in this state, the director may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port of entry until January 1, 1994.

Thereafter, such reports may only be accepted if the insurance department was at the time of the examination accredited under the national association of insurance commissioners' financial regulation standards and accreditation program or, the examination is performed under the supervision of an accredited insurance department or with participation of one (1) or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(5) The term "company" as used in this section shall mean any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory or taxing authority of the director.

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#### **41-220. EXAMINATION OF AGENTS, BROKERS, CONSULTANTS, MANAGERS, ADJUSTERS, PROMOTERS.**

For the purpose of ascertaining compliance with law, and in addition to any right of examination otherwise provided, the director may as often as he deems advisable examine the accounts, records, documents, and transactions, pertaining to or affecting its insurance affairs or proposed insurance affairs, of:

- (1) any insurance agent, broker, solicitor, consultant, surplus line broker, general agent, or adjuster.
- (2) Any person(s) having a contract under which he enjoys in fact the exclusive or dominant right to manage or control an insurer.
- (3) Any person holding the shares of voting stock or policyholder proxies of a domestic insurer, for the purpose of controlling the management thereof, as voting trustee or otherwise.
- (4) Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself out in this state as so engaging or proposing, or in this state assisting in, the promotion or formation of an insurer or insurance holding corporation, or corporation to finance an insurer or the production of its business.

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#### **41-232. HEARINGS IN GENERAL.**

- (1) The director may hold a hearing which he deems necessary for any purpose within the scope of this code.
- (2) The director shall hold a hearing:
  - (a) If required by any provision of this code; or
  - (b) Upon written demand for a hearing by a person aggrieved by any act, threatened act or failure of the director to act, or by any report, rule, regulation or order of the director (other than an order for the holding of a hearing, or an order on a hearing of which hearing such person had actual notice or pursuant to such order).
- (3) Any such demand for a hearing shall summarize the information and grounds to be relied upon as a basis for the relief to be sought at the hearing.
- (4) The director shall hold such demanded hearing within thirty (30) days after his receipt of the demand, unless postponed by mutual consent. Failure to hold the hearing shall constitute a denial of the relief sought, and shall be the equivalent of an order on hearing for the purpose of an appeal.
- (5) In any administrative proceeding of the director where a hearing is otherwise authorized or required by law, if a party with respect to whom the hearing is to be held waives the hearing in writing, or fails to plead, or to defend or prosecute, as the case may be, and that fact is made known to the director by affidavit or otherwise, the right of hearing shall be deemed to have been waived, and, any other provision of this code to the contrary notwithstanding, without holding or concluding a hearing the director may, upon satisfactory proof of service of the petition or complaint upon such a party, enter an order which shall be as lawful as to such party as if all allegations in the petition or complaint relative to or concerning such party were proved or admitted at a hearing. For good cause shown, the director may, in his discretion, set aside any order so entered, and the proceedings may continue as if no waiver or default had existed.

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#### **41-235. NOTICE OF HEARING.**

- (1) Except where a longer period of notice is provided by other provisions of this code relative to particular matters, not less than fourteen (14) days in advance the director shall give notice of the time and place of the hearing, stating the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which hearing is held, the director shall give such notice to all persons whose pecuniary interests are to be directly and immediately affected by such hearing.
  - (2) If any such hearing would otherwise require separate notices to more than one hundred (100) persons, in lieu of the notice required under such subsection the director may give notice of the hearing by publishing the notice in at least three (3), but not to exceed five (5), daily newspapers, at least once each week during the four (4) weeks immediately preceding the week in which the hearing is to be held. The director shall select such newspapers, as to location and circulation, as he deems necessary to give adequate opportunity of notice to such persons as should receive notice of the hearing. The published notice shall state the time and place of the hearing and shall specify the matters to be considered thereat. At the time of first publication the director shall mail to every advisory organization which has filed with him pursuant to section 41-1425, Idaho Code, a copy of the published notice if the proposed hearing would affect any interest of the members of such advisory organization.
  - (3) All such notices, other than published notices, shall be given as provided in section 41-212, Idaho Code.
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**41-247. INQUIRY POWERS OF DIRECTOR.**

The director shall have power to direct an inquiry in writing to any person subject to his jurisdiction with respect to any insurance transaction or matter relative to a subject of insurance resident, located, or to be performed in this state. The person to whom such an inquiry is addressed shall upon receipt thereof promptly furnish to the director all requested information which is in his possession or subject to his control.

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**41-258. REPORT OF LOSSES BY FIRE INSURANCE COMPANIES TO STATE FIRE MARSHAL.**

Every fire insurance company authorized to transact business in this state is hereby required to report to the office of the state fire marshal, within seven (7) days after settlement of all fire losses of one thousand dollars (\$1,000) or more, on property within the state of Idaho and all fire losses resulting in death or personal injury, including those personal injury losses covered by workmen's compensation insurance. The report shall state the date of fire, the amount of probable property loss or personal injury, the character of property destroyed or damaged, and supposed cause of the fire. The report shall be in addition to and not in lieu of any report or reports such companies may be required by any law of this state to make to any other state officer.

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**41-290. FRAUDULENT CLAIMS.**

Any insurer which has facts to support a belief that a fraudulent claim is being or has been made shall, within sixty (60) days of the receipt of such notice, send to the director of insurance, on a form prescribed by the director, the information requested and such additional information relative to the claim and the parties claiming loss or damages as the director may require. The director of the department of insurance shall review such reports and select such claims as, in his judgment, may require further investigation. He shall then cause an independent examination of the facts surrounding such claim to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission of the claim. The director of the department of insurance shall report any alleged violations of law which his investigations disclose to the appropriate licensing agency and prosecuting authority having jurisdiction with respect to any such violation.

If, upon examination, the director of the department of insurance determines that an insurer has intentionally not reported a claim when the insurer had facts to support a belief that the claim was fraudulent in accordance with the provisions of this chapter, the director may impose fines and penalties pursuant to section 41-327, Idaho Code, for each unreported suspected fraudulent claim.

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**41-293. INSURANCE FRAUD.**

Insurance fraud includes:

- (1) (a) Any person who, with the intent to defraud or deceive an insurer for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer, producer, practitioner or other person, any statement as part of, or in support of, a claim for payment or other benefit, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim; or
  - (b) Any person who, with intent to defraud or deceive an insurer assists, abets, solicits, or conspires with another to prepare or make any statement that is intended to be presented to any insurer, producer, practitioner or other person, in connection with, or in support of, any claim for payment or other benefit, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim;
  - (c) Any person who, with intent to defraud or deceive, presents or causes to be presented to or by an insurer, a producer, practitioner or other person, a false or altered statement material to an insurance transaction;
  - (d) Any insurance producer or other person who, with intent to defraud or deceive, willfully takes premium money knowing that insurance coverage will not be effected;
  - (e) Any practitioner or other person who willfully submits a false or altered statement, with the intent of deceiving an insurer or other person in connection with an insurance transaction or claim;
  - (f) Anyone willfully making a false statement or material misrepresentation to an insurer, employer, practitioner or other person, with the intent to defraud or deceive an insurer or other person, to obtain or extend worker's compensation benefits;
  - (g) Anyone who offers or accepts a direct or indirect inducement to file or solicits another person to file a false statement, with intent to defraud or deceive an insurer;
  - (h) Any person who, with intent to defraud or deceive, transacts insurance of any kind or character, or transmits for a person other than himself an application for a policy of insurance, without proper licensing or after such license has been suspended or revoked;
  - (i) Any practitioner or any other person who, with intent to defraud or deceive, employs, uses or acts as a runner for the purpose of submitting a claim containing false, incomplete, or misleading information concerning any fact or thing material to such claim;
  - (j) Any employer or other person who, with intent to defraud or deceive, presents or causes to be presented to an insurer, producer or any other person or governmental agency any statement containing the number of employees, amount of payroll, job description or job title or any other statement material to worker's compensation insurance which contains false, misleading or incomplete information; or
  - (k) Any person who, with intent to defraud or deceive, obstructs the director in the conduct of any authorized examination.
- (2) A fact, statement or representation is "material" if it includes any of the following:
- (a) Any fact which, if communicated to the producer, insurer, adjuster or representative thereof, would induce him to either decline insurance altogether or not accept it unless a higher premium is paid by the insured;

- (b) Any fact relating to a claim for insurance benefits which, if disclosed, would be a fair reason for rejecting a claim for insurance benefits;
  - (c) Any fact, the knowledge or ignorance of which would naturally influence the insurer in making or refusing the contract, in estimating the degree or character of the risk, or in fixing the rate of premium;
  - (d) Any fact, the knowledge or ignorance of which would naturally influence the insurer in accepting or rejecting a claim for insurance benefits or compensation, or in determining the amount of compensation or insurance benefits to be paid to the insured; or
  - (e) Any fact that necessarily has some bearing on the subject matter of the insurance coverage or claim for benefits under an insurance contract.
- (3) Any offense committed by use of a telephone, any means of electronic communication or mail as provided by this chapter may be deemed to have been committed at the place from which the telephone call or electronic communication was made, or mail was sent, or the offense may be deemed to have been committed at the place at which the telephone call, electronic communication or mail was received.
- (4) Any violator of this section is guilty of a felony and shall be subject to a term of imprisonment not to exceed fifteen (15) years, or a fine not to exceed fifteen thousand dollars (\$15,000), or both and shall be ordered to make restitution to the insurer or any other person for any financial loss sustained as a result of a violation of this section. Each instance of violation may be considered a separate offense.
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**41-301. "STOCK" INSURER DEFINED.**

For the purposes of this code a "stock" insurer is an incorporated insurer with its capital divided into shares and owned by its stockholders.

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**41-302. "MUTUAL" INSURER DEFINED.**

A "mutual" insurer is an incorporated insurer without capital stock and the governing body of which is elected by its policy holders. This definition shall not be deemed to exclude as "mutual" insurers certain foreign insurers found by the director to be organized on the mutual plan under the laws of their states of domicile but having temporary share capital or providing for election of the insurer's governing body on a reasonable basis by policy holders and others.

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**41-305. CERTIFICATE OF AUTHORITY REQUIRED.**

- (1) No person shall act as an insurer and no insurer or its agents, attorneys, subscribers, or representatives shall directly or indirectly transact insurance in this state except as authorized by a subsisting certificate of authority issued to the insurer by the director, except as to such transactions as are expressly otherwise provided for in this code.
  - (2) No insurer shall from offices or by personnel or facilities located in this state solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority issued to it by the director authorizing it to transact the same kind or kinds of insurance in this state.
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**41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT.**

A certificate of authority and application therefor pursuant to section 41-319, Idaho Code, shall not be required of an insurer with respect to the following:

- (1) Investigation, settlement, or litigation of claims under its policies lawfully written in this state, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in this state.
  - (2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this state at time of issuance, and lawfully solicited, written and delivered outside this state.
  - (3) Transactions pursuant to surplus lines coverages lawfully written under chapter 12, title 41, Idaho Code.
  - (4) Reinsurance, when transacted by an insurer duly authorized by its state of domicile to transact the kind of insurance involved.
  - (5) The continuation and servicing of life insurance or disability insurance policies or annuity contracts remaining in force as to residents of this state if the insurer has withdrawn from the state and is not transacting new insurance therein.
  - (6) A foreign insurer licensed and authorized to sell individual or group accident and sickness insurance in another state as defined pursuant to section 41-306A, Idaho Code, and the insurer obtains a certificate of authority pursuant to that section.
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**41-337. Resident agent, countersignature law.**

- (1) Except as provided in section 41-338, Idaho Code, no authorized insurer shall make, write, place or cause to be made, written or placed, any policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in Idaho, liability created by or accruing under the laws of this state, or undertakings to be performed in this state, except through its resident insurance agents licensed as provided in this code, who shall countersign or cause a facsimile of his signature to be placed on all policies or indemnity contracts so issued, and who shall keep a record of the same, containing the usual and customary information concerning the risk undertaken and the full premium paid or to be paid therefor, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state. When two (2) or more insurers issue a single policy of insurance the policy may be countersigned on behalf of all insurers appearing thereon by a licensed agent, resident in this state, of any one such insurer.
  - (2) The agent may grant a power of attorney in writing to an individual who is twenty-one (21) years or more of age authorizing such person to countersign or cause a facsimile of the agent's signature to be placed on policies and indorsements in his name and behalf. The power of attorney shall be acknowledged by the agent under oath before a notary public and shall be kept on file in the agent's office.
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**41-338. Exceptions to resident agent, countersignature law.**

- (1) Nothing in section [41-337](#), Idaho Code, shall be construed as preventing the free and unlimited right to negotiate wholly outside of this state contracts of insurance by licensed nonresident agents or brokers, provided the policies, endorsements or evidence of insurance covering properties or insurable interests in this state are countersigned by a resident agent of this state, in which event the countersigning agent shall receive a commission of not less than five per cent (5%) of the premium paid or one-third (1/3) of the commission paid to the licensed nonresident agent or broker, whichever is less; provided, however, the payment to the countersigning agent shall not exceed the sum of two hundred fifty dollars (\$250) per policy, and when the countersigning commission to be paid is less than five dollars (\$5.00), the countersigning agent may waive any commission due him.
- (2) Section [41-337](#), Idaho Code, shall not apply to the following contracts:
  - (a) Life insurance and annuities;
  - (b) Disability insurance;
  - (c) Title insurance; countersignature of title insurance policies is as provided in section [41-2702](#), Idaho Code;
  - (d) Policies covering property in transit while in the possession or custody of any common carrier, or the rolling stock or other property of any common carrier used and employed by it as a common carrier of freight or passengers, or both;
  - (e) Reinsurance or retrocessions made by or for authorized insurers;
  - (f) Contracts issued by domestic reciprocal insurers writing workmen's compensation for employers commonly known as self-insurers; nor, with respect to countersignature, to policies issued by a reciprocal insurer not using agents compensated by commissions in the general solicitation of business;
  - (g) Bid bonds issued by a surety insurer in connection with any public or private contract; or
  - (h) Ocean marine insurance.
- (3) Notwithstanding section [41-337](#), Idaho Code, and the provisions of subsection (1) of this section, if the law of another state does not require the countersignature of a licensed agent who resides in that state for policies and contracts of insurance or indemnity made, written or placed in that state by a licensed agent who resides in the state of Idaho, the countersignature of a licensed agent who resides in the state of Idaho is not required for policies and contracts of insurance or indemnity made, written or placed in the state of Idaho by a licensed agent who resides in that other state.

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**41-505. "MARINE AND TRANSPORTATION INSURANCE" DEFINED.**

"Marine and transportation insurance" includes:

- (1) Insurance against any kind of loss or damage to:
  - (a) Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks, and
  - (b) Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles), and
  - (c) Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, and
  - (d) Bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks.
- (2) "Marine protection and indemnity insurance," meaning insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

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**41-1003. Definitions.**

- (1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.
- (2) "Home state" means the District of Columbia and any state or territory of the United States or any province of Canada in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.
- (3) "License" means a document issued by the director authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

- (4) "Limited lines insurance" is insurance which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 41-1008(1)(a) through (g), Idaho Code, and shall include, but not be limited to: credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, transportation baggage insurance, transportation ticket policies covering personal accident insurance, pet insurance, portable electronics insurance, travel insurance or any other line of insurance that the director deems necessary to recognize for the purposes of complying with section 41-1009(5), Idaho Code.
  - (5) "Limited lines producer" means a producer authorized by the director to sell, solicit or negotiate limited lines insurance. "Limited lines producer" includes a "limited lines travel insurance producer" as used in sections 41-1090 through 41-1096, Idaho Code.
  - (6) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in the act either sells insurance or obtains insurance from insurers for purchasers.
  - (7) "Person" means an individual or a business entity.
  - (8) "Producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.
  - (9) "Resident" means a person whose home state is Idaho or any other particular state identified in conjunction with the use of the term.
  - (10) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.
  - (11) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company or companies.
  - (12) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance for or on behalf of an insurer.
  - (13) "Uniform application" means the current version of the national association of insurance commissioners (NAIC) uniform application for resident and nonresident producer licensing.
  - (14) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.
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#### **41-1004. LICENSE REQUIRED.**

- (1) A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed as a producer for that line of authority in accordance with this chapter.
  - (2) A person shall not, for a fee, engage in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any policy of insurance that could be issued in Idaho unless that person is:
    - (a) A licensed insurance producer offering advice concerning a class of insurance as to which the producer is licensed to transact business in this state;
    - (b) An attorney rendering services in the performance of the duties of an attorney;
    - (c) A certified public accountant rendering services in the performance of the duties of a certified public accountant, as authorized by law;
    - (d) An actuary rendering actuarial services if such actuary is a member of an organization determined by the director as establishing standards for the actuarial profession;
    - (e) A person providing services to producers or authorized insurers only;
    - (f) A person rendering services as an expert pursuant to the Idaho rules of evidence;
    - (g) An investment adviser, investment adviser representative or federally covered investment adviser as defined in section 30-14-102, Idaho Code; or
    - (h) A person rendering such services pursuant to a license issued in accordance with sections 41-1081 through 41-1089 of this chapter [Idaho Code].
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#### **41-1005. EXCEPTIONS TO LICENSING.**

- (1) Nothing in this chapter shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.
- (2) A license as an insurance producer shall not be required of the following:
  - (a) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:
    - (i) The activities of the officer, director or employee are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance; or
    - (ii) The function of the officer, director or employee relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or
    - (iii) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;
  - (b) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans, or performs administrative services relating to mass-marketed property and casualty insurance, and who does not receive a commission;
  - (c) An employer or association or its officers, directors, employees or the trustees of an employee trust plan, to the extent that the employer, association, officer, employee, director or trustee is engaged in the administration or operation of a program of

employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which involves the use of insurance issued by an insurer, as long as the employer, association, officer, director, employee or trustee is not in any manner compensated, directly or indirectly, by the company issuing the contracts;

- (d) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers, and who are not individually engaged in the sale, solicitation or negotiation of insurance, and who do not receive a commission;
- (e) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;
- (f) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, provided that the person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;
- (g) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission; or
- (h) A person who, concurrent with the rental of a motor vehicle, provides contract options to the standard rental agreement which provides auto and travel related coverages through authorized insurers during a rental period not to exceed ninety (90) days.

