

PUBLIC ADJUSTER

General Outline: Product Knowledge, Terms, and Concepts (50 total questions)

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 - 2. Personal liability
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 - b. Replacement costs
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 - c. Business income
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 - 2. Commercial Package Policy (CPP)
 - 3. Equipment Breakdown Coverage
 - 4. Businessowners Policy (BOP)
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 - 2. Policies
 - a. Personal floaters
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General Outline: Product Knowledge, Terms, and Concepts (50 total questions)

III. GENERAL PROPERTY INSURANCE PRODUCT KNOWLEDGE PERTINENT TO ADJUSTERS (continued)

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

I. IDAHO STATUTES, RULES, AND REGULATIONS COMMON TO LIFE, HEALTH/DISABILITY, PROPERTY, CASUALTY, AND PERSONAL LINES INSURANCE

- A. Responsibilities of the Director of the Department of Insurance Ref: 41-203
 - 1. Appointment Ref: 41-202
 - 2. General duties and powers Ref: 41-211, 41-213, 41-247
 - 3. Examinations Ref: 41-210, 41-219, 41-220
 - 4. Hearings/notice of hearings/orders Ref: 41-212, 41-232, 41-235, 41-1321
 - 5. Penalties Ref: 41-117, 41-117A
- B. Definitions
 - 1. Authorized and unauthorized companies/admitted and nonadmitted companies Ref: 41-110
 - 2. Certificate of authority Ref: 41-111, 41-305, 41-306
- C. Licensing and adjuster's legal responsibilities
 - 1. Persons required to be licensed
 - a. Public Adjuster Ref: 41-5802, 41-5803, 41-5804
 - b. Resident/nonresident Ref: 41-5809
 - 2. Obtaining a license
 - a. Qualifications Ref: 41-401, 41-5806
 - b. License application Ref: 41-5805, 41-5809
 - c. Written examinations Ref: 41-5807
 - d. Exemptions/exceptions Ref: 41-5804, 41-5808
 - e. Bond or letter of credit Ref: 41-5812
 - f. License denial/refusal Ref: 41-5811
 - 3. Maintaining a license
 - a. Change of address/place of business Ref: 41-5810
 - b. Fees/renewal Ref: 41-5810, 41-5811, 41-5814
 - c. Record keeping Ref: 41-5817
 - d. License renewal/expiration Ref: 41-5810, 41-5813
 - e. Continuing education Ref: 41-5813
 - f. Suspension or revocation of licenses/felony convictions Ref: 41-5811; 41-5819
- D. Escrow or trust accounts Ref: 41-5816
- E. Commissions and compensation Ref: 41-5814
- F. Contract Between Public Adjuster and Insured Ref: 41-5815
- G. Standards of Conduct Ref: 41-5818

II. IDAHO STATUTES, RULES, AND REGULATIONS COMMON TO PROPERTY AND CASUALTY INSURANCE ONLY

- A. Insurance Contracts Ref: 41-1806, 41-1811, 41-1814, 41-1815, 41-1817, 41-1828, 41-1831, 41-1841-43, 41-2401, 2506-2510, IDAPA 18.01.20
 - 1. Renewal, nonrenewal, cancellation
 - 2. Commercial, homeowners, personal auto, and casualty policies
- B. Unfair Claims Practices Ref: 41-1329

III. IDAHO STATUTES, RULES, AND REGULATIONS PERTINENT TO PROPERTY INSURANCE ONLY

- A. Claims methods and practices Ref: 41-258
- B. Standard fire policy Ref: 41-1842, 41-2401
- C. Marine/inland marine Ref: 41-505, 41-1401

IDAHO SPECIFIC CONTENT OUTLINE: PUBLICADJUSTER

State Laws, Rules, and Regulations

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.

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.

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.

41-112. "TRANSACTING 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.

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.

41-117A. PENALTY FOR TRANSACTING 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.

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.

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.

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.

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.

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.