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#### **41-1006. APPLICATION FOR EXAMINATION.**

- (1) A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 41-1008(4) or 41-1012, Idaho Code. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the director of the department of insurance.
- (2) Each individual applying for an examination shall remit a nonrefundable fee as promulgated by the director pursuant to section 41-401, Idaho Code.
- (3) An individual who fails to appear for the examination as scheduled or who fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.
- (4) Applications for licensure not received by the department within one hundred eighty (180) days of the successful completion of the examination shall be denied

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#### **41-1007. APPLICATION FOR PRODUCER LICENSE.**

- (1) A person applying for a resident insurance producer license shall make application to the director on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the director shall find that the applicant:
  - (a) Is at least eighteen (18) years of age;
  - (b) Has submitted the applicant's fingerprints as may be required by the director;
  - (c) Has not committed any act that is a ground for denial, suspension or revocation of the license as set forth in title 41, Idaho Code;
  - (d) Has paid the fees prescribed by the director pursuant to section 41-401, Idaho Code; and
  - (e) Has successfully passed the examinations for the lines of authority for which the applicant has applied.
- (2) A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the director shall find that:
  - (a) The business entity has paid the fees prescribed by the director pursuant to section 41-401, Idaho Code; and
  - (b) The business entity has designated a licensed producer, who is an individual responsible for the business entity's compliance with the insurance laws and rules of this state.
- (3) The director may require any documents which are reasonably necessary to verify the information contained in an application.
- (4) Each insurer that sells, solicits or negotiates any form of limited line insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited lines insurance a program of instruction that may be required to be approved by the director. If acceptable to the director, and as stated by rule, the program of instruction may be administered in place of the examination as required in section 41-1006, Idaho Code. In addition, such course of instruction may be administered in place of any continuing education requirements pursuant to section 41-1013, Idaho Code.

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#### **41-1008. PRODUCER LICENSE.**

- (1) Unless denied licensure pursuant to section 41-1016, Idaho Code, persons who have met the requirements of sections 41-1006 and 41-1007, Idaho Code, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one (1) or more of the following lines of authority:
  - (a) Life insurance coverage on human lives, including benefits of endowment and annuities, benefits in the event of death or dismemberment by accident, and benefits for disability income;

- (b) Disability, including accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and benefits for disability income;
  - (c) Property insurance coverage for the direct or consequential loss or damage to property of every kind;
  - (d) Casualty insurance coverage against legal liability, including liability for death, injury or disability or damage to real or personal property;
  - (e) Variable life and variable annuity products, meaning insurance coverage provided under variable life insurance contracts and variable annuities;
  - (f) Personal lines, meaning property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
  - (g) Any other line of insurance permitted under state laws or rules.
- (2) An insurance producer license shall remain in effect unless revoked or suspended as long as the renewal fee promulgated by the director pursuant to section 41-401, Idaho Code, is paid and the continuing education requirements for resident insurance producers are met in accordance with section 41-1013, Idaho Code.
  - (3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without passing a written examination unless the licensee would otherwise be required to retest under section 41-1013(7), Idaho Code. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.
  - (4) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request that the director waive those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.
  - (5) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the lines of authority, the expiration date and any other information the director deems necessary.
  - (6) Licensees shall inform the director by any means acceptable to the director of a change of address within thirty (30) days of the change. A business entity licensed as a producer shall inform the director by any means acceptable to the director of any change in ownership, officers, directors or the designated licensed producer responsible for compliance pursuant to section 41-1007(2)(b), Idaho Code.
  - (7) In order to assist in the performance of the director's duties, the director may contract with nongovernmental entities, including the national association of insurance commissioners or its affiliates or subsidiaries, to perform any ministerial functions related to producer licensing, including the collection of fees, that the director and the nongovernmental entity may deem appropriate.

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#### **41-1009. NONRESIDENT PRODUCER LICENSE.**

- (1) Unless denied licensure pursuant to section 41-1016, Idaho Code, a nonresident applicant shall receive a nonresident producer license if:
  - (a) The applicant is currently licensed as a resident and in good standing in his or her home state;
  - (b) The applicant has submitted the proper request for licensure and has paid the fees set forth by rule pursuant to section 41-401, Idaho Code;
  - (c) The applicant has submitted or transmitted to the director the application for licensure that the applicant submitted to his or her home state or, in lieu of such application, a completed uniform application;
  - (d) The applicant has submitted the applicant's fingerprints, if required by the director, on a form as prescribed by the director; and
  - (e) The applicant's home state awards nonresident producer licenses to residents of this state on the same basis.
- (2) The director may verify the producer's licensing status through the producer database maintained by the national association of insurance commissioners, its affiliates or subsidiaries, or by any other acceptable means.
- (3) A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application shall be required for filing the change of address.
- (4) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines broker in his or her home state shall receive a nonresident surplus lines broker license pursuant to subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of section 41-1223, Idaho Code.
- (5) Notwithstanding any other provision of this chapter, a person licensed as a limited lines producer in his or her home state shall receive a nonresident limited lines producer license, pursuant to subsection (1) of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 41-1008(1)(a) through (g), Idaho Code.

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#### **41-1010. NONRESIDENT PRODUCERS-SERVICE OF PROCESS.**

- (1) Each person applying to be a nonresident producer shall, on a form prescribed by the director, appoint the director as his agent for purposes of receiving service of legal process issued against the producer in this state upon causes of action arising within this state out of transactions under the license. Service upon the director as an agent shall constitute effective legal service upon the producer.
- (2) The appointment shall be irrevocable for as long as there could be any cause of action against the licensee arising out of his insurance transactions in or with respect to this state.  
Duplicate copies of such legal process against the licensee shall be served upon the director by a person competent to serve a summons. At the time of service the plaintiff shall pay the director an appropriate fee to be determined by rule and not exceeding thirty dollars (\$30.00).

- (3) Upon receiving such service, the director shall send one (1) copy of the process by registered or certified mail with return receipt requested to the defendant licensee at his last address of record with the director.
  - (4) The director shall keep a record of the day and hour of such service upon him. No proceedings shall be brought against the producer, and the producer shall not be required to appear, plead or answer until the expiration of thirty (30) days after the date of service upon the director.
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#### **41-1011. ISSUANCE - REFUSAL OF LICENSE.**

If after completion of application for a license, the taking and passing of any examination required under this chapter and, if required by the director, receipt of a report from the federal bureau of investigation based on the fingerprints of the applicant, the director finds that the applicant has fully met the requirements for a license, the director shall issue the license to the applicant; otherwise, the director shall refuse to issue the license and shall promptly notify the applicant and any appointing insurer or insurers of such refusal and state the grounds for the refusal. Pending the receipt of the report from the federal bureau of investigation, the director may, in his discretion, issue a temporary license if all other qualifications have been met.

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#### **41-1012. EXEMPTION FROM EXAMINATION.**

- (1) An individual who applies for an insurance producer license in this state and who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing examination if:
    - (a) The person is currently licensed in another state; or
    - (b) The application is received within ninety (90) days of the cancellation of the applicant's previous license and the prior state issues a certification that:
      - (i) At the time of cancellation, the applicant was in good standing in that state; or
      - (ii) The state's producer database records, as maintained by the national association of insurance commissioners or its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the lines of authority requested.
  - (2) A person licensed as an insurance producer in another state who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to section 41-1006, Idaho Code. No examination shall be required of that person to obtain any line of authority previously held in the prior state unless the director provides otherwise by rule.
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#### **41-1013. CONTINUATION - EXPIRATION OF LICENSES - CONTINUING EDUCATION STATEMENT.**

- (1) All producer, adjuster, and surplus line broker licenses issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, subject to payment of the applicable continuation fee on or before the expiration date referred to in subsection (2) of this section, accompanied by a written request for such continuation and a continuing education statement verifying that the licensee has completed any continuing education requirements imposed by the director. An application for renewal is not complete unless it is submitted with both the applicable fee and the completed continuing education statement. Requests for continuation shall be made in writing on forms to be prescribed by the director.
- (2) The director may fix the dates of expiration for licenses in such manner as is deemed by him to be advisable for an efficient distribution of the workload of his office. If the expiration date for a particular license or appointment would shorten the period for which the license or appointment continuation fee has been paid, no refund of an unearned fee shall be made. If the expiration date for a particular license or appointment would lengthen the period for which a license or appointment continuation fee has been paid, the director shall charge no additional fee for such lengthened period.
- (3) Any license referred to in subsection (1) of this section for which no request for continuation, fee and completed continuing education statement are timely received by the director shall be deemed to have expired at midnight on the applicable expiration date.
- (4) All sums tendered as fees for continuations of licenses as producer, limited lines producer, adjuster or surplus line broker shall be deemed earned when paid and shall not be subject to refund, except that the director shall refund any duplicate payment of fees.
- (5) For the protection of the people of this state the director shall establish, by rule, additional educational requirements designed to maintain and improve the insurance skills and knowledge of resident producers after licensure by the department of insurance. The director shall also establish, by rule, an advisory committee comprised of representatives from each segment of the insurance industry to assist the director in prescribing additional educational requirements. Such rules promulgated by the director shall include limits on the terms of service for members of the committee.
- (6) Subject to subsection (3) of this section, the director shall not permit to be continued the license of any producer who is licensed pursuant to section 41-1007, Idaho Code, who is a resident of this state, unless such person has demonstrated to the satisfaction of the director that in addition to meeting the standards contained in sections 41-1007, (qualifications for producer license), Idaho Code, as may be applicable, all the additional educational requirements as the director may prescribe by rule have been met.
- (7) Failure of the licensee to comply with any applicable additional education requirements prescribed by the director by rule by the expiration date of the license shall be grounds for the director to refuse to continue any such license. The licensee may reinstate his or her license by submitting proof of all education requirements within ninety (90) days from the date of expiration of the license and by submitting an additional administrative penalty of one hundred dollars (sections 41-1007, (qualifications for producer license), Idaho Code, as may be applicable, all the additional educational requirements as the director may prescribe by rule have been met.
- (8) Failure of the licensee to comply with any applicable additional education requirements prescribed by the director by rule by the expiration date of the license shall be grounds for the director to refuse to continue any such license. The licensee may reinstate his or her license by submitting proof of all education requirements within ninety (90) days from the date of expiration of the license and by submitting an additional administrative penalty of one hundred dollars (\$100) for a delinquency of one (1) day to thirty (30) days, two hundred dollars (\$200) for a delinquency of thirty (30) days to sixty (60) days, and three hundred dollars (\$300) for a delinquency of sixty-one (61) days to

ninety (90) days. Following the ninetieth day from the date of nonrenewal of the license and up to one (1) year from the nonrenewal date, the licensee must complete all requirements for licensure including retesting, submission of a new application and payment of all new licensing fees. In addition, the individual must submit proof of completion of the required education requirements for the licensing period in which the license was terminated. After the license has been expired for one (1) year or more, the individual must reapply and retest as a new applicant.

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**41-1016. ADMINISTRATIVE PENALTY -SUSPENSION, REVOCATION, REFUSAL OF LICENSE.**

- (1) The director may impose an administrative penalty not to exceed one thousand dollars (\$1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines brokers), if the director finds that as to the licensee or applicant any one (1) or more of the following causes or violations exist:
    - (a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
    - (b) Violating any provision of title 41, Idaho Code, department rule, subpoena or order of the director or of another state's insurance director;
    - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
    - (d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
    - (e) Misrepresenting the terms of an actual or proposed insurance contract or application for insurance or misrepresenting any fact material to any insurance transaction or proposed transaction;
    - (f) Being convicted of or pleading guilty to a crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code, or that evidences dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;
    - (g) Admitting or being found to have committed any insurance unfair trade practice or fraud;
    - (h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;
    - (i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;
    - (j) Forging another's name on an application for insurance or on any document related to an insurance transaction;
    - (k) Improperly using notes or any other reference material to complete an examination for an insurance license;
    - (l) Knowingly accepting insurance business from an individual who is not licensed;
    - (m) Failing to comply with an administrative or court order imposing a child support obligation, provided however, that nothing in this provision shall be deemed to abrogate or modify chapter 14, title 7, Idaho Code;
    - (n) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax; or
    - (o) In the case of a bail agent, compensating or agreeing to compensate any incarcerated person to influence or encourage another incarcerated person or other incarcerated persons to engage the bail agent's services or the services of the bail agent's company or of other bail agents employed by such bail company. For purposes of this subsection, compensating any incarcerated person shall include providing payment in any form to any person, organization or entity designated by the incarcerated person to receive such payment.
  - (2) The director shall, without hearing, suspend for not more than twelve (12) months, or shall revoke or refuse to continue any license issued under this chapter to a nonresident where:
    - (a) The director has received a final order of suspension, revocation or refusal to continue from the insurance regulatory official or court of jurisdiction of the licensee's home state; or
    - (b) A nonresident no longer has a license in the licensee's home state because the home state license was:
      - (i) Voluntarily surrendered for any reason except relicensing as a resident in another state; or
      - (ii) Otherwise nonrenewed by the nonresident and remains nonrenewed for a period greater than ninety (90) days beyond its expiration date, and without notice to the director of relicensing as a resident in another state.  
If cause under this provision exists after the expiration of the twelve (12) months, successive suspensions may be imposed by the director without hearing.
  - (3) The license of a business entity may be suspended, revoked or refused if the director finds that the violation of an individual licensee, who is registered to or acting on behalf of the business entity, was known or should have been known by one (1) or more of the owners, officers or managers acting on behalf of the business entity and that the violation was not reported to the director and no corrective action was taken.
  - (4) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine or administrative penalty pursuant to subsection (1) of this section or any other applicable section.
  - (5) The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by title 41, Idaho Code, against any person who is under investigation for or charged with a violation of title 41, Idaho Code, or department rule, even if the person's license or registration has been surrendered or has lapsed by operation of law, or if the person has never been licensed.
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**41-1017. COMMISSIONS.**

- (1) An insurance company or insurance producer shall not pay a commission, service fee or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is not duly licensed as required under this chapter.

- (2) A person shall not accept a commission, service fee or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is not duly licensed as required under this chapter.
  - (3) Renewals or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if that person was duly licensed as required under this chapter at the time of the sale, solicitation or negotiation.
  - (4) An insurer or insurance producer may pay or assign commissions, service fees or other valuable consideration to any person, regardless of whether that person is licensed as a producer, unless the payment or assignment would violate a specific section of title 41, Idaho Code, including, but not limited to, sections 41-1314 and 41-2708, Idaho Code, or department rule.
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#### **41-1018. APPOINTMENTS.**

- (1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.
  - (2) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director, a notice of appointment within
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#### **41-1019. NOTIFICATION TO DIRECTOR OF TERMINATION.**

- (1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director, if the reason for termination is one of the reasons set forth in section 41-1016, Idaho Code, or the insurer has knowledge that the producer was found by a court, governmental body or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 41-1016, Idaho Code. Upon the written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.
- (2) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer for any reason not set forth in section 41-1016, Idaho Code, shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director. Upon written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination.
- (3) The insurer or authorized representative of the insurer shall promptly notify the director in a format acceptable to the director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the director in accordance with subsection (1) of this section.
- (4) A copy of any notification shall be provided to the producer as follows:
  - (a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any other reasons listed in section 41-1016, Idaho Code, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.
  - (b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the director. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the director's file and shall accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.
- (5) Immunities.
  - (a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the director, or an organization of which the director is a member and that compiles information and makes it available to other insurance directors or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the director from an insurer or producer or as a result of any statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the director, provided that the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.
  - (b) In any action brought against a person that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the director, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.
  - (c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.
- (6) Confidentiality.
  - (a) Any documents, materials or other information obtained by the director in an investigation pursuant to this section shall be exempt from public disclosure under chapter 1, title 74, Idaho Code.
  - (b) In order to assist in the performance of the director's duties under this chapter, the director:
    - (i) May share documents, materials or other information, including confidential and privileged documents and materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies and law enforcement authorities, and with the national association of insurance commissioners, its affiliates or subsidiaries, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or other information;

- (ii) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners, its affiliates or subsidiaries and from regulatory agencies and law enforcement authorities of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials or information received with notice or with the understanding that they are confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials or information; and
  - (iii) May enter into agreements governing sharing and use of information consistent with this subsection.
  - (c) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in paragraph (b) of this subsection.
  - (d) Nothing in this chapter shall prohibit the director from releasing final adjudicated actions, including for cause terminations that are open to public inspection pursuant to chapter 1, title 74 and title 41, Idaho Code, to a database or other clearinghouse service maintained by the national association of insurance commissioners or its affiliates or subsidiaries.
- (7) Penalties for failing to report. An insurer, the authorized representative of the insurer, or a producer who fails to report as required under the provisions of this section or who is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have his license or certificate of authority suspended or revoked and may be fined in accordance with section 41-1016 or 41-327, Idaho Code.
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#### **41-1021. REPORTING OF ACTIONS.**

- (1) A producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.
  - (2) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the director 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.
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#### **41-1023. Countersignature of policies — Power of attorney.**

- (1) When the signature or countersignature of a property or casualty producer is required on an insurance contract, or rider or endorsement thereto, the producer shall, except as provided in section 41-337(1), Idaho Code, and subsection (2) of this section, affix his original written signature thereon.
  - (2) The property or casualty producer may grant a power of attorney in writing to an individual who is twenty-one (21) years of age or older, authorizing such person to countersign or cause a facsimile of the agent's signature to be placed on policies and endorsements in his name and on his behalf. The power of attorney shall be acknowledged by the agent under oath before a notary public and shall be kept on file in the agent's office.
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#### **41-1024. REPORTING AND ACCOUNTING FOR PREMIUMS.**

- (1) All fiduciary funds received or collected by a producer shall be trust funds received by the producer in a fiduciary capacity, and the producer shall, in the applicable regular course of business, account for and pay the same to the person entitled to the funds. The producer shall establish a separate account for funds belonging to others in order to avoid a commingling of such fiduciary funds with his own funds. The producer may deposit and commingle in such separate account all fiduciary funds so long as the amount of such deposit so held for all other persons is reasonably ascertainable from the records and accounts of the producer. A producer who duly collects and deposits funds into a sweep account maintained by or for the benefit of an applicable insurer shall not be deemed to be in violation of the fiduciary fund account requirement. The director may promulgate rules relating to accounting for and handling of fiduciary funds and the fiduciary fund account.
  - (2) Fiduciary funds shall include all funds collected by an insurance producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or the producer's employer, and all funds collected by an insurance producer from an insurance company or its agents that are to be paid to a policyholder or claimant under any contract of insurance.
  - (3) Any producer who, not being lawfully entitled thereto, diverts or appropriates to his own use such trust or fiduciary funds or any portion thereof, whether or not such funds have been separately deposited, shall upon conviction be guilty of a felony.
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#### **41-1026. PROCEDURE FOLLOWING SUSPENSION, REVOCATION, DENIAL -REINSTATEMENT.**

- (1) Upon suspension, revocation, or refusal to continue any license, the director shall notify the licensee as provided in section 41-212(3), Idaho Code, and, in the case of a producer who holds appointments from insurers, shall give like notice to the insurers represented.
- (2) Suspension, revocation, or refusal of any one (1) license held by the licensee under title 41, Idaho Code, shall automatically suspend, revoke or refuse continuation of all other licenses held by the licensee under title 41, Idaho Code.
- (3) The director shall not issue a license under title 41, Idaho Code, to or as to any person whose license has been revoked or continuance refused until after the expiration of not less than one (1) year, to a maximum of five
- (5) years, from the date of such revocation or refusal, which time period shall be set forth in the final order, or, if judicial review of such revocation or refusal is sought, not less than one (1) year, to a maximum of five
- (5) years, from the date of a final court order or decree affirming the revocation or refusal. If no time period is specified in the final order or final court order or decree, the time period shall be one (1) year. In the event the former licensee again files an application for a license under title 41, Idaho Code, the director may require the applicant to show good cause why the prior revocation or refusal to continue his license shall not be deemed a bar to the issuance of a new license.

- (4) The director shall not issue a license under title 41, Idaho Code, to any person whose application for a license was previously denied until after the expiration of one (1) year from the date of such license denial or, if judicial review of such license denial is sought, one (1) year from the date of a final court order or decree affirming the license denial.
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**41-1030. PRODUCER COMPENSATION.**

- (1) For purposes of this section:
- (a) "Consumer" means an insured, a prospective insured or an employer group.
  - (b) "Retail producer" means a producer who solicits, negotiates with or sells an insurance contract directly to a consumer.
  - (c) "Wholesale producer" means a producer who solicits, negotiates or sells an insurance contract directly with a retail producer, but not with a consumer.
- (2) Notwithstanding any other provision of title 41, Idaho Code, and as provided in this subsection, retail producers and wholesale producers may charge a fee or be compensated by a combination of fees and commissions.
- (a) Before charging a fee to a consumer, a retail producer shall provide to the consumer a written statement that describes the services the retail producer will perform and the fees the retail producer will receive. Acceptance by the consumer of a fee arrangement shall be evidenced by the consumer signing and dating the fee statement.
  - (b) Before charging a fee to a retail producer, a wholesale producer shall provide to the retail producer a written statement that describes the services the wholesale producer will perform and the fees the wholesale producer will receive. Information regarding the amount of the fees charged by the wholesale producer shall be disclosed in writing on the face of the policy as a separately itemized charge.
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**41-1036. RECORDS.**

- (1) A producer holding a license under this chapter shall make available through his principal place of business complete records of transactions placed through or countersigned by the producer.
- (2) Records as provided in subsection (1) of this section shall include, but not be limited to:
- (a) The names and addresses of insurer and insured;
  - (b) The number and expiration date of the policy or contract;
  - (c) The premium payable as to the policy or contract;
  - (d) The date, time, insurer, insured and coverage of every binder made by the producer;
  - (e) All disclosures made by a producer to an insured or to a prospective insured; and
  - (f) Such other information as the director may reasonably require.
- (3) The records shall be kept available for inspection by the director for at least five (5) years after the creation or the completion, whichever is later, of the respective transactions. The records may be maintained offsite and in electronic form if the records can be made available for inspection through the producer's principal place of business upon reasonable notice by the director.
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**41-1103. LICENSE REQUIRED.**

No person shall in this state be, act as, or advertise or hold himself out to be, an adjuster unless then licensed as an adjuster under this chapter. No resident of Canada may be licensed as a resident adjuster or may designate Idaho as his home state, unless such person has successfully passed the adjuster examination and has complied with the other applicable provisions of this chapter. No resident of Canada may be licensed as a nonresident adjuster unless such person has obtained a resident or home state adjuster license in another state.

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**41-1104. QUALIFICATIONS FOR ADJUSTER'S LICENSE.**

- (1) Except as provided in subsection (2) of this section, the director shall not issue, continue, or permit to exist any license as an adjuster as to any person not qualified therefor as follows:
- (a) Must be a natural person not less than twenty-one (21) years of age.
  - (b) Must be trustworthy, and be of good character and reputation as to morals, integrity, and financial responsibility, and must not have been convicted of any crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code.
  - (c) Must be a salaried employee of a licensed adjuster, or must have had experience or special education or training as to the investigation and settlement of loss of claims under insurance contracts of sufficient duration and extent reasonably to satisfy the director as to his competence to fulfill the responsibilities of an adjuster.
  - (d) If required by the director, must pass a written examination to test his knowledge of the duties and responsibilities of an adjuster and of matters involved in transactions under an adjuster's license. The examination shall be subject to the same applicable provisions as apply pursuant to title 41, Idaho Code, to examinations for license as insurance agent.
- (2) A firm or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers in this state is separately licensed, or is named in the firm or corporation license, and is qualified as for an individual license as adjuster under subsection (1) of this section. An additional full license fee shall be paid as to each individual in excess of one (1) so named in the firm or corporation license to exercise its powers.
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**41-1212. EXEMPTIONS FROM SURPLUS LINE LAW.**

- (1) The provisions of this surplus line law controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or, except as to subsection (2) below, to the following insurances when so placed by licensed agents or surplus line brokers of this state:
- (a) Ocean marine and foreign trade insurances.
  - (b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

- (c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
  - (d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in commercial scheduled interstate flight, or cargo of such aircraft, or against liability, other than worker's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.
- (2) Brokers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this law. The record shall be preserved for not less than five (5) years from the effective date of the insurance and shall be kept available in this state and open to the examination of the director. The broker shall furnish to the director at his request and on forms as designated and furnished by him a report of all such coverages so placed in a designated calendar year.
- (3) The following sections apply only when the insured's home state is Idaho:
- (a) Section 41-1214, Idaho Code (conditions for export);
  - (b) Section 41-1215, Idaho Code (broker's affidavit);
  - (c) Section 41-1216, Idaho Code (open lines for export);
  - (d) Section 41-1217, Idaho Code (eligible surplus lines insurers);
  - (e) Section 41-1218, Idaho Code (eligible surplus line insurers -penalty for violation);
  - (f) Section 41-1219, Idaho Code (evidence of the insurance -changespenalty);
  - (g) Section 41-1220, Idaho Code (endorsement of contract);
  - (h) Section 41-1227, Idaho Code (records of broker);
  - (i) Section 41-1228, Idaho Code (annual report of broker);
  - (j) Section 41-1229, Idaho Code (tax on surplus lines);
  - (k) Section 41-1233, Idaho Code (report and tax of independently procured coverages);
  - (l) Section 41-1234, Idaho Code (records of insureds).
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#### **41-1223. Licensing of surplus line brokers.**

- (1) Any individual while licensed as a producer licensed for property or casualty insurance who has had at least two (2) years' experience as a producer for the lines of insurance for which he is seeking to be licensed as a surplus line broker, and who is deemed by the director to be competent and trustworthy with respect to the handling of surplus lines, may be licensed as a surplus line broker.
  - (2) Application for the license shall be made to the director on forms as designated and furnished by the director.
  - (3) The license and continuation fee shall be as set forth by rule pursuant to section [41-401](#), Idaho Code.
  - (4) The license and licensee shall be subject to the applicable provisions of [chapter 10, title 41](#), Idaho Code (producer licensing).
  - (5) When a national insurance producer database of the national association of insurance commissioners, or other equivalent uniform national database, for the licensure of surplus line brokers is created, the director may participate in such database.
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#### **41-1232. RULES AND REGULATIONS.**

- (1) The director shall make or may approve and adopt reasonable rules and regulations, consistent with this surplus lines law, for any or all of the following purposes:
    - (a) Effectuation of such law;
    - (b) Establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for export; and
    - (c) Establishment, procedures, and operations of any organization of brokers or others designed to assist such brokers to comply with such law. The director may delegate to such an organization the responsibility, under his general supervision, for the determination of the eligibility for export of particular proposed coverages; and
    - (d) Regulation of the fees and charges to be required of the insured in addition to the premium as fixed by the insurer.
  - (2) Such rules and regulations shall be subject to the procedures and carry the penalty provided by section 41-211, Idaho Code, (rules and regulations).
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#### **41-1303. MISREPRESENTATION OR FALSE ADVERTISING OF POLICIES.**

- (1) No person shall make, issue, circulate, or cause to be made, issued, or circulated, any estimate, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or class of policies misrepresenting the true nature thereof.
- (2) No person shall misrepresent a policy for the purpose of effecting a pledge or assignment of, or effecting a loan against, any insurance policy.
- (3) No person shall misrepresent any insurance policy as being shares of stock.
- (4) For reasonable cause the director may in his discretion require any insurer or agent using or proposing to use in this state a prospectus, offering sheet, or other sales literature or printed sales aids in the solicitation of life or disability insurance to file the same with him for review. The director shall forthwith by order disapprove any such prospectus, sheet, literature, or aid found by him to be in violation of this section. The order shall become effective on the effective date specified therein, which date shall not be less than ten (10) days after the date the order was issued and mailed to the insurer or agent affected thereby; except, that if the insurer or agent prior to such effective date makes written request to the director for a hearing relative to the matter the director's order shall thereby be

stayed pending the hearing and the director's further order on hearing. No insurer, agent, or other representative shall use in this state any prospectus, offering sheet, literature or sales aid after the date an order of disapproval thereof has become effective and has been communicated to the insurer. This provision shall not relieve any person of liability for penalties provided for violation of subsection (1) above.

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**41-1304. FALSE INFORMATION AND ADVERTISING WITH RESPECT TO INSURANCE BUSINESS.**

No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, any advertisement, announcement, or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

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**41-1305. "TWISTING" PROHIBITED.**

No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, surrender, lease, retain, exchange, or convert, or otherwise use or dispose of any insurance policy, or any right or option thereunder, or in connection with any such statement and for like purpose fail to disclose all reasonably material facts, or a material fact necessary to make the statements made, in the light of the circumstances under which they are made, not misleading.

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**41-1306. FALSE FINANCIAL STATEMENTS.**

- (1) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.
  - (2) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.
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**41-1308. DEFAMATION.**

No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is circulated to injure any person engaged or proposing to engage in the business of insurance.

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**41-1309. BOYCOTT, COERCION AND INTIMIDATION.**

No person or persons shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

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**41-1310. PERSON FINANCING PURCHASE OF PROPERTY NOT TO FAVOR INSURER OR AGENT.**

No person engaged in the business of financing the purchase of real or personal property and no trustee, director, officer, agent or other employee of any such person shall require, as a condition to financing the purchase of such property or to loaning money upon the security of a mortgage thereon, or, as a condition for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith, that the person for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted or performed, purchase or place fire, property damage, theft, collision or personal injury insurance which is required to be maintained by him on the mortgaged property, from or through any particular insurance agent or agents, broker or brokers, or insurer or insurers.

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**41-1311. SELLER OF PROPERTY NOT TO FAVOR INSURER OR AGENT.**

No seller of real or personal property, and no person engaged in the business of selling real or personal property, and no trustee, director, officer, agent or other employee of any such seller or such other person shall require, as a condition to the selling of such property, or for the performance of any other act in connection therewith, that the person to whom such property is to be sold, purchase or place any fire, property damage, theft, collision or personal injury insurance covering such property, from any particular insurance agent or agents, broker or brokers, or insurer or insurers.

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**41-1312. RIGHTS WITH RESPECT TO INSURANCE ON PROPERTY SOLD OR PURCHASED.**

Sections 41-1310 or 41-1311 shall not prevent:

- (1) The reasonable exercise by any person engaged in any such business of his right to approve or disapprove the insurance or the insurer selected to write the insurance, on reasonable grounds related to the risk selection or underwriting practices of the insurer, the adequacy and terms of the coverage with respect to the interest of such person to be insured thereunder, the quality of service rendered by the insurer or its representative in connection with the insurance, and the financial standards to be met by the insurer; nor of his right to furnish such insurance or to renew any insurance required by the contract of sale or mortgage, trust deed or other loan agreement if the borrower or purchaser has failed to furnish the insurance or renewal thereof within such reasonable time or form as may be specified in the sale or loan agreement. The lender or vendor shall not refuse to accept insurance provided by an acceptable insurer on the ground that such insurance provides more coverage than is required in the sale or loan agreement, unless the additional coverage consists of life or disability insurance.