41-212. ORDERS, NOTICES. (continued)

- (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.

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.

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.

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

- (1) 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.

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).

41-232. HEARINGS IN GENERAL. *(continued)*

- (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.

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.

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.

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.

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.

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.

41-1003. DEFINITIONS. (continued)

- (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.

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].

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.

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.

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.

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.

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;

41-1009. NONRESIDENT PRODUCER LICENSE. (continued)

- (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.

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.
- (3) 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).
- (4) 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.
- (5) 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.

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.

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.

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.

41-1013. CONTINUATION — EXPIRATION OF LICENSES — CONTINUING EDUCATION STATEMENT. *(continued)*

- (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 (\$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.

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.

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.

41-1026. PROCEDURE FOLLOWING SUSPENSION, REVOCATION, DENIAL — REINSTATEMENT. *(continued)*

- (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.

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 off-site 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.

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.

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

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.

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.

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.

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.

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.

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.

18.01.01 – RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

000.LEGAL AUTHORITY.

Title 41, Chapter 13, Section 41-1334, Idaho Code.

001.TITLE AND SCOPE.

01. Title. IDAPA 18.01.01, “Rule to Implement the Privacy of Consumer Financial Information.”
02. Scope. This rule describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties and provides methods for individuals to prevent a licensee from disclosing that information.
03. Applicability. This rule applies to nonpublic personal financial information about individuals who obtain or are beneficiaries of products or services primarily for personal, family, or household purposes from licensees. This rule does not apply to information about companies or individuals who obtain products or services for business, commercial, or agricultural purposes.

002. -- 009.(RESERVED)

010.DEFINITIONS.

All terms defined in Title 41, Chapters 1 and 13, Idaho Code, that are used in this rule have the same meaning as used in those chapters. In addition, the following terms are defined as used in this chapter.

01. Clear and Conspicuous.
 - a. A notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice if it:
 - i. Presents the information in clear, concise sentences, paragraphs, and sections;
 - ii. Uses short explanatory sentences or bullet lists whenever possible;
 - iii. Uses definite, concrete, everyday words and active voice whenever possible;
 - iv. Avoids multiple negatives;
 - v. Avoids legal and highly technical business terminology whenever possible;
 - vi. Avoids explanations that are imprecise and readily subject to different interpretations.
 - vii. Uses an easy-to-read typeface and type size, and uses boldface or italics for key words; and
 - viii. When in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices.
 - b. If a licensee provides a notice on a web page, the notice needs to call attention to the nature and significance of the information in the notice and place the notice on a screen that consumers frequently access, or place a link on a screen that consumers frequently access that connects directly to the notice.
02. Collect. To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifiers assigned to the individual.
03. Company. A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.
04. Consumer. An individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee used primarily for personal, family, or household purposes. Examples:
 - a. An individual who provides nonpublic personal information to a licensee in connection with an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.
 - b. An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for or provides processing or other services to the financial institution.
 - c. If the licensee provides the initial, annual, and revised notices under Sections 100, 150, and 300 of this rule to the plan sponsor, group or blanket insurance policyholder, or group annuity contract holder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual other than as permitted under Sections 450, 451, and 452 of this rule, an individual is not the consumer of the licensee solely because he is:
 - i. A participant or a beneficiary of an employee benefit plan the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary; or
 - ii. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee.
 - iii. A beneficiary in a workers' compensation plan.
 - d. An individual is not a licensee's consumer solely because he is:
 - i. A beneficiary of a trust for which the licensee is a trustee; or
 - ii. Designated the licensee as trustee for a trust.
05. Consumer Reporting Agency. Is the same meaning as found in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C.1681a(f)).
06. Control:
 - a. Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one (1) or more other persons;
 - b. Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or
 - c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the director determines.
07. Customer. A consumer who has a customer relationship with a licensee.
08. Customer Relationship. A continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer to be used primarily for personal, family, or household purposes.
 - a. A consumer does not have a continuing relationship with a licensee if:
 - i. The licensee sells the consumer travel insurance in an isolated transaction;
 - ii. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;
 - iii. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing either a lump sum settlement option or a settlement option involving an ongoing relationship with the licensee;
 - iv. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