- (2) The free choice of insurance agent or broker by any borrower or purchaser at any time, and he may revoke any designation of insurance agent or broker at any time irrespective of the provisions of any loan or purchase agreement, mortgage, or trust deed.
  - (3) The exercise by any person engaged in such business of his right to furnish such insurance or to renew such insurance, and to charge the account of the borrower or purchaser with the costs thereof, if the borrower or purchaser fails to deliver to the lender or vendor such insurance at least thirty (30) days prior to expiration of the existing policy. If an insurance policy procured by the borrower or purchaser is subsequently substituted for that then in force, the lender or vendor may impose a reasonable service charge as determined by the director for the transaction, and payment of such charge by the agent or broker shall not be a violation of any other provision of this code. No service charge shall be imposed for normal insurance changes made during the term of the policy.
  - (4) The director may adopt a uniform statewide schedule of permissive maximum charges for the substitution of policies authorized in subdivision (3) above.
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#### **41-1313. UNFAIR DISCRIMINATION -LIFE INSURANCE, ANNUITIES, AND DISABILITY INSURANCE.**

- (1) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.
  - (2) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.
  - (3) No person shall discriminate on the basis of a genetic test or private genetic information, as those terms are defined in section 39-8302, Idaho Code, in the issuance of coverage, or the fixing of rates, terms or conditions, for any policy or contract of disability insurance or any health benefit plan.
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#### **41-1314. REBATES -ILLEGAL INDUCEMENTS.**

- (1) Except as otherwise expressly provided by law, no person shall knowingly make, permit to be made, or offer to make any contract of insurance, or of annuity, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity or in connection therewith, any rebate of premiums payable on the contract, or of any producer's commission related thereto, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, and whether or not specified or to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of any insurer or other person, or any dividends or profits accrued or to accrue thereon; or offer, promise or give anything of value whatsoever not specified in the contract. Nor shall any insured, annuitant, or policyholder or employee thereof, or prospective insured, annuitant or policyholder, or employee thereof, knowingly accept or receive, directly or indirectly, any such prohibited contract, agreement, rebate, advantage, employment, or other inducement.
  - (2) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed producers, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, the usual and ordinary dividends, savings, or unabsorbed premium deposits.
  - (3) Nothing in this section shall be construed as prohibiting a life insurer, disability insurer, property insurer or casualty insurer, or producers who are marketing life insurance, disability insurance, property insurance or casualty insurance, from providing to a policyholder or prospective policyholder of life, disability, property or casualty insurance, any prizes, goods, wares, merchandise, articles or property of an aggregate value not to exceed two hundred dollars (\$200) in a calendar year.
  - (4) Extension of credit for the payment of premium beyond the customary premium payment period without charging and collecting interest at a reasonable rate per annum on the amount of credit so extended and for the duration of such credit is prohibited under this section.
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#### **41-1315. EXCEPTIONS TO DISCRIMINATION OR REBATE PROVISION -LIFE OR DISABILITY POLICIES, AND ANNUITY CONTRACTS.**

Nothing in sections 41-1313 and 41-1314[, Idaho Code,] shall be construed as including within the definition of discrimination or rebates or illegal inducements any of the following practices:

- (1) In the case of any contract of life insurance or life annuity, paying bonuses to policy holders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policy holders.
- (2) In the case of life insurance policies issued on the debit plan, making allowance to policy holders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.
- (3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.
- (4) Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check or payroll deduction plan or other similar plan at a reduced rate reasonably related to the savings made by use of such plan.
- (5) Issuance of life or disability insurance policies or annuity contracts at rates less than the usual rates of premiums for such policies or contracts, or modification of premium or rate based on amount of insurance; but any such issuance or modification shall not result in

reduction in premium or rate in excess of savings in administration and issuance expenses reasonably attributable to such policies or contracts.

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#### **41-1321. PROCEDURES AS TO UNDEFINED PRACTICES.**

[(1)] Whenever the director has reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not expressly prohibited or defined in this chapter, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon as provided for in chapter 2, title 41, Idaho Code, or seek any other relief authorized by title 41, Idaho Code.

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#### **41-1323. Illegal dealing in premiums — Excess charges for insurance.**

- (1) No person shall wilfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.
- (2) No person shall wilfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the director; or, in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus line brokers licensed under chapter 12 of this code, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.
- (3) Each violation of this section shall be punishable under section 41-117 (general penalty).

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#### **41-1325. BORROWING MONEY FROM CLIENTS.**

- (1) An insurance producer who borrows money, securities or anything of value from a client or customer, unless the client or customer is a person engaged in the business of loaning funds or is an immediate family member of the insurance producer, shall complete a written loan agreement that sets forth the parties to the loan, the purpose of the loan, the amount of the loan and the terms of the loan. All parties to the loan must sign the loan agreement acknowledging the transaction and must receive a copy of the loan agreement. The insurance producer shall keep a record of the loan transaction until the loan is paid back in full. Any release of the debt shall be in writing and signed by all parties to the release.
- (2) As used in this section, the term "immediate family member" means a parent, mother-in-law, father-in-law, husband, wife, sister, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or a son or daughter.

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#### **41-1327. VIOLATIONS -PENALTY.**

Any person who violates any provision of this chapter as to which a penalty is not expressly provided, or who violates a cease and desist order issued by the director under section 41-213, Idaho Code, after such order has become final, shall be subject to penalties as prescribed by or referred to in section 41-117, Idaho Code (general penalty).

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#### **41-1328. PAYMENT OF CLAIMS BY INSURERS.**

Every insurer issuing a motor vehicle insurance policy, as defined in chapter 5, title 41, Idaho Code, shall, in the event of damage to a covered motor vehicle by collision and the election by the insurer to have such motor vehicle repaired, make payment by check or draft, payable to the repairer or to the named insured and the repairer, jointly, no later than twenty (20) days subsequent to receipt of an itemized bill or invoice covering repairs authorized by the insurer which have been satisfactorily completed.

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#### **41-1329. UNFAIR CLAIM SETTLEMENT PRACTICES.**

Pursuant to section 41-1302, Idaho Code, committing or performing any of the following acts or omissions intentionally, or with such frequency as to indicate a general business practice shall be deemed to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance:

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

- (10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
  - (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
  - (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
  - (13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or
  - (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.
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#### **41-1329A. UNFAIR CLAIMS SETTLEMENT PRACTICES -PENALTY.**

The director, if he finds after a hearing, that an insurer has violated the provisions of section 41-1329, Idaho Code, may, in his discretion, impose an administrative penalty not to exceed ten thousand dollars (\$10,000) to be deposited by the director as provided in section 41-406, Idaho Code, and may, in addition to the fine, or in the alternative to the fine, refuse to continue or suspend or revoke an insurer's certificate of authority.

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#### **41-1401. Scope of chapter.**

- (1) Except as provided in section 41-1619 (other provisions applicable, workmen's compensation rates), and except as provided in subsection (3) below, this chapter applies to property, marine and transportation, inland marine, casualty (other than workmen's compensation coverages) and surety (other than the insurance or guaranty of the obligations of employers under workmen's compensation laws) insurances, as such property, marine and transportation, casualty and surety insurances are defined in chapter 5, title 41, Idaho Code, on risks located or operations to be performed in this state.
  - (2) "Inland marine" insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the director, or as established by general custom of the business, as inland marine insurance.
  - (3) This chapter shall further not apply as to:
    - (a) Reinsurance, other than joint reinsurance to the extent stated in section 41-1426;
    - (b) Insurance of vessels or craft, their cargos, marine builders' risks, marine protection and indemnity; or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;
    - (c) Insurance against loss of or damage to aircraft or against liability arising out of ownership, maintenance or use of aircraft, nor to insurance of hulls of aircraft, including their accessories and equipment;
    - (d) Any domestic self-insurer for fire; or
    - (e) Any reciprocal insurer writing hazards or perils for its members exclusively associated with a single industry.
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#### **41-1402. Purpose of law — Interpretation.**

- (1) The purpose of this chapter is to promote the public welfare by regulating insurance rates as herein provided to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter.
  - (2) It is the express intent of this chapter to permit and encourage competition between insurers on a sound financial basis, and nothing in this chapter is intended to give the director power to fix and determine a rate level by classification or otherwise.
  - (3) This chapter shall be liberally interpreted to carry into effect the provisions of this section.
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#### **41-1405. RATE STANDARDS.**

- (1) Rates shall not be excessive, inadequate or unfairly discriminatory.
  - (2) No rate shall be held to be excessive unless the director finds that:
    - (a) Such rate is unreasonably high for the insurance provided, and
    - (b) A reasonable degree of competition does not exist in Idaho with respect to the classification to which the rate is applicable.
  - (3) No rate shall be held to be inadequate unless the director finds that:
    - (a) Such rate is unreasonably low for the insurance provided and the continued use of such rate endangers the solvency of the insurer using the same, or
    - (b) Such rate is unreasonably low for the insurance provided and the use of such rate by the insurer using the same has, or if continued will have, the effect of destroying competition or creating a monopoly.
  - (4) Neither of such findings shall be made by the director except after a hearing on reasonable notice.
  - (5) Nothing contained in this chapter shall be construed to repeal or modify the provisions of chapter 13, title 41 (trade practices and frauds), Idaho Code, and any rate, rating classification, rating plan or schedule, or variation thereof, established in violation of any of such provisions shall, in addition to the consequences stated in such chapter or elsewhere, be deemed a violation of this section.
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#### **41-1441. ASSIGNED RISKS.**

Agreements may be made among casualty insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods, and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate

codifications to be subject to the approval of the director. Premium charges for the assigned risk plan shall not be excessive, inadequate, nor unfairly discriminatory and shall provide sufficient revenue to make the plan self-sustaining and self-supporting.

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**41-1803. "PREMIUM" DEFINED.**

"Premium" is the consideration for insurance by whatever name called. Any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or other charge in consideration for an insurance contract is deemed part of the premium; provided that producer fees charged pursuant to section 41-1030, Idaho Code, shall not be considered a premium unless the fee relates to a surplus line policy.

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**41-1806. Insurable interest — Property.**

- (1) No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.
  - (2) "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.
  - (3) The measure of an insurable interest in property is the extent to which the insured might be directly damaged by loss, injury, or impairment thereof.
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**41-1807. POWER TO CONTRACT -PURCHASE OF INSURANCE BY MINORS.**

- (1) Any person of competent legal capacity may contract for insurance.
  - (2) Any minor not less than fifteen (15) years of age, notwithstanding his minority, may contract for annuities or for insurance upon his own life, body, health, property, liabilities or other interests, or on the person of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under (a) any contract for annuity or for insurance upon his own life, body or health, or (b) any contract such minor effected upon his own property, liabilities or other interests, or on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder. Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind, avoid or repudiate any exercise of a right or privilege thereunder, except that such a minor not otherwise emancipated, shall not be bound by any unperformed agreement to pay by promissory note or otherwise, any premium on any such annuity or insurance contract.
  - (3) Any annuity contract or policy of life or disability insurance procured by or for a minor under subsection (2) above, shall be made payable either to the minor or his estate or to a person having an insurable interest in the life of the minor.
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**41-1811. Representations in applications.**

All statements and descriptions in any application for an insurance policy or annuity contract, or in negotiations therefor, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy or contract unless either:

- (a) Fraudulent; or
  - (b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or
  - (c) The insurer in good faith would either not have issued the policy or contract, or would not have issued it at the same premium rate, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.
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**41-1812. FILING, USE AND DISAPPROVAL OF FORMS.**

- (1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with the director. This provision shall not apply to surety bonds, or to specially rated inland marine risks, nor to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state shall be filed with the director. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.
  - (2) Every such filing shall be submitted with a certification, in such form as may be determined by the director, by an officer of the insurer that each policy, form, endorsement, or rider in use complies with Idaho law. The director shall have the power to examine such filings to determine whether the policies, forms, endorsements, and riders, as filed, comply with the certification of the insurer and with Idaho law relating to the content of such documents. Upon a determination that any document filed in accordance with this section does not comply with Idaho law, the director shall, in accordance with the Idaho administrative procedure act, prohibit the use of such policy, form, endorsement, rider or other document.
  - (3) The director may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.
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**41-1814. Standard provisions in general.**

- (1) Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this code pertaining to contracts of particular kinds of insurance. The director may waive the required use of a particular provision in a particular insurance policy form if:
  - (a) He finds such provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy, and
  - (b) The policy is otherwise approved by him.
- (2) No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the director may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.
- (3) In lieu of the provisions required by this code for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the director.

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**41-1815. Contents of policies in general.**

- (1) Every policy shall specify:
  - (a) The names of the parties to the contract.
  - (b) The subject of the insurance.
  - (c) The risks insured against.
  - (d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.
  - (e) The premium.
  - (f) The conditions pertaining to the insurance.
- (2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.
- (3) Subsections (1) and (2) above shall not apply as to surety contracts, or to group insurance policies.

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**41-1817. Additional policy contents.**

A policy may contain additional provisions not inconsistent with this code and which are:

- (1) Required to be inserted by the laws of the insurer's domicile;
- (2) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract, or
- (3) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein.

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**41-1823. Binders.**

- (1) Binders or other contracts for temporary insurance may be made orally or in writing and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such supplemental information and applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.
- (2) No binder shall be valid beyond the issuance of the policy, or the endorsement, or the policy expiration, whichever is shortest, with respect to which it was given.
- (3) This section shall not apply to life or disability insurances.

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**41-1825. RENEWAL BY CERTIFICATE.**

Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefor, for a specific additional period or periods by certificate or by endorsement of the policy, and without requiring the issuance of a new policy.

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**41-1828. PAYMENT DISCHARGES INSURER -PAYMENT TO MARITAL COMMUNITY.**

- (1) Whenever the proceeds of or payments under a life or disability insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.
- (2) Where the person designated in the policy or contract or by assignment as being entitled thereto is a member of a marital community, whether husband or wife, and the policy or contract is upon the life or disability of either, he or she may receive payment, and shall be and is constituted agent of the marital community with authority to give full acquittance therefor; and such payment to the marital community agent so designated shall fully discharge the insurer from all claims under the policy or contract, but no rights of either member of the marital community, as between themselves, to accounting or division shall be impaired or affected by such payment.

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**41-1831. Forms for proof of loss to be furnished.**

An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

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**41-1839. ALLOWANCE OF ATTORNEY'S FEES IN SUITS AGAINST OR IN ARBITRATION WITH INSURERS.**

- (1) Any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature whatsoever that fails to pay a person entitled thereto within thirty (30) days after proof of loss has been furnished as provided in such policy, certificate or contract, or to pay to the person entitled thereto within sixty (60) days if the proof of loss pertains to uninsured motorist or underinsured motorist coverage benefits, the amount that person is justly due under such policy, certificate or contract shall in any action thereafter commenced against the insurer in any court in this state, or in any arbitration for recovery under the terms of the policy, certificate or contract, pay such further amount as the court shall adjudge reasonable as attorney's fees in such action or arbitration.
- (2) In any such action or arbitration, if it is alleged that before the commencement thereof, a tender of the full amount justly due was made to the person entitled thereto, and such amount is thereupon deposited in the court, and if the allegation is found to be true, or if it is determined in such action or arbitration that no amount is justly due, then no such attorney's fees may be recovered.
- (3) This section shall not apply as to actions under the worker's compensation law, title 72, Idaho Code. This section shall not apply to actions or arbitrations against surety insurers by creditors of or claimants against a principal and arising out of a surety or guaranty contract issued by the insurer as to such principal, unless such creditors or claimants shall have notified the surety of their claim, in writing, at least sixty (60) days prior to such action or arbitration against the surety. The surety shall be authorized to determine what portion or amount of such claim is justly due the creditor or claimant and payment or tender of the amount so determined by the surety shall not be deemed a volunteer payment and shall not prejudice any right of the surety to indemnification and/or subrogation so long as such determination and payment by the surety be made in good faith. Nor shall this section apply to actions or arbitrations against fidelity insurers by claimants against a principal and arising out of a fidelity contract or policy issued by the insurer as to such principal unless the liability of the principal has been acknowledged by him in writing or otherwise established by judgment of a court of competent jurisdiction.
- (4) Notwithstanding any other provision of statute to the contrary, this section and section 12-123, Idaho Code, shall provide the exclusive remedy for the award of statutory attorney's fees in all actions or arbitrations between insureds and insurers involving disputes arising under policies of insurance. Provided, attorney's fees may be awarded by the court when it finds, from the facts presented to it that a case was brought, pursued or defended frivolously, unreasonably or without foundation. Section 12-120, Idaho Code, shall not apply to any actions or arbitrations between insureds and insurers involving disputes arising under any policy of insurance.