09. Financial Institution. Any institution engaging in activities that are financial in nature. Financial institution does not include:
 - a. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);
 - b. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or
 - c. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.
10. Financial Product or Service. A product or service that a financial holding company could offer including a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.
11. Licensee.
 - a. A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in this rule if the licensee is an employee, agent, or other representative of another licensee ("the principal") and:
 - i. The principal complies with, and provides the notices prescribed by this rule; and
 - ii. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this rule.
 - b. A licensee also includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to Title 41, Chapter 12, Idaho Code.
12. Nonpublic Personal Information.
 - a. Means personally identifiable financial information; including any list, description or other grouping of consumers (see archived 18.01.48) derived using any personally identifiable financial information not publicly available.
 - b. Nonpublic personal financial information does not include:
 - i. Health information;
 - ii. Publicly available information, except as included on a list described in Subparagraph 010.11.a., of this rule; or
 - iii. Any list, description or other grouping of consumers derived without using any personally identifiable financial information that is not publicly available.
13. Opt Out. A direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party.
14. Personally Identifiable Financial Information.
 - a. Any information:
 - i. A consumer provides to a licensee to obtain an insurance product or service from the licensee;
 - ii. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer.
 - b. Examples of personally identifiable financial information:
 - i. Account balance information and payment history;
 - ii. The fact that an individual is or has been one (1) of the licensee's customers or has obtained an insurance product or service from the licensee;
 - iii. Information about the licensee's consumer if it is disclosed in a manner that indicates the individual is or has been the licensee's consumer;
 - iv. Information provided by a consumer to a licensee or that the licensee or its agent obtains in connection with collecting on a loan or servicing a loan;
 - v. Information the licensee collects through an Internet cookie (an information-collecting device from a web server); and
 - vi. Information from a consumer report.
 - c. Personally identifiable financial information does not include:
 - i. Health information;
 - ii. A list of names and addresses of customers of an entity of a non-financial institution; and
 - iii. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.
15. Publicly Available Information.
 - a. Any information that a licensee has a reasonable basis to believe is lawfully made available to the general public.

011. -- 099. (RESERVED)

100. INITIAL PRIVACY NOTICE TO CONSUMERS.

01. Initial Notice Requirement. A licensee will provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:
 - a. A customer no later than when the licensee establishes a customer relationship, except as provided in Subsection 100.03 of this rule; and
 - b. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 451 and 452.
02. Existing Customers. When an existing customer obtains a new insurance product or service from a licensee, which is used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of Subsection 100.01 of this rule if the notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection 100.01 of this rule.
03. Exceptions Allowing Subsequent Delivery of Notice. A licensee may provide the initial notice prescribed in Paragraph 100.01.a. of this rule in a reasonable time after the licensee establishes a customer relationship if:
 - a. Establishing the customer relationship is not at the customer's election; or
 - b. It would avoid substantially delaying the customer's transaction and the customer agrees to receive the notice at a later time.

101. -- 149.(RESERVED)

150. ANNUAL PRIVACY NOTICE TO CUSTOMERS.

01. General Rule. A licensee will provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.
02. Exceptions: Termination of Customer Relationship and Duplicate Notices.
 - a. A licensee is not obligated to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a customer relationship.
 - i. In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.
 - c. Notwithstanding Subsection 150.01, a licensee is not obligated to provide the annual privacy notice to a current customer if the licensee:
 - i. Provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 450, 451, and 452; and
 - ii. Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with Section 100 or Section 150.

151. -- 199.(RESERVED)

200.INFORMATION TO BE INCLUDED IN PRIVACY NOTICES.

The initial, annual and revised privacy notices a licensee provides, under Sections 100, 150, and 300, needs to include each of the following items of information, in addition to any other information the licensee wishes to provide:

01. Information Licensee Collects or Discloses. The categories of nonpublic personal financial information the licensee collects or discloses.
02. Parties to Whom Licensee Discloses. The categories of third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 451 and 452.
03. Disclosures of Information About Former Customers. The categories of nonpublic personal financial information about the licensee's former customers the licensee discloses, and the categories of third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections 451 and 452.
04. Disclosures Under Section 450. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 450 (and no other exception in Sections 451 and 452 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted is to be provided.
05. Explanation of Right to Opt Out. An explanation of the consumer's right under Subsection 400.01 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise their right at that time.
06. Disclosures Under Federal Law. Any disclosures the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (notices regarding the ability to opt out of disclosures of information among affiliates); and the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

201.DESCRPTION OF PARTIES SUBJECT TO EXCEPTIONS.

If a licensee discloses nonpublic personal financial information as authorized under Sections 451 and 452, the licensee is not obligated to list those exceptions in the initial or annual privacy notices prescribed by Sections 100 and 150. When describing the categories of parties to whom disclosure is made, the licensee will state only that it makes disclosures to other third parties.

202.SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS.

01. Categories of Nonpublic Personal Financial Information That the Licensee Collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:
 - a. Information from the consumer;
 - b. Information about the consumer's transactions with the licensee, its affiliates, or third parties;
 - c. Information from a consumer reporting agency.
02. Categories of Nonpublic Personal Financial Information a Licensee Discloses.
 - a. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes it according to the source, as described in Subsection 202.01 of this rule, and provides a few examples to illustrate the types of information in each category.
 - b. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information the licensee discloses.
03. Categories of Affiliates and Nonaffiliated Third Parties to Whom the Licensee Discloses. A licensee satisfies the requirement to categorize the third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business.
04. Disclosures Under Exception for Service Providers and Joint Marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 450 to a nonaffiliated third party to market products or services it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection 200.04 of this rule if it:
 - a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection 200.01 of this rule; and
 - b. States whether the third party is:
 - i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or
 - ii. A financial institution with whom the licensee has a joint marketing agreement.
05. Simplified Notices. If a licensee does not disclose and does not wish to reserve the right to disclose nonpublic personal financial information about customers or former customers to third parties except as authorized under Sections 451 and 452, the licensee may simply state that fact, in addition to the information it provides under Subsections 200.01, 200.07, and Section 201 of this rule.
06. Confidentiality and Security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:
 - a. Describes in general terms who is authorized to have access to the information; and
 - b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy.

203.SHORT-FORM INITIAL NOTICE WITH OPT OUT NOTICE FOR NON-CUSTOMERS.

01. Short-Form Initial Notice Allowed. A licensee may satisfy the initial notice requirements for a consumer who is not a customer, by providing a short-form initial notice at the same time the licensee delivers an opt out notice as prescribed in Section 250.
02. Short-Form Initial Notice Requirements. A short-form initial notice will:
 - a. Be clear and conspicuous;
 - b. State that the licensee's privacy notice is available upon request; and
 - c. Explain a reasonable means by which the consumer may obtain the notice.
03. Delivery of Short-Form Initial Notice. The licensee is not obligated to deliver its privacy notice with its short-form initial notice but may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee will deliver its privacy notice according to Section 350.
04. Examples of Obtaining Privacy Notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:
 - a. Provides a toll-free telephone number the consumer may call to request the notice;
 - b. Maintains copies of the notice on hand at the licensee's office and provides it to the consumer immediately upon request; or
 - c. Posts it on their website.

204. -- 249.(RESERVED)

250.FORM OF OPT OUT NOTICE TO CONSUMERS.