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**41-1841. Block cancellations and block nonrenewals — Notice to director required.**

- (1) Any insurer intending to implement block cancellations or block nonrenewals of insurance policies shall provide the director written notice of such intentions no later than one hundred twenty (120) days prior to such intended action. Such notice shall fully set forth reasons for such action and shall include additional information that the director may deem appropriate. Failure by any insurer to comply with the requirements of this section shall constitute a violation of the provisions of this section and shall render any policy cancellations or nonrenewals by the insurer null and void and without effect. The failure of any insurer to comply with the requirements of this section shall not affect the contract rights of insureds.
- (2) At the end of sixty (60) days the intended insurer action shall be deemed approved unless prior thereto it has been affirmatively approved by order of the director.
- (3) Block cancellations or block nonrenewals for the provisions of this section and the enforcement of this code, shall be defined to include any of the following: cancellation or nonrenewal of any class, line, type or subject of insurance, or the withdrawal from the business of insurance in Idaho.
- (4) The requirements of this section are not a waiver or limitation of the provisions of this code, or other laws of this state, but are additional requirements.
- (5) The director may issue reasonable regulations to establish requirements for reporting required herein.

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**41-1843. Insurance rates and credit rating.**

- (1) No insurer regulated pursuant to this title shall charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a property or casualty policy or coverage based primarily upon an individual's credit rating or credit history.
- (2) As used in this section, "based primarily" means that the weight given by the insurer to an individual's credit rating or credit history exceeds the weight given by the insurer to all other criteria considered in making the decision to charge a higher premium or to cancel, nonrenew or decline to issue an insurance policy.
- (3) This section shall apply only to property or casualty insurance, as defined in chapter 5, title 41, Idaho Code, to be used primarily for personal, family or household purposes.

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**41-1850. certificates of insurance.**

- (1) For purposes of this section, the following terms have the following meanings:
  - (a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, that is prepared or issued as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance, insurance binder, policy endorsement or automobile insurance identification card.
  - (b) "Certificate holder" means any person, other than a policyholder, that requests, obtains or possesses a certificate of insurance.
  - (c) "Insurance producer" has the same meaning as provided for in chapter 10, title 41, Idaho Code.
  - (d) "Insurer" has the same definition as provided for in section 41-103, Idaho Code.

- (e) "Person" means any individual, partnership, corporation, association or other legal entity, including any government or governmental subdivision or agency.
  - (f) "Policyholder" means a person that has contracted with a property or casualty insurer for insurance coverage.
  - (g) "Group master policy" means an insurance policy that provides coverage to eligible persons on a group basis through a group insurance program.
- (2) No person, wherever located, may prepare, issue or knowingly request the issuance of a certificate of insurance unless the form has been filed with the director by or on behalf of an insurer. No person, wherever located, may alter or modify a certificate of insurance form unless the alteration or modification has been filed with the director.
  - (3) The director shall disapprove the use of any form filed under this section, or withdraw approval of a form, if the form:
    - (a) Is unfair, misleading or deceptive, or violates public policy;
    - (b) Fails to comply with the requirements of this section; or
    - (c) Violates any provision of title 41, Idaho Code, including any rule promulgated by the director.
  - (4) Each certificate of insurance must contain the following or similar statement: "This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend the coverage, terms, exclusions and conditions afforded by the policies referenced herein."
  - (5) The current edition of standard certificate of insurance forms promulgated and filed with the director by the association for cooperative operations research and development (ACORD) or the insurance services office (ISO) are not required to be refiled by individual insurers.
  - (6) No person, wherever located, shall demand or request the issuance of a certificate of insurance or other document, record or correspondence that the person knows contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.
  - (7) No person, wherever located, may knowingly prepare or issue a certificate of insurance or other document, record or correspondence that contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.
  - (8) The provisions of this section shall apply to all certificate holders, policyholders, insurers, insurance producers and certificate of insurance forms issued as evidence of property or casualty insurance coverages on property, operations or risks located in this state, regardless of where the certificate holder, policyholder, insurer or insurance producer is located.
  - (9) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively alter, amend or extend the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance provides.
  - (10) A certificate of insurance may not warrant that the policy of insurance referenced in the certificate comply with the insurance or indemnification requirements of a contract, and the inclusion of a contract number or description, or project number or description, within a certificate of insurance may not be interpreted as doing such. Notwithstanding any requirement, term or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions and conditions of the policy itself.
  - (11) A person is entitled to receive notice of cancellation, nonrenewal or any material change or any similar notice concerning a policy of insurance only if the person has such notice rights under the terms of the policy or any endorsement to the policy. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.
  - (12) Any certificate of insurance or any other document, record or correspondence prepared, issued or requested in violation of this section shall be null and void and of no force and effect.
  - (13) Any person that violates this section shall be subject to an administrative penalty imposed by the director in an amount as provided for in section 41-117, Idaho Code, per violation.
  - (14) The director shall have the power to examine and investigate the activities of any person that the director believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person that violates this section.
  - (15) The director may, in accordance with section 41-211, Idaho Code, adopt reasonable rules as are necessary or proper to carry out the provisions of this section.
  - (16) This section shall not apply to any certificate of insurance prepared and/or issued by an insurer pursuant to any federal law, rule or regulation, or any other law, rule or regulation of this state, in which the specific content and form of said certificate is enumerated therein, or a certificate issued to a person or entity that has purchased coverage under a group master policy.
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#### **41-2401. Standard fire policy.**

- (1) No fire insurer shall issue any fire insurance policy covering on property or interest therein in this state, other than on the form known as the New York standard as revised in 1943, except as follows:
  - (a) An insurer may print on or in its policy its name, location, date of incorporation, plan of operation, whether stock, mutual, reciprocal or organized under special charter provisions, and if mutual or reciprocal whether on cash premium or assessment plan; and if it be a stock company, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued by an agent, the words, "this policy shall not be valid until countersigned by the duly authorized agent of the company at ...."; and, if a mutual or reciprocal insurer, the policy must state the contingent liability, if any, of its policyholders, members, or subscribers for payment of losses and expenses not provided for by its cash funds.

- (b) An insurer may print or use in its policies printed forms of description and specifications of the property insured.
  - (c) An insurer insuring against damage by lightning may print in the clause enumerating the perils insured against the additional words, "also any damage by lightning whether fire ensues or not," and in the clause providing for an apportionment of loss in case of other insurance the words, "whether by fire, lightning or both."
  - (d) A domestic insurer may print in its policies any provisions which it is authorized or required by the law to insert therein, and any foreign insurer may, with the approval of the director, so print any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state; but the director shall require any provision which, in his opinion modifies the contract of insurance in such a way as to affect the question of loss, to be appended to the policy by an endorsement or rider as hereinafter provided.
  - (e) The blanks in the standard form may be completed in print or in writing.
  - (f) An insurer may print upon policies issued in compliance with the preceding provisions of this section the words, "Idaho standard policy."
  - (g) An insurer may write upon the margin or across the face of the policy, or write or print in type not smaller than nonpareil upon a slip, slips, rider or riders to be attached thereto, provisions adding to or relating to those contained in the standard form; and all such slips, riders, endorsements and provisions must be signed by the officers or agents of the insurer so using them.
  - (h) If the policy be made by a mutual, reciprocal or other insurer having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance such regulations shall apply to and form a part of the policy as the same may be written or printed upon, attached or appended thereto.
  - (i) Every policy shall have legibly inscribed upon its face and filing back suitable words to designate whether the insurer making such insurance be a stock, mutual or reciprocal insurer, provided, that any insurer organized under special charter provisions may so indicate upon its policy and may add a statement of the plan under which it operates in this state.
  - (j) Every fire policy shall contain language that provides for a thirty (30) day written notice to the insured prior to cancellation of the policy, provided however, that where cancellation is for the nonpayment of premium, at least ten (10) days' notice of such cancellation, accompanied by the reason for the cancellation, shall be given. If delivered via United States mail, such ten (10) day notification period shall begin to run five (5) days following the date of postmark. Proof of mailing of notice of cancellation, or of intention not to renew, or of reasons for cancellation or nonrenewal to the named insured at his address shall be sufficient proof of notice.
  - (k) Every fire policy shall provide that it becomes effective at 12:01 a.m. of the standard time of the place where the property covered by the insurance is located, on the effective date of the policy.
- (2) An insurer issuing the standard fire policy is authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under the policy; but nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination.
- (3) The standard fire policy is not mandatory for vehicle insurance, or for marine insurance, or inland marine insurance as the same is defined pursuant to section 41-1401(2), Idaho Code, or for insurance on growing crops.
- (4) Any policy or contract otherwise subject to the provisions of subsection (1) hereof, which includes either on an unspecified basis as to the coverage or for a single premium coverage against the peril of fire and substantial coverage against other perils need not comply with the provisions of subsection (1) hereof, provided:
- (a) Such policy or contract shall afford coverage, with respect to the peril of fire, not less than the coverage afforded by such standard fire policy,
  - (b) The provisions in relation to mortgagee interests and obligations in such standard fire policy shall be incorporated therein without change,
  - (c) Such policy or contract is complete as to all of its terms without reference to the standard form of fire insurance policy or any other policy, and
  - (d) The director is satisfied that such policy or contract complies with the provisions hereof.
- (5) With respect to a commercial insurance policy, such standard fire insurance policy may exclude coverage for loss by fire or other perils insured against if the fire or other perils are caused directly or indirectly by terrorism. As used in this section, the term "terrorism" means a violent act or an act that:
- (a) Is dangerous to human life, property or infrastructure;
  - (b) Results in damage within the United States, or outside of the United States in the case of an air carrier or vessel or the premises of a United States mission; and
  - (c) Is committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States government by coercion.

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**41-2502. UNINSURED MOTORIST AND UNDERINSURED MOTORIST COVERAGE FOR AUTOMOBILE INSURANCE -EXCEPTIONS.**

- (1) Except as otherwise provided in subsection (2) of this section, no owner's or operator's policy of motor vehicle liability insurance that is subject to the requirements of section 49-1212(1) or (2), Idaho Code, shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death as set forth in section 49-117, Idaho Code, as amended from time to time, under provisions approved by the director of the department of insurance, for the protection of persons insured thereunder who are legally entitled to recover damages

from owners or operators of uninsured and underinsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom.

- (2) A named insured shall have the right to reject either or both uninsured motorist coverage or underinsured motorist coverage, which rejection must be in writing or in an electronic record as authorized by the uniform electronic transactions act, chapter 50, title 28, Idaho Code, and such rejection shall be effective as to all other insureds and named insureds; and after which such rejected coverage need not be provided in or supplemental to a renewal or replacement policy issued by the same insurer or an affiliate of that insurer.
- (3) Prior to the issuance of any new policy or the first renewal or replacement of any existing policy of motor vehicle liability insurance with an effective date on or after January 1, 2009, a named insured shall be provided a standard statement approved by the director of the department of insurance, explaining in summary form, both uninsured and underinsured motorist coverage, and the different forms of underinsured motorist coverage that might be available from insurers in Idaho.
- (4) The provisions of this section shall not apply to policies of motor vehicle liability insurance for coverage on all-terrain vehicles, utility type vehicles, specialty off-highway vehicles or motorbikes as those terms are defined in section 67-7101, Idaho Code.

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#### **41-2503. DEFINITIONS AND APPLICATION.**

- (1) For the purposes of uninsured motorist coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.
- (2) For purposes of underinsured motorist coverage, subject to the further definitions, terms and conditions of such coverage, the term "underinsured motor vehicle" means a motor vehicle that is a self-insured motor vehicle, or a motor vehicle that is covered by a policy of motor vehicle liability insurance or an indemnity bond, with limits for bodily injury or death at least equal to those limits set forth in section 49-117, Idaho Code.
- (3) Except as provided in subsections (1) and (2) of this section, the terms and conditions of any policy of motor vehicle liability insurance providing uninsured motorist coverage or underinsured motorist coverage are not altered or amended.

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#### **41-2504. APPLICATION OF UNINSURED MOTORIST COVERAGE.**

An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

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#### **41-2506. Cancellation of policies — Definitions.**

- (1) As used in sections 41-2506 through 41-2512, Idaho Code:
  - (a) "Policy" means any one (1) or more of the following portions of an automobile insurance policy, delivered or issued for delivery in this state, insuring a natural person as named insured, or one (1) or more related individuals resident of the same household, and under which the insured vehicles therein designated are motor vehicles of the private passenger or station wagon type (not used for public or livery conveyance of passengers, or rented to others) or any other four-wheel motor vehicles with a load capacity of fifteen thousand (15,000) pounds or less not used in the occupation, profession, or business of the insured and:
    - (i) Insuring against bodily injury and property damage liability;
    - (ii) Insuring against physical damage;
    - (iii) Insuring against risks commonly included under "comprehensive coverage";
    - (iv) Relating to medical payments;
    - (v) Providing uninsured motorist coverage.
  - (b) Policy does not mean automobile liability insurance:
    - (i) Issued under an assigned risk plan; or
    - (ii) Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.
  - (c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Any policy with a policy period or term of less than six (6) months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six (6) months.
  - (d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.
- (2) Sections 41-2506 through 41-2512, Idaho Code, shall not apply to any policy that has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

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#### **41-2507. Cancellation of policies — Grounds.**

No notice of cancellation of a policy shall be effective and the insurer shall not refuse renewal of a policy, unless based on one (1) or more of the following reasons:

- (1) Nonpayment of premium; or
- (2) The policy was obtained through a material misrepresentation; or
- (3) Any insured violated any of the terms and conditions of the policy; or

- (4) The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations, or his losses covered under any automobile physical damage or comprehensive coverage, for the preceding thirty-six (36) months if called for in the application; or
- (5) As to renewal of the policy, if the insured at any time while the policy was in force failed to disclose fully to the insurer, upon request therefor, facts relative to accidents and losses incurred material to underwriting of the risk; or
- (6) Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or
- (7) The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:
  - (a) Has, within the thirty-six (36) months prior to the notice of cancellation or nonrenewal, had his driver's license under suspension or revocation; or
  - (b) Has a history of and is subject to epilepsy or heart attacks and such individual cannot produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; or
  - (c) Has an accident record, conviction record, either criminal or traffic, physical, mental or other condition which is such that his operation of an automobile might endanger the public safety; or
  - (d) Has, while the policy is in force, engaged in a prearranged competitive speed contest while operating or riding in an automobile insured under the policy; or
  - (e) Has, within the thirty-six (36) months prior to the notice of cancellation or nonrenewal, been addicted to the use of narcotics or other drugs; or
  - (f) Uses alcoholic beverages to excess; or
  - (g) Has been convicted, or forfeited bail, during the thirty-six (36) months immediately preceding the notice of cancellation or nonrenewal; for
    - (i) Any felony; or
    - (ii) Criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle; or
    - (iii) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or
    - (iv) Leaving the scene of an accident without stopping to report; or
    - (v) Theft or unlawful taking of a motor vehicle; or
    - (vi) Making fraudulent statements in an application for a driver's license; or
  - (h) Has been convicted of, has had a judgment entered against, or forfeited bail for, three (3) or more violations within the thirty-six (36) months immediately preceding the notice of cancellation or nonrenewal of any law, ordinance or regulation of any state for which a violation point is assessed by the Idaho transportation department under the provisions of section 49-326, Idaho Code, whether or not the violations were repetitions of the same offense or different offenses; or
- (8) The insured automobile is:
  - (a) So mechanically defective that its operation might endanger public safety; or
  - (b) Used in carrying passengers for hire or compensation, except that the use of an automobile for a carpool shall not be considered use of an automobile for hire or compensation; or
  - (c) Used in the business of transportation of flammables or explosives; or
  - (d) An authorized emergency vehicle; or
  - (e) Modified or changed in condition during the policy period so as to increase the risk substantially; or
  - (f) Subject to an inspection law and has not been inspected or, if inspected, has failed to qualify; or
- (9) As to the renewal of the policy only, the insured automobile is registered in a jurisdiction other than Idaho.

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**41-2508. Notice of cancellation or intention not to renew.**

- (1) No cancellation of a policy to which section 41-2506 of this act applies shall be effective unless notice thereof is mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation, except that where cancellation is for nonpayment of premium at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason or reasons accompany or are included in the notice, the notice shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than ten (10) days prior to the effective date of cancellation, the insurer will specify the reason or reasons for such cancellation.
- (2) No insurer shall fail to renew a policy to which section 41-2506 of this act applies unless it shall mail or deliver to the named insured, at the address shown on the policy, at least thirty (30) days' advance notice of its intention not to renew. Unless the reason or reasons accompany or are included in the notice, the notice shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date or nonrenewal, the insurer will specify the reason or reasons for such nonrenewal. This subsection shall not apply in case of nonpayment of premium, or if the insurer has manifested its willingness to renew. Notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other policy procured by the insured, with respect to any automobile designated in both policies. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation or nonrenewal which existed before the effective date of the renewal.
- (3) Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at his address last of record with the insurer, shall be sufficient proof of notice.
- (4) When a policy is canceled, other than for nonpayment of premium, or in the event of failure to renew a policy to which subsection (2), above, applies, the insurer shall notify the named insured of any possible eligibility for insurance through an automobile assigned risk

plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew, and shall state that such notice of availability of the automobile assigned risk plan is given pursuant to this section.

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**41-2509. Cancellations and nonrenewal — Exceptions to.**

Nothing contained in sections [41-2506](#) through [41-2512](#) of this act shall be construed to prevent the cancellation or nonrenewal of any such insurance where:

- (1) Cancellation or nonrenewal is ordered under or in connection with a statutory delinquency proceeding commenced against the insurer under chapter 33 (rehabilitations and liquidations), Idaho Code, or
  - (2) Cancellation or nonrenewal has been consented to by the director on a showing that continuation of such insurance can reasonably be expected to create a condition in the insurer hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public.
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**41-2510. Exclusion and cancellation of designated individuals.**

Except as respects the legal liability of the named insured, the insurer shall have the right to exclude, cancel or refuse to renew coverage under an automobile insurance policy as to designated individuals. Any such cancellation or refusal to renew shall be acknowledged by the signature of the named insured, and shall be subject to the applicable provisions of sections [41-2506](#) through [41-2512](#) of this act as for cancellation or refusal to renew the policy.

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**41-2515. Discount for certain age groups.**

- (1) Any insurer offering for sale an automobile insurance policy, as policy is defined in subsection (a) of section 41-2506, Idaho Code, in which there is insured a principal operator who is fifty-five (55) years of age or older, shall provide for an appropriate reduction in premium charges for liability, medical payments and collision coverages if the principal operator fifty-five (55) years of age or older has successfully completed a motor vehicle accident prevention course which meets criteria established by the transportation department. Any discount used by an insurer shall be presumed appropriate unless credible evidence data demonstrates otherwise.
  - (2) Upon successful completion of an approved motor vehicle accident prevention course, each participant shall be issued, by the course's sponsoring entity, a certificate of completion which shall be the basis of the qualification for the discount on the automobile insurance.
  - (3) The premium reduction required in this section shall be effective for an insured for a three (3) year period after successful completion of the approved course, except that the insurer may require, as a condition of providing and maintaining the discount, that the insured for a three (3) year period after course completion, not be involved in an accident for which the insured is at fault or be found guilty of a moving traffic violation.
  - (4) The provisions of this section shall not apply in the event the approved course is specified by a court or other governmental entity resulting from a moving traffic violation.
  - (5) Each participant shall take an approved course every three (3) years to continue to be eligible for the reduction in premiums.
  - (6) Nothing in the provisions of this section shall be deemed to prohibit an insurer from canceling or not renewing an automobile insurance policy for grounds enumerated in section 41-2507, Idaho Code, or in chapter 25, title 41, Idaho Code.
  - (7) The provisions of this section shall not apply in the event that such an insurer offers a premium reduction which is substantially comparable to the premium reduction required in this section and in no event shall such insurer be required to provide both comparable premium reductions on a cumulative basis.
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**41-2902. "Reciprocal insurer" defined.**

A "reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance among themselves. When all participants in a reciprocal insurer are political subdivisions of the state of Idaho, such interexchange may be accomplished by a joint exercise of powers agreement pursuant to [chapter 23, title 67](#), Idaho Code.

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**41-3603. Application of act.**

This act shall apply to all kinds of direct insurance, but shall not be applicable to the following:

- (1) Life, annuity, health or disability insurance;
- (2) Residual value, mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks;
- (3) Fidelity or surety bonds, or any other bonding obligations;
- (4) Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;
- (5) Insurance of warranties or service contracts, including insurance that provides for the repair, replacement or service of goods or property, indemnification for repair, replacement or service for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits;
- (6) Title insurance;
- (7) Ocean marine insurance;
- (8) Any transaction or combination of transactions between a person (including affiliates of such person) and an insurer (including affiliates of such insurer) which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk;
- (9) Any insurance provided by or guaranteed by government including, but not limited to the state insurance fund, created pursuant to [chapter 9, title 72](#), Idaho Code, and the Idaho petroleum clean water trust fund, created pursuant to [chapter 49, title 41](#), Idaho Code;
- (10) Any insurance provided by or through any reciprocal insurer which exclusively insures members who are governmental entities;

- (11) Insurance written on a retroactive basis to cover known losses for which a claim has already been made and the claim is known to the insurer at the time the insurance is bound; or
  - (12) Domestic reciprocal insurers with fewer than seven (7) subscribers which insure only worker's compensation risks and which only issue fully assessable policies.
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**41-3606. Insurance guaranty association — Insurers required to be members — Purposes.**

There is created a nonprofit unincorporated legal entity to be known as the Idaho insurance guaranty association. All insurers defined as member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation established and approved under section [41-3609](#), Idaho Code, and shall exercise its powers through a board of directors established under section [41-3607](#), Idaho Code. For purposes of administration and assessment, the association shall maintain one (1) account. Any accounts in existence on June 30, 2001, shall be consolidated into one (1) account.

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**41-3607. Board of directors — Number — Election or appointment — Reimbursement for expenses.**

- (1) The board of directors of the association shall consist of not less than five (5) nor more than nine (9) persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the director. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members subject to the approval of the director. If no members are selected within sixty (60) days after May 6, 1970, the director may appoint the initial members of the board of directors.
  - (2) In approving selections to the board, the director shall consider among other things whether all member insurers are fairly represented.
  - (3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.
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**41-3611. SUBROGATION OF ASSOCIATION TO RIGHTS OF CLAIMANTS -RECEIVER, LIQUIDATOR, OR SUCCESSOR BOUND BY ASSOCIATION CLAIM SETTLEMENTS-PERIODIC FILING OF STATEMENTS OF PAID CLAIMS WITH RECEIVER OR LIQUIDATOR.**

- (1) Any person recovering under this act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this act shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments.
  - (2) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of claims made by the association or a similar organization in another state to the extent such determinations or settlements satisfy obligations of the association. The receiver shall not be bound in any way by such determinations or settlements to the extent there remains a claim against the insolvent insurer. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this act against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.
  - (3) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.
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**41-5801. Purpose and scope.**

This chapter governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

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**49-117. Definitions — P.**

- (1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- (2) "Park model recreational vehicle" means a recreational vehicle that is designed to provide temporary accommodations for recreational, camping or seasonal use, is built on a single chassis, was originally mounted on wheels, has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode and is certified by its manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Standard for Recreational Park Trailers, and includes park models, park trailers and recreational park trailers.
- (3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer fewer than thirty (30) hours per week.
- (4) "Peace officer." (See section 19-5101(d), Idaho Code)
- (5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.
- (6) "Pedestrian path" means any path, sidewalk or way set aside and used exclusively by pedestrians.
- (7) (a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality and, for the purposes of chapter 22, title 49, Idaho Code, shall include a private, common or contract carrier operating a vehicle on any highway of this state.

- (b) "Person with a disability" means:
- (i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;
  - (ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or
  - (iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.
  - (iv) For the purposes of chapters 3 and 4, title 49, Idaho Code, a person with a permanent disability is one whose physician certifies that the person qualifies as a person with a disability pursuant to this paragraph and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.
- (8) "Personal delivery device" means an electrically powered device that is operated on sidewalks, crosswalks, and the sides or berms of highways and is intended primarily to transport property; weighs less than five hundred fifty (550) pounds, excluding cargo; operates at a maximum speed of ten (10) miles per hour when on sidewalks; and is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person. A personal delivery device shall not be defined as a vehicle or motor vehicle in any section of the law, unless expressly so stated.
- (9) "Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this subsection, the term "agent" means a person charged by the entity with the responsibility of navigating, monitoring, or operating the personal delivery device. The term "personal delivery device operator" does not include an entity or person who requests the services of a personal delivery device for the purpose of transporting property or an entity, nor does it include a person who merely arranges for and dispatches the requested services of a personal delivery device.
- (10) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.
- (11) "Pneumatic tire." (See "tires," section 49-121, Idaho Code)
- (12) "Pole trailer." (See "trailer," section 49-121, Idaho Code)
- (13) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of any vehicle of a type subject to registration.
- (14) "Possessory lienholder" means any person claiming a lien, which lien claimed to have accrued on a basis of services rendered to the vehicle that is the subject of the lien.
- (15) "Preceding year" means, for the purposes of section 49-434, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.
- (16) "Pressure regulator valve" means a device or system that governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.
- (17) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealership, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times. The books, records and files necessary to conduct the business of the dealership must be kept or reproduced electronically at the dealership's licensed location(s). A dealership keeping its physical books, records and files at an off-site location must notify the department in writing of such location at least thirty (30) days in advance of moving such books, records and files off-site. Physical books, records and files must be made available to the department upon request within three (3) business days of such request. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.
- (18) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.
- (19) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (20) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more

persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident.

(21) "Proper authority" means a public highway agency.

(22) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency that has jurisdiction over public highway systems and public rights-of-way.

(23) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(24) "Public road jurisdiction" means a public highway agency.

(25) "Purchase." (See "sell," "sold," and "buy," section 49-120, Idaho Code)

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#### **49-1208. Proof required upon certain convictions.**

(1) If a person is not licensed, but by final order or judgment is convicted of, or forfeits any bail or collateral deposited to secure an appearance for trial, or has entered a plea of guilty for, any offense requiring the suspension or revocation of the driver's license, or for operating a motor vehicle upon the highways without being licensed to do so, no driver's license shall be issued to that person and his driving privilege shall remain suspended or revoked until he gives and maintains proof of financial responsibility. Such person shall be required to verify proof of financial responsibility for a three (3) year period commencing with the last day of the suspension or revocation.

(2) Whenever the department or a court suspends, or the department revokes a resident's driver's license or nonresident's driving privilege by reason of a conviction, forfeiture of bail, or upon a plea or finding of guilty, the license or privilege shall remain suspended or revoked unless the person shall have previously given or shall immediately give and maintain proof of financial responsibility. Such person shall be required to verify proof of financial responsibility for a three (3) year period commencing with the last day of the suspension or revocation.

(3) Any person who is convicted of violating the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code, for the first time shall give and maintain proof of financial responsibility throughout the one (1) year period following the conviction. Any person convicted for a second or any subsequent time of violating the provisions of section 49-1229, 49-1232 or 49-1428, Idaho Code, within a five (5) year period, shall give and maintain proof of financial responsibility throughout the three (3) year period following such conviction. The department shall notify any person subject to this subsection of the requirements for maintaining proof of financial responsibility for a second and any subsequent conviction. The driver's license and driving privileges shall remain suspended unless the person gives and maintains proof of financial responsibility throughout either the one (1) year or the three (3) year period following such conviction.

(4) Whenever a person is required to maintain proof of financial responsibility, and who is not a resident of Idaho, files and maintains proof of financial responsibility in his home state the department shall reinstate the person's driving privileges as long as proof of financial responsibility is maintained in the person's home state.

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#### **49-1225. Assigned risk plans.**

After consultation with insurance companies authorized to issue automobile liability policies in this state, the director of insurance shall approve reasonable plans for the equitable apportionment among those companies of applicants for policies and for motor vehicle liability policies who are in good faith entitled to but are unable to procure policies through ordinary methods. When a plan has been approved, all those insurance companies shall subscribe to and participate in the plan. Any applicant for a policy, any person insured under such a plan, and any insurance company affected, may appeal to the director of insurance from any ruling or decision of the manager or committee designated to operate the plan. Any person aggrieved hereunder by any order or act of the director of insurance may, within ten (10) days after notice of it, file a petition in the district court of Ada County, Idaho, for a review. The court shall summarily hear the petition and may make an appropriate order or decree.

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#### **6-802. Verdict giving percentage of negligence or comparative responsibility attributable to each party.**

The court may, and when requested by any party shall, direct the jury to find separate special verdicts determining the amount of damages and the percentage of negligence or comparative responsibility attributable to each party; and the court shall then reduce the amount of such damages in proportion to the amount of negligence or comparative responsibility attributable to the person recovering. Nothing contained herein shall create any new legal theory, cause of action, or legal defense.

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#### **BULLETIN NO. 18-06 (Replaced Bulletin 03-08)**

DATE: July 13, 2018

TO: Property and Casualty Insurers and Insurance Producers Writing Property and Casualty Business in Idaho

FROM: Dean L. Cameron, Director

SUBJECT: Certificates of Insurance

Background and Introduction

In 2012, Idaho Code § 41-1850, concerning the filing and use of certificates of insurance was added by SB 1390, which also amended Idaho Code § 41-1823, applicable to binders. In 2018, HB 522 amended Idaho Code § 41-1850 to allow certificates of insurance to include a reference to a contract or project number or description. This bulletin modifies and updates Bulletin 12-08 by highlighting certain provisions of Idaho Code § 41-1850 and supersedes Bulletin Nos. 12-03, 08-03 and 68-1 on the same subject.

Certificates of Insurance

Idaho Code § 41-1850(2) prohibits any person from preparing, issuing or knowingly requesting the issuance of a certificate of insurance unless the form of the certificate has been filed with the Director of the Department of Insurance (Director) by or on behalf of an insurer.

The Director has received and accepted filings of certificate of insurance forms filed by ISO and certain carriers. Consistent with Idaho Code § 41-1850(5), if a carrier uses a filed ISO or ACORD form, that form need not be refiled by each carrier. Additionally, where other law provides for a particular certificate of insurance form to be used, once that form has been filed by or on behalf of an insurer with the Director, then individual carriers will not need to refile the form.

Pursuant to Idaho Code § 41-1850(3) the Director may disapprove any form filed with the Director if the Director finds that it (i) is unfair, misleading or deceptive or violates public policy; (ii) fails to comply with the requirements of Idaho Code § 41-1850; or (iii) violates any other provisions of title 41, Idaho Code, or any rule promulgated by the Director. Furthermore, although Idaho Code § 41-1850(3) references the Director's authority to withdraw approval of a form, Idaho is generally a certify, file and use state other than for specific provisions, where the Director does not expressly approve filed

forms. Carriers filing certificate of insurance forms will be required to certify that the form complies with Idaho law. The Director has the authority, however, to disapprove at any time any filed form that does not comply with the requirements of Idaho Code § 41-1850(3).

Idaho Code § 41-1850(4) codifies elements of Bulletin Nos. 68-1 and 08-31 1 Bulletins 68-1 and 08-3, which are superseded by this bulletin, required the following language in each certificate: "This Certificate of Insurance neither affirmatively nor negatively amends, extends, nor alters the coverage afforded by the policy or policies numbered in this certificate." The Department considers this language sufficiently similar to the new statutory language to be permissible by requiring that each certificate of insurance include the following or a similar statement:

This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend coverage, terms, exclusions and conditions afforded by the policies referenced herein Idaho Code § 41-1850(6) and (7) prohibit any person from knowingly demanding or requesting or knowingly preparing or issuing a certificate of insurance or other document, record or correspondence that contains false or misleading information or purports to affirmatively or negatively alter, amend or extend coverage provided by the policy of insurance to which a certificate of insurance makes reference. Idaho Code § 41-1850(10), amended in 2018, still confirms that the insurance referenced in a certificate is subject to all terms, exclusions and conditions of the policy itself. However, the amendment allows a certificate of insurance to include reference to a contract number or description or a project number or description, but by doing so the certificate may not and does not warrant that the referenced policy complies with the insurance or indemnification requirements of a contract or project.

The Director is authorized to impose an administrative penalty up to \$1,000 per individual and up to \$5,000 per entity, pursuant to Idaho Code § 41-117 for any violation of Idaho Code § 41-1850. The new legislation does not alter the authority of the Director to investigate and seek redress for violations of other provisions of the Idaho Code where such violations are associated with the issuance of a certificate of insurance, including without limitation, Idaho Code § 41-1016(1)(e) (illegal for a producer to misrepresent the terms of an insurance contract), § 41-1303 (illegal for any person to make a statement misrepresenting the terms of an insurance policy); and § 41-293(1)(c) (insurance fraud, a felony, includes presenting to a person, with intent to defraud or deceive, a false statement material to an insurance contract).

Any questions concerning certificates of insurance or filing procedures should be directed to the Rates and Forms Section of the Department.

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**BULLETIN NO. 07-1**

DATE: February 15, 2007

TO: All Insurers and Insurance Producers with Property, Casualty or Personal Lines of Authority

FROM: Bill Deal Director

SUBJECT: Federal Emergency Management Agency Flood Insurance Training Requirements for Insurance Producers Selling Through The National Flood Insurance Program and Recommendations Regarding the Sale of Flood Insurance

This Bulletin is being issued to clarify who must meet the training requirements for selling flood insurance through the National Flood Insurance Program ("NFIP") and when those training requirements must be met, as well as to recommend to insurance producers that they advise homeowners of the availability of flood insurance through the NFIP.