01. Opt Out Notice Form. If a licensee is prescribed to provide an opt out notice under Subsection 400.01, it will provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under Section 400. The notice will state:
 - a. The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;
 - b. The consumer has the right to opt out of that disclosure; and
 - c. A reasonable means by which the consumer may exercise the opt out right.
02. Adequate Opt Out Notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:
 - a. Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, and states that the consumer can opt out of the disclosure of that information; and
 - b. Identifies the insurance products or services that the consumer obtains from the licensee to which the opt out direction would apply.
03. Reasonable Means to Exercise an Opt Out Right. A licensee provides a reasonable means to exercise an opt out right if it:
 - a. Designates check-off boxes in a prominent position on the relevant forms with the opt out notice;
 - b. Includes a reply form together with the opt out notice;
 - c. Provides an electronic means to opt out, if the consumer agrees to the electronic delivery of information; or
 - d. Provides a toll-free telephone number that consumers may call to opt out.

251.PROVIDING OPT OUT NOTICE TO CONSUMERS AND COMPLYING WITH OPT OUT DIRECTION.

01. Joint Relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice providing any of the joint consumers to exercise the right to opt out. The licensee may either:
 - a. Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or
 - b. Permit each joint consumer to opt out separately.
 - c. A licensee cannot require all joint consumers to opt out before it implements any opt out direction.
02. Time to Comply with Opt Out. A licensee will comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.
03. Continuing Right to Opt Out. A consumer may exercise the right to opt out at any time.
04. Duration of Consumer's Opt Out Direction.
 - a. A consumer's direction to opt out under Sections 250 and 251 is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.
 - b. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.
05. Delivery. When a licensee is prescribed to deliver an opt out notice by Section 250, the licensee will deliver it according to Section 350.

252. -- 299.(RESERVED)

300.REVISED PRIVACY NOTICES.

01. General Rule. A licensee will not disclose any nonpublic personal financial information other than as described in the initial notice that the licensee provided to that consumer under Section 100, unless:
 - a. The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;
 - b. The licensee has provided to the consumer a new opt out notice;
 - c. The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
 - d. The consumer does not opt out.

301. -- 349.(RESERVED)

350.DELIVERY.

01. How to Provide Notices. A licensee will make available any notices that this rule requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.
02. Reasonable Expectation of Notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:
 - a. Hand-delivers a printed copy of the notice to the consumer;
 - b. Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication; or
 - c. For a consumer who conducts transactions electronically, or an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service.
03. Annual Notices Only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:
 - a. The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or
 - b. The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.
04. Oral Description of Notice Insufficient. A licensee cannot provide any notice prescribed by this rule solely by orally explaining the notice.
05. Retention or Accessibility of Notices for Customers.
 - a. For customers only, a licensee will provide all notices so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.
 - b. Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:
 - i. Hand-delivers a printed copy of the notice to the customer;
 - ii. Mails a printed copy of the notice to the last known address of the customer; or
 - iii. Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.
06. Joint Notice with Other Financial Institutions. A licensee may provide a joint notice from the licensee and one (1) or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

351. -- 399.(RESERVED)

400.LIMITS ON DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION TO NONAFFILIATED THIRD PARTIES.

01. Conditions for Disclosure.
 - a. Except as authorized in this rule, a licensee will not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:
 - i. The licensee has provided to the consumer an initial notice as prescribed under Section 100;
 - ii. The licensee has provided to the consumer an opt out notice as prescribed in Sections 250 and 251;
 - iii. The licensee has given the consumer a reasonable opportunity to opt out of the disclosure before it discloses the information to the nonaffiliated third party; and
 - iv. The consumer does not opt out.
 - b. If a consumer opts out, the licensee cannot disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 450, 451, and 452.
 - c. Examples of a reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if the licensee mails the notices prescribed in Subsection 400.01 of this rule to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means in thirty (30) days from the date of mailing.
02. Application of Opt Out to All Consumers and All Nonpublic Personal Financial Information.
 - a. A licensee will comply with Section 400, regardless of whether the licensee and the consumer have established a customer relationship.
 - b. Unless a licensee complies with Section 400, the licensee will not disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.
03. Partial Opt Out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

401.LIMITS ON REDISCLOSURE AND REUSE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Information the Licensee Receives Under an Exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution, the licensee may disclose the information only:
 - a. To the affiliates of the financial institution from which the licensee received the information; and
 - b. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information.
02. Information a Licensee Discloses Under an Exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party, the third party may disclose that information only:
 - a. To the licensee's affiliates;
 - b. To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
 - c. To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

402.LIMITS ON SHARING ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.

A licensee will not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

403. -- 449.(RESERVED)

450.EXCEPTION TO OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR SERVICE PROVIDERS AND JOINT MARKETING.

01. General Rule.

- a. The opt out requirements in Sections 250, 251 and 400 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:
 - i. Provides the initial notice in accordance with Section 100; and
 - ii. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Section 451 or 452 in the ordinary course of business to carry out those purposes.

451.EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR PROCESSING AND SERVICING TRANSACTIONS.

01. Exceptions. The requirements for initial notice in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:
- a. Servicing or processing an insurance product or service that a consumer requests or authorizes;
 - b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;
 - c. A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or
 - d. Reinsurance or stop loss or excess loss insurance.

452.OTHER EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Exceptions to Opt Out Requirements. The requirements for initial notice to consumers in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply when a licensee discloses nonpublic personal financial information:
- a. With the consent or at the direction of the consumer;
 - b. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;
 - c. To protect against or prevent actual or potential fraud or unauthorized transactions;
 - d. For prescribed institutional risk control or for resolving consumer disputes or inquiries;
 - e. To persons holding a legal or beneficial interest relating to the consumer; or
 - f. To persons acting in a fiduciary or representative capacity on behalf of the consumer;
 - g. To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies rating a licensee, persons assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;
 - h. To the extent specifically permitted or prescribed under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, and the Federal Trade Commission), with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, self-regulatory organizations or for an investigation on a matter related to public safety;
 - i. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or from a consumer report reported by a consumer reporting agency;
 - j. In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;
 - k. To comply with federal, state or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law;
 - l. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan; or
 - m. With the consent of or at the direction of a liquidator or rehabilitator appointed pursuant to Chapter 33, Title 41, Idaho Code.

453. -- 499.(RESERVED)

500.NONDISCRIMINATION.

A licensee will not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of their nonpublic personal financial information pursuant to the provisions of this rule.

501. -- 999.(RESERVED)

Attachment to 18.01.01-Rule to Implement the Privacy of Consumer Financial Information

Appendix A Sample Clauses

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1-Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement to describe the categories of nonpublic personal information the licensee collects. Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

Information we receive from you on applications or other forms;
Information about your transactions with us, our affiliates or others; and
Information we receive from a consumer reporting agency.

A-2-Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in Sections 450, 451, and 452.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premiums, and payment history”]; and
Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as “above” or “below”].

A-3-Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in Sections 451 and 452.

Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A-4-Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections 450, 451, and 452, as well as when permitted by the exceptions in Sections 451 and 452.

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];
Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law. A-5-Service provider/
joint marketing exception A licensee may use one of these clauses, as applicable, to meet the requirements related to the exception for service providers and joint marketers in Section 450. If a licensee discloses nonpublic personal information under this exception, the licensee describes the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and
Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6-Explanation of opt out right (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections 450, 451, and 452.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”].

A-7-Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal rules to guard your nonpublic personal information.

IDAPA 18.01.02 – Schedule of Fees, Licenses, and Miscellaneous Charges

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

001.SCOPE.

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

002. -- 010.(RESERVED)

011.FEES PAYABLE IN ADVANCE.

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

012. -- 019.(RESERVED)

020.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.

021. -- 029.(RESERVED)

030.PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and need to be paid with the filing application for original license:
 - 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).

031. -- 039.(RESERVED)

040.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).

041. -- 049.(RESERVED)

050.REFUNDS.

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

051.OVERPAYMENTS.

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

052. -- 999.(RESERVED)