Federally-backed flood insurance is available through the NFIP, which is administered by the Federal Emergency Management Agency ("FEMA"). FEMA has implemented the Minimum flood insurance training requirements for insurance producers, as set forth in Section 207 of the Flood Insurance Reform Act of 2004, Pub. L. 108-264, (the "Act").

Under the Act, FEMA, in cooperation with state insurance regulators has developed flood insurance training requirements which are designed to ensure that insurance producers selling flood insurance under the NFIP are properly trained and educated about the program.

Under these requirements, all insurance producers licensed in property, casualty or Personal lines of authority who sell flood insurance through NFIP must complete a one-time course related to the NFIP which will provide three (3) hours of continuing education credit. The NFIP flood insurance course is available through approved continuing education providers. The failure to comply with this continuing education requirement may jeopardize the insurance producer's authority to write flood insurance through the NFIP.

In accordance with the requirements of the Flood Insurance Reform Act, and pursuant to the Director's authority under Idaho Code § 41-1013(5) and IDAPA 18.01.53, the Department is requiring all Idaho resident insurance producers licensed in property, casualty or personal lines of authority who sell flood insurance through the NFIP to comply with the minimum training requirements of Section 207 of the Act, and with basic flood education as outlined at 70 FR 52117, or such later requirements as are published by FEMA, by no later than April 1, 2007.

For those Idaho resident insurance producers licensed in property, casualty or personal lines of authority who do not currently sell flood insurance through the NFIP, but who intend to do so in the future, the department is requiring those producers to complete the one-time three (3) credit continuing education course related to NFIP *prior* to selling flood insurance through NFIP.

Licensed resident producers, who sell flood insurance through the NFIP in Idaho, shall demonstrate to the department, upon request, that they have complied with the minimum Flood insurance training requirements, as set forth above.

Additionally, the Department recommends when any insurance producer is either selling or renewing a home insurance policy, it would be prudent for the insurance producer to advise all applicants of the availability of flood insurance through the NFIP.

If, after being advised of the availability of flood insurance through the NFIP, an applicant declines NFIP coverage, it would be prudent for the insurance producer to have the applicant sign or initial a statement indicating that the applicant was advised of the availability of NFIP coverage, but declined to purchase it. This statement should be maintained by the insurance producer as part of the applicant's file.

Insurance producers can get more information about the NFIP by visiting FEMA's Website at <http://www.fema.gov/business/nfip/>.

Questions from insurance producers regarding this bulletin should be addressed to Lisa Tordjman, Supervisor of Producer Licensing, at (208) 334-4343. Questions from insurers should be addressed to Jim Genetti, Bureau Chief of the Consumer Services Bureau, at (208) 334-4340.

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## **IDAPA 18.01.02 – SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES**

### **00. LEGAL AUTHORITY.**

Title 41, Chapters 2 and 4, Idaho Code, Idaho Code.

### **01. SCOPE.**

The purpose of this rule is to provide for the amounts to be collected for fees, licenses and miscellaneous charges.

### **02. -010. (RESERVED)**

### **11. FEES PAYABLE IN ADVANCE.**

The director will collect in advance fees, licenses, and miscellaneous charges as outlined in this rule.

### **12. -019. (RESERVED)**

### **20. INSURER FEES.**

01. Annual Continuation Fee. All insurers and other entities (set forth in Section 020) licensed, listed, or approved to do business in the state of Idaho will pay an annual continuation fee.

- a. The annual continuation fee is due on March 1st each year and is payment of the insurer's fees due through the following February.
- b. The annual continuation fee is charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid will cover the insurer's fees through the following February.

02. Fee for Insurers. For all insurance companies receiving a certificate of authority pursuant to Title 41, Chapter 3, Idaho Code, the annual continuation fee is as follows:

- a. If insurer's policy holders' surplus at the preceding December 31 is less than ten million dollars (\$10,000,000) One thousand dollars (\$1,000).
- b. If insurer's policy holders' surplus at the preceding December 31 is ten million (\$10,000,000) or more, but less than one hundred million (\$100,000,000) -Two thousand five hundred dollars (\$2,500).
- c. If insurer's policy holders' surplus at the preceding December 31 is one hundred million (\$100,000,000) or greater Four thousand five hundred dollars (\$4,500).

03. Fees of Other Entities. The following entities will be assessed an annual continuation fee:

- a. Five hundred dollars (\$500):
  - i. All reinsurers, listed pursuant to Section 41-515, Idaho Code.
  - ii. Authorized surplus line insurers.
  - iii. County mutual insurers.
  - iv. Fraternal benefit societies.
  - v. Hospital and/or professional service corporations.
  - vi. Self-funded health care plans.
  - vii. Domestic Risk retention groups.
  - viii. Petroleum clean water trusts.
  - ix. Rating organizations.
  - x. Advisory organizations.

b. One hundred dollars (\$100): Purchasing groups.

04. Fees Provide. The annual continuation fee includes, but is not limited to, the following:

- a. Certificate of authority renewal, license renewal, and annual registration.
- b. Arson, fire and fraud investigation costs.
- c. Annual statement filing.
- d. Agent appointment and renewal of appointment.
- e. Filings under Title 41, Chapter 38, Idaho Code, Acquisitions of Control and Insurance Holding Company Systems.
- f. Filing of amendments to Articles of Incorporation.
- g. Filing of amendments to Bylaws.
- h. Amendments to Certificate of Authority.
- i. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code.
- j. Quarterly statement filing.
- k. Examination expenses.

05. Not Provided in Fees. Payment of the annual continuation fee will not exempt the insurer or entity from the following:

- a. Fees for application for producer license.
  - b. Costs incurred by the Department for investigation of an applicant for producer license.
  - c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code.
  - d. Costs incurred for experts and consultants when allowed by Idaho Code.
  - e. Penalties or fines levied by or payable to the Department of Insurance.
  - f. All fees set forth under Section 040.
06. Failure to Pay Fee. Failure to pay the annual continuation fee on or before March 1st each year will result in the expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code.
07. Reinstatement Fee. The reinstatement fee referenced in Section 41-324(3), Idaho Code, is the amount referenced above for the insurer or entity continuation fee.
21. -029. (RESERVED)
30. PRODUCER AND MISCELLANEOUS LICENSING FEES.
01. Original License Application. The following fees are due and need to be paid with the filing
- a. Administrators -three hundred dollars (\$300).
  - b. Producers -eighty dollars (\$80).
  - c. Designation as a managing general agent -eighty dollars (\$80).
  - d. Adjusters and public adjusters -eighty dollars (\$80).
  - e. Reinsurance intermediary -eighty dollars (\$80).
  - f. Surplus line brokers -eighty dollars (\$80).
  - g. Life settlement providers -five hundred dollars (\$500).
  - h. Life settlement brokers -three hundred dollars (\$300).
  - i. Independent review organization -five hundred dollars (\$500).
  - j. Vendor of portable electronics insurance, a type of limited lines producer:
    - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -one thousand dollars (\$1,000).
    - ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten(10) or fewer locations in the state of Idaho -one hundred dollars (\$100).
02. Examination Fees. Each time a producer or adjuster's examination is taken for licensing under Title 41, Chapters 10 and 11, Idaho Code, the applicant may pay a fee to a third-party testing vendor in the amount established by contract between the department and the vendor.
03. Fingerprint Processing. Processing fingerprints (as applicable) -not to exceed eighty dollars (\$80).
04. License Renewal. The following fees are due and need to be paid for each license to renew or continue:
- a. Adjusters, public adjusters, and producers (biennial) -eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically.
    - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -five hundred dollars (\$500).
    - ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -one hundred dollars (\$100).
  - b. Redesignation as managing general agent (annual) -eighty dollars (\$80).
  - c. Administrators (biennial) -eighty dollars (\$80).
    - i. Renewal form is filed on or before December 31.
    - ii. Any renewal form postmarked after December 31 includes a penalty in an amount equal to the renewal fee
    - iii. A renewal form postmarked after January 31 needs to be submitted as a new application with supporting documents and the full application fee.
  - d. Surplus line brokers (biennial) -eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically.
  - e. Life settlement providers (biennial) -three hundred dollars (\$300).
  - f. Life settlement brokers (biennial) -eighty dollars (\$80).
  - g. Independent review organization (biennial) -three hundred dollars (\$300).
31. -039. (RESERVED)
40. MISCELLANEOUS FEES.
01. Certified Copy. Certified copy of certificate of authority, license or registration Fifty dollars (\$50).
02. Certificate Under Seal. Director's certificate under seal (except for those under Subsection 040.01 of this rule) Twenty dollars (\$20).
03. Documents Filed. For each copy of a document filed in the DOI, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -Twenty dollars (\$20) for each rate or form filed in excess of ten (10) per calendar year.
04. Insurer Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -Thirty dollars (\$30).
05. Agent Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident producer or other person for which the director is authorized to serve as statutory agent for service of process -Thirty dollars (\$30).
06. Continuing Education. Filing continuing education applications for approval and certification of subjects of courses (each application) - Twenty-five dollars (\$25).

41. -049. (RESERVED)

50. REFUNDS.

All fees, licenses, and miscellaneous charges are non-refundable except as noted.

51. OVERPAYMENTS.

Overpayments of published fees will be returned only when such overpayments exceed twenty dollars (\$20), or upon request of the payor.

52. -999. (RESERVED)

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### **18.02.01 – INSURANCE RATES AND CREDIT RATING**

00. LEGAL AUTHORITY.

Title 41, Sections 41-211 and 41-1843, Idaho Code.

01. SCOPE.

This rule relates to the use of credit rating or credit history by insurers subject to said sections.

02.– 009. (RESERVED)

10.DEFINITIONS.

As used in this chapter, the following words have the following meanings:

01. Consumer Report. Any written, oral, or other communication of any information by a consumer reporting agency regulated under the federal Fair Credit Reporting Act (15 U.S.C. 1681) that bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.
02. Credit Factor. A factor or criterion that consists of or is derived from information obtained from a consumer report, and is used by an insurer in determining policy premium rates or in determining whether to issue, cancel, or nonrenew a policy.
03. Noncredit Factor. Any factor other than a credit factor reasonably expected to affect the risk assumed by an insurer and used by the insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy.

11.– 099. (RESERVED)

100. USE OF CREDIT FACTORS.

01. Application of Statute. To determine whether a decision is not improperly based primarily upon a credit factor or factors, the Department will apply the following criteria:

- a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, then the insurer will maintain records demonstrating noncredit factors played a greater role in the decision than credit factors.
- b. If an insurer relies in any part upon a credit factor to establish an initial rate or to impose an increase in premium rate for a customer, then the insurer is to ensure the premium rate using the highest credit factor does not exceed twice the premium using the lowest credit factor, all noncredit factors being unchanged and notwithstanding any optional coverage.

02. Information For Review. To evaluate whether a decision was based primarily upon credit factors, the insurer will have on file with the Department, in a manner approved by the Director, an attestation that rate, issuance, non-renewal, and cancellation decisions are not primarily based on credit factors, and that the rating is compliant with Paragraph 100.01.b. of this rule. The insurer's filing will support the attestation by providing the details of the rating process, including an explanation of all factors considered in the rating process and how the process is applied. The Department may also request the insurer apply its rating process to hypothetical cases.

101.– 200. (RESERVED)

201. RETENTION OF RECORDS.

Insurers subject to this rule will document the factors and criteria considered in underwriting and rating decisions and will retain the documentation for at least five (5) years.

202. – 999. (RESERVED)

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### **18.02.03 – CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES**

00. LEGAL AUTHORITY.

Title 49, Sections 49-1229, 49-1231, and 49-1608A, Idaho Code.

01. SCOPE.

To identify the form of a certificate of liability insurance for motor vehicles per Sections 49-1229, 49-1231 and 49- 1608A, Idaho Code.

02. -- 010. (RESERVED)

11. CONTRACT OF INSURANCE -- CERTIFICATE OF LIABILITY INSURANCE.

A certificate of liability insurance can be the original liability insurance contract, or a copy thereof, or a written binder, showing active motor vehicle liability insurance in at least the applicable amounts prescribed by Sections 49- 117(20), 49-1212, 49-1229, and 49-1608A, Idaho Code, and also any other coverage prescribed by Title 41, Idaho Code.

12. MINIMUM SPECIFICATIONS FOR A CERTIFICATE OF LIABILITY INSURANCE IN LIEU OF THE CONTRACT OF INSURANCE.

A document constitutes a certificate of liability insurance if it has these characteristics:

01. Individual-Owned Motor Vehicles.

- a. Identifies the insurer or surety company authorized to do business in Idaho.
- b. States the name and address of the owner of the insured motor vehicle.
- c. Describes the motor vehicle including an identification number or the words "all owned vehicles" if more than one vehicle is insured.
- d. Shows the date coverage begins.

e. Shows either that coverage ends after a fixed date or period, or when cancelled.

f. May show of the insurance policy or document number.

02. Dealer and Manufacturer Vehicles.

a. Identifies the insurer or surety company authorized to do business in Idaho.

b. States the name and address of the dealership or owner(s) of the insured motor vehicle.

c. Shows the date coverage begins.

d. Shows either that coverage ends after a fixed date or period, or when cancelled.

e. May show the insurance policy or document number.

13. EXAMPLES OF A DOCUMENT FORMAT.

The Department's website includes examples of documents that would satisfy these specifications for a certificate of liability insurance.

14. -- 999. (RESERVED)

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**18.06.02 – PRODUCERS HANDLING OF FIDUCIARY FUNDS**

00. LEGAL AUTHORITY.

Title 41, Chapter 2 and 10, Sections 41-211, 41-1024, and 41-1025, Idaho Code.

01. TITLE AND SCOPE.

01. Title. IDAPA 18.06.02, "Producers Handling of Fiduciary Funds."

02. Scope. This rule will affect "producers," including bail agents who handle funds held in a fiduciary capacity.

02. -009. (RESERVED)

10. DEFINITIONS.

01. Cash Collateral. All funds received as collateral by a producer in connection with a bail bond transaction in the form of cash, check, money order, other negotiable instrument, debit or credit card payment, or other electronic funds transfer, given as security to obtain a bail bond, as referenced in Section 41-1043, Idaho Code.

02. Fiduciary Fund Account. A financial account established to hold fiduciary funds as provided in Section 016.

03. Fiduciary Funds. All premiums, return premiums, premium taxes, funds as collateral, and fees received by a producer. Fiduciary funds include:

a. All funds paid to a producer for selling, soliciting or negotiating policies of insurance except for those fees recognized by statute as earned by the producer upon receipt which are payable to the producer and not the insurance company, pursuant to Section 41-1030, Idaho Code.

b. All funds received by a producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or to the producer's employer.

c. All funds provided to a producer by an insurance company or its agents that are to be paid to a policyholder or claimant pursuant to a contract of insurance.

d. All checks or other negotiable instruments collected by the producer and made payable to the insurer.

e. Cash collateral.

04. Receive. To collect or take actual or constructive possession of fiduciary funds. Receiving, includes but is not limited to, taking possession of money, checks, or other negotiable instruments. If fiduciary funds are in the form of a credit or offset on an account or other liability for the benefit of the consumer, without the producer actually taking possession of the funds, then constructive receipt is presumed to have occurred on the due date to the insurer.

11. -013. (RESERVED)

14. FIDUCIARY FUND ACCOUNT.

01. Payable to an Insurer. Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to an insurer as described in Subsection 010.03 are to be remitted to the insurer within the time period set forth in the insurer's terms and conditions, or if not specified, then within twenty-one (21) days of receipt.

02. Payable to a Policyholder. Fiduciary funds that are in the form of a check or another negotiable instrument made payable to a policyholder or claimant as described in Subsection 010.02.c. are to be remitted to the policyholder or claimant within fourteen (14) days of receipt or as specified by the terms of the policy of insurance, the insurer, or applicable law.

03. All Other Fiduciary Funds. All other fiduciary funds received by the producer, except as described under Subsections 014.01 and 014.02 are to be deposited into a fiduciary fund account according to the following schedule:

a. If in the form of cash, within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that exceed two thousand dollars (\$2,000), such funds will be deposited within three (3) business days.

b. If in the form of checks, money orders, other negotiable instruments, debit or credit card payments, or other electronic funds transfer, received or collected by the producer, within seven (7) days of receipt, except that the producer may remit such funds to the following:

i. Another licensed producer or licensed business entity, subject to Subsection 014.03.b.; or

ii. A person designated by the insurer who has the obligation to remit the fiduciary funds to the insurer subject to Subsection 014.03.b.

04. Document the Receipt of Fiduciary Funds. A producer who receives fiduciary funds will document the receipt of those funds in sufficient detail to determine, at a minimum, the date received, the name of the payee, and the amount received. If the producer receives cash, including cash collateral, the producer will give the payer a detailed receipt at the time of payment. The receipt

needs to indicate that cash was received, the date received, the amount received, the payer's name, the payee's name, the purpose of payment, and any other information important to the transaction. The producer will maintain the receipt for a period of at least five (5) years.

#### 15. DEPOSIT OF OTHER FUNDS IN ACCOUNT.

A producer may deposit other additional funds for the sole purpose of:

01. Reserves for Return Premiums. Establishing reserves for payment of return premiums.
02. Funds to Pay Bank Charges. Advancing funds sufficient to pay bank charges.
03. Contingencies. For any contingencies that may arise in the business of receiving and transmitting premium or return premium funds or cash collateral (any such deposit is hereinafter referred to as "voluntary deposit").

#### 16. TYPES OF ACCOUNTS PERMITTED.

01. Accounts in Federally Insured Financial Institutions. A producer will maintain the fiduciary funds only in checking accounts, demand accounts, savings accounts or other accounts in a federally insured financial institution.
02. Exceed the Federally Insured Limits. If such funds held exceed the federally insured limits, then in addition to Subsection 016.01, those funds that exceed the federally insured limits may be deposited into the following:
  - a. An investment account that invests monies in United States government bonds, United States Treasury certificates or in federally guaranteed obligations;
  - b. Money market mutual funds registered with the SEC which are rated AAA by Moody's or AAA by S&P.
03. Separate Fiduciary Funds Account. Nothing in this rule obligates a producer to maintain and hold fiduciary funds in his, her, or its, own separate fiduciary funds account. Each producer is responsible for compliance with the provisions of this rule even if fiduciary funds are maintained in a fiduciary funds account established by another affiliated producer.

#### 17. ACCOUNT DESIGNATION.

01. Designation of a Fiduciary Fund. A fiduciary fund account is so designated on the records of the financial institution. The account has a separate account number, a separate check register and its own checks.
02. Trust Fund Account. The phrase, "Trust Fund Account" is displayed on the face of each check drawn on a fiduciary fund account or other similar designation as permitted by the financial institution to identify the checks as being from a fiduciary fund account.

#### 18. INTEREST EARNINGS.

A fiduciary fund account may be interest-bearing or an investment account in accordance with Section 016. The producer will maintain records establishing the existence and amount of interest accrued.

#### 19. PERMISSIBLE DISTRIBUTION OF FIDUCIARY FUNDS.

Distributions from a fiduciary fund account are to only be made for the following purposes, and in the manner stated:

01. Remit Premiums. To remit premiums to an insurer or an insurer's designee pursuant to a contract of insurance;
02. Return Premiums. To return premiums to an insured or other person or entity entitled to the premiums;
03. Remit Surplus Lines Taxes and Stamping Fees. To remit surplus lines taxes and stamping fees collected to the appropriate state;
04. Reimburse Voluntary Deposits. To reimburse voluntary deposits made by the producer to the extent that the funds in the fiduciary account exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous voluntary deposit.
05. Transfer or Withdraw Accrued Interest. To transfer or withdraw accrued interest to the extent that fiduciary fund account funds exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous interest deposit by the financial institution.
06. Transfer or Withdraw Actual Commissions. To transfer or withdraw actual commissions and those earned fees recognized as earned by the producer, upon receipt, which are payable to the producer, only if the commissions and fees can be matched and identified with funds previously deposited in the fiduciary account.
07. Pay Charges Imposed. To pay charges imposed by the financial institution that directly relate to the operation and maintenance of the fiduciary funds account.
08. Transfer Funds. To transfer funds from one (1) fiduciary fund account to another fiduciary fund account.
09. Return Cash Collateral. To return cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, has been discharged.
10. Convert Cash Collateral. To convert cash collateral where the defendant or other responsible party fails to satisfy the obligation of the bail bond and the bail or obligation was not exonerated by the court but instead executed by the court, provided such conversion is compliant with the contract between the producer and the person who deposited the cash collateral.

#### 20. -021. (RESERVED)

#### 22. TIMELY DISBURSEMENT OF FIDUCIARY FUNDS.

In addition to the requirements of Section 014, after receiving fiduciary funds, a producer:

01. Remits Premiums. Remits premiums directly to an insurer or an insurer's designee within the time period set forth in the insurer's terms and conditions, or if not specified, within fourteen (14) days of receipt;
02. Returns Money Received. Returns to the payer the money received as a premium deposit which is retained by the producer or returned to the producer by the insurer to the payer by the earlier of:
  - a. Fourteen (14) days from the date the premium is received by the producer from the insurer, or
  - b. Fourteen (14) days from the date the insurer notifies the insurance applicant that coverage has been denied if the producer retained the premium deposit.

03. Refund Received from the Insurer. Issues a refund received from the insurer within fourteen (14) days by disbursing money to the insured or other party entitled thereto by notifying the insured that the refund is being applied to an outstanding amount owed or to be owed by the insured. If the producer is applying the refund to an outstanding amount owed by the insured, the producer obtains the insured's permission and provide the insured a detailed description of the amount owed to which the refund is being applied.
04. Dispute of Entitlement of Funds. If there is a dispute as to entitlement of funds under Subsections 022.01 or 022.03, a producer notifies the parties of the dispute, seeks to resolve it, and documents the steps taken to resolve it.
05. Funds Held for More Than Ninety Days. If fiduciary funds within the scope of Subsections 022.01 or 022.03 are held for more than ninety (90) days, the producer investigates to determine the entitlement to fiduciary funds and pays those fiduciary funds when due to the appropriate person in accordance with this section.
06. Return Cash Collateral. Returns cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, is discharged.

**23. 999. (RESERVED)**

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**18.06.03 – Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees**

00. LEGAL AUTHORITY.

Title 41, Chapter 2, Section 41-211, Idaho Code.

01. TITLE AND SCOPE.

01. Title. IDAPA 18.06.03, "Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees."

02. Scope. This chapter applies to all resident and non-resident insurance producers who charge a fee to consumers as authorized by Section 41-1030, Idaho Code.

02. -- 010. (RESERVED)

11. DISCLOSURE REQUIREMENTS.

01. Before Charging a Fee. Before charging a fee to a consumer, a retail producer will furnish to each consumer a written disclosure statement containing at least the following information:

- a. A description of the nature of the work to be performed by the insurance producer.
- b. The fee schedule and any other expenses that the insurance producer charges, and whether fees may be negotiated.

02. Prior Information Disclosure. A retail producer will disclose information prescribed under this chapter to each consumer to whom a fee will be charged prior to engaging in any act for or on behalf of the consumer.

03. Fee for Intended Services. A retail producer may charge a fee for those services intended to be provided and that are not contingent upon a future event occurring outside of the terms of the insurance contract.

04. Non-Chargeable Fee. A retail producer will not charge a fee for services in connection with statutorily mandated insurance coverage.

12. -- 999. (RESERVED)

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**18.06.04, Continuing Education**

00. LEGAL AUTHORITY.

Title 41, Chapters 2, 10, 11, and 58, Sections 41-211, 41-1013, 41-1108, 41-5813, and 41-5820, Idaho Code.

01. SCOPE.

This rule prescribes a minimum education in approved subjects that impacts all resident licensees practicing insurance, except for producers licensed to sell only "limited lines insurance," and requires them to periodically complete, procedures and standards for the approval of such education, and a procedure for establishing that continuing education requirements have been met.

02. -009. (RESERVED)

10. DEFINITIONS.

01. Licensee. An individual holding a license as a producer, bail, adjuster, or public adjuster pursuant to Title 41, Chapters 10, 11, or 58, Idaho Code.

11. (RESERVED)

12. BASIC REQUIREMENTS.

01. Proof of Completion. As a condition for the continuation of a license, a licensee must complete a total of 24 hours of continuing education credits, including a minimum of 3 ethics credits on or before the licensing renewal date every two (2) years. Proof of satisfactory completion of approved subjects or courses will be downloaded to licensing records by the system vendor in a format acceptable to the Director.

- a. No more than four (4) hours of continuing education credit from courses approved for adjusters or public adjusters can apply toward the continuation of a producer license.

02. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing education requirement is to be completed within the two (2) year period immediately preceding renewal of the license. Courses cannot have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam.

13. EXCEPTIONS/EXTENSIONS.

01. Exceptions and Extensions. The following exceptions and extensions may be made to the continuing education rules:

- a. Licensees on extended active duty with the Armed Forces of the United States for the period of such duty and all other exceptions allowed under Section 41-1008(4), Idaho Code.
- b. Persons which hold a temporary license as provided in Section 41-1015, Idaho Code.
- c. The Continuing Education Advisory Committee or the Director may approve an exception or extension for an extra ordinary situation that is requested by a licensee, in writing, setting forth the basis for the exception or extension. and received prior to the renewal date by the Director or Committee.

#### 14. CONTINUING EDUCATION ADVISORY COMMITTEE.

01. Continuing Education Advisory Committee. An eleven (11) member Continuing Education Advisory Committee ("Committee") comprised of representatives from each segment of the insurance industry, is appointed by the Director. Committee members will serve a term of three (3) years.
02. Duties of the Committee. The Committee performs the following duties at the discretion of the Director:
  - a. Approve or disapprove courses as per the standards of this rule and assign the number of continuing education hours to be awarded.
  - b. Consider applications for exceptions and extensions as permitted under Section 013; and
  - c. Consider other matters as the Director may assign.
03. Quorum. Those present at any meeting of the Committee are a quorum for purposes of acting to perform the duties of the Committee pursuant to this rule. Matters before the Committee may be decided by a majority of those members present. In the event of a tie vote, the Chairman votes to break the tie.

#### 15. PROGRAM REQUIREMENTS.

All continuing education programs need to be submitted to the Committee in accordance with Section 021 on forms promulgated by the Director. Any course provider that resides in and has had their continuing education program(s) approved by, a state in which the insurance department has signed a separate reciprocity agreement with the Idaho Department, need not have their continuing education program(s) reviewed and approved by the Committee. However, all such courses need to be filed with the Department in a format approved by the Director and course application fees paid.

#### 16. PROGRAMS WHICH QUALIFY.

01. Requirements of Acceptable Program. A specific program will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs need to meet the standards outlined in Section 018.
02. Subjects Which Qualify.
  - a. The following general subjects are acceptable for producers.
    - i. Insurance, fixed and indexed annuities, and risk management.
    - ii. Insurance laws and rules.
    - iii. Mathematics, statistics, and probability.
    - iv. Economics.
    - v. Business law.
    - vi. Finance.
    - vii. Taxes, trusts, estate planning.
    - viii. Business environment, management, or organization.
    - ix. Securities.
  - b. The following general subjects are acceptable for adjusters and public adjusters.
    - i. Insurance.
    - ii. Insurance laws and rules.
    - iii. Mathematics, statistics, and probability.
    - iv. Economics.
    - v. Business law.
    - vi. Restoration.
    - vii. Communications.
    - viii. Arbitration.
    - ix. Mitigation.
    - x. Glass replacement and/or repair.
  - c. Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to professional competence and meet the standards set forth in this rule. The responsibility for substantiating that a particular program meets the requirements of this rule rests solely upon the licensee.

#### 17. PROGRAMS WHICH DO NOT QUALIFY.

01. Any Course Used to Prepare for Taking an Insurance Licensing Examination.
02. Committee Service of Professional Organizations.
03. Computer Science Courses.
04. Motivation, Psychology, or Selling Skills Courses.
05. Reviews, Quizzes and/or Examinations.
06. Any Program Not in Accordance with This Rule.

#### 18. STANDARDS FOR CONTINUING EDUCATION PROGRAMS.

To qualify for credit, the following standards need to be met by all continuing education programs:

01. Program Development.

- a. The program provides significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants.
- b. The program is developed by persons who are qualified in the subject matter and instructional design.
- c. The program content is current or up to date.

02. Program Presentation.

- a. Instructors are qualified, both with respect to program content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course competently.
- b. The number of participants and physical facilities is consistent with the teaching method specified.
- c. All programs will include some means for evaluating quality.

19. MEASUREMENT OF CREDIT.

01. Credits Measured in Full Hours. Professional education courses are credited for continuing education purposes in full hours only. The number of hours is equivalent to the actual number of contact hours which need to include at least fifty (50) minutes of instruction or participation. No credit will be given for partial attendance.
02. Internet Courses. Internet self-study courses will be credited one (1) hour of continuing education for every fifty (50) minutes of study material, excluding exams. Credit will be given in accordance with Section 021.
03. Webinar Courses. Webinars will be credited as classroom instruction or participation. In the event one (1) course encompasses multiple webinars and self-study is necessary between webinars, the self-study material need to be submitted to the Committee to be evaluated for additional credit in accordance with Section 021.

20. CONTROLS AND REPORTING.

01. Licensee to Retain Original Certificate as Evidence. The original certificate of completion received for each educational program or course is retained by the licensee to evidence completion during the two (2) year renewal period. The certificate of completion is in a format provided to the Department.
02. Sign-In and Sign-Out Sheets. Sign-in and sign-out sheets are to be used and monitored to ensure attendance for the full length of the seminar. No certificate of completion is to be given to anyone arriving late or leaving prior to the conclusion of the seminar. Failure to comply with these requirements will result in loss of certification of the provider in accordance with Section 023.

21. APPROVED PROGRAMS OF STUDY CERTIFICATION BY DIRECTOR.

01. Requirements of Course Approval. All courses are approved by the Committee. If a course is not approved in advance of presentation, an application for credit may be submitted to the Committee within sixty (60) days of completion of the course.
02. Nonrefundable Application Fee. Each course application is accompanied by a nonrefundable application fee (as set forth in IDAPA 18.01.02, "Schedule of Fees, Licenses and Miscellaneous Charges").
03. Course Approval Procedures. Any person intending to provide courses applies in a format prescribed by the Department and provides the following supporting documentation:
  - a. A specific outline and/or course material;
  - b. Time schedule;
  - c. Method of presentation;
  - d. Qualifications of instructor; and
  - e. Other information supporting the request for approval.
04. Method to Determine Completion. The submission includes a statement of the method used to determine the satisfactory completion of the course. Methods may be an examination, or certification by the provider of the agent's program attendance or completion, or other methods approved by the Director.
05. Certification of Program. Certification of a program is effective for two (2) years or until any material changes are made in the program, after which it may be resubmitted to the Committee for approval.

22. PROOF OF COMPLETION.

An authorized representative of the sponsoring organization will, within thirty (30) days of completion of the course, provide a certificate of completion to each individual who satisfactorily completed the course and certify to the Department electronically a list of all such individuals.

23. APPROVED SUBJECTS LOSS OF CERTIFICATION.

01. Program Suspension. The certification of a program may be suspended by the Director if it has been determined that:
  - a. The program teaching method or program content no longer meets the standards of this rule, or have been significantly changed without notice to the Director for recertification;
  - b. The program certified to the Director that an individual completed the program, when in fact the individual had not done so;
  - c. Individuals who have satisfactorily completed the program of study were not so certified by the program;
  - d. The instructor or sponsoring organization is not qualified per the standards of this rule or lacks education or experience in the subject matter of the proposed course;
  - e. The instructor, sponsoring organization, or any company or affiliate of a sponsoring organization has had a license revoked or suspended in any jurisdiction. This includes any firm or organization where a revoked or suspended individual has a substantial ownership interest, or other control in a firm or organization; or
  - f. There is other good and just cause why certification should be suspended.
02. Reinstatement of a Suspended Certification. Reinstatement of a suspended certification will be made upon proof satisfactory to the Committee or the Director, that the conditions responsible for the suspension have been corrected.

24. CREDIT FOR INDIVIDUAL STUDY PROGRAMS.

01. Requirements for Credit of Independent Study Programs. All approved correspondence courses or independent study programs needs to include an examination which requires a score of seventy percent (70%) or better to earn a certificate of completion. For each approved course, the sponsoring organization will maintain multiple tests (two (2) or more) sufficient to maintain the integrity of the testing process. A written explanation of test security and administration methods will accompany the course examination materials. Each unit and/or chapter of a course will contain review questions that can be answered with a score of seventy percent (70%) or better before access to the following unit/chapter is allowed.
02. Completed Tests. The examinations are administered, graded, and the results recorded by the organization to which approval was originally granted. Completed tests are retained by the sponsoring organization and will not be returned to any licensee.
03. Prior Approval Needed for Correspondence Courses. All correspondence courses need be submitted for approval and approved prior to being offered to licensees for continuing education credit.

25. CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, OR SPEAKER.

Only one (1) hour of continuing education credit will be awarded for each hour completed as an instructor or discussion leader

26. -999. (RESERVED)

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