

# Public Adjuster Examination Content Outline

(50 scored questions. 75-minute time limit)

## General Knowledge

Ref: All topics make reference to general product knowledge, unless otherwise note

### I. PROPERTY AND CASUALTY INSURANCE TERMS AND RELATED CONCEPTS

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|---------------------------|---------------------------------|
| A. Abandonment            | Q. Limits of liability          |
| B. Accident               | R. Loss (direct vs indirect)    |
| C. Actual cash value      | S. Mysterious disappearance     |
| D. Additional coverages   | T. Negligence                   |
| E. Appraisal              | U. Obsolescence                 |
| F. Burglary               | V. Occurrence                   |
| G. Deductible             | W. Pair and set clause          |
| H. Depreciation           | X. Peril                        |
| I. Earnings               | Y. Proximate cause              |
| J. Estimating             | Z. Replacement cost             |
| K. Extensions of coverage | AA. Risk                        |
| L. Hazard                 | BB. Robbery                     |
| 1. Moral                  | CC. Tariff Liability            |
| 2. Morale                 | DD. Theft                       |
| M. Indemnity              | EE. Vacancy and unoccupancy     |
| N. Insurance              | FF. Value Policy                |
| O. Insurable interest     | GG. Waiver/Non-Waiver Agreement |
| P. Liability              | HH. Bodily Injury               |

### II. POLICY PROVISIONS AND CONTRACT LAW

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|---|--|
| A. Additional (supplementary) payments    | N. Endorsements  |
| B. Apportionment clause                   | O. Exclusions  |
| C. Appraisal                              | P. Insuring agreement  |
| D. Arbitration                            | Q. Limitations   |
| E. Cancellation and Nonrenewal provisions | R. Loss settlement provisions including consent to settle a loss |
| F. Claims Made policy form                | S. Mortgagee rights  |
| G. Coinsurance                            | T. Notice of claim   |
| H. Concealment                            | U. Obligations of insurer  |
| I. Conditions                             | V. Other Insurance provision                                     |
| J. Declarations                           | W. Proof of loss   |
| K. Definition of the insured              | X. Salvage   |
| L. Duties of the insured after a loss     | Y. Subrogation   |
| M. Elements of a contract                 | Z. Representations   |

### III. GENERAL PROPERTY INSURANCE PRODUCT KNOWLEDGE PERTINENT TO ADJUSTERS

- A. Standard Fire Policy Ref: New York Standard Fire Policy
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|---|----------------------------------|
| 1. Basic coverages, provisions, and clauses | 6. Duties of the insured/insurer |
| 2. Limitations, restrictions and exclusions | 7. Cancellation                  |
| 3. Proof of Loss                            | 8. Additional coverages          |
| a. Periods of Limitation Tolled             | 9. Replacement costs             |
| 4. Loss requirements and inventories        | 10. Actual cash value            |
| a. Taxes and Demolition Expenses            | 11. Assignment                   |
| 5. Appraisal                                |                                  |
- B. Personal lines Ref: ISO Homeowners policies
- |                                     |                      |
|-------------------------------------|----------------------|
| 1. Dwelling and contents (DP forms) | a. Policy provisions |
| 2. Personal liability               | b. Replacement costs |
| 3. Mobile Homes                     | c. Appraisal         |
| 4. Homeowners and forms/coverages   |                      |
| d. Optional provisions              | f. Proof of Loss     |
| e. Special limits of liability      | g. Exclusion         |

C. Commercial lines Ref: ISO Business Policies, Standard Boiler and Machinery policies

- 1. Commercial property
  - a. Commercial building and personal property form
  - b. Causes of loss forms
  - c. Business income
  - d. Extra expense
- 2. Commercial Package Policy (CPP)
- 3. Equipment Breakdown Coverage
- 4. Businessowners Policy (BOP)
- 5. Commercial and Special Multi-peril
- 6. Builder's Risk

D. Inland marine Ref: Personal Article Floaters, Personal Property Floaters, Commercial Property Floaters

- 1. Nationwide Definition
- 2. Policies
  - a. Personal floaters
- b. Commercial floaters
- c. Commercial inland marine policy

E. Automotive: Personal auto and Business (commercial) auto

- 1. Physical damage (collision and other than collision/comprehensive)
- 2. Uninsured motorists property damage
- 3. Underinsured motorists property damage
- 4 Who is an insured
- 5. Types of auto
  - a. Owned
  - b Non-owned
  - c. Hired
  - d. Temporary Substitute

F. Additional Coverages and Exclusions

- 1. Time Element
- 2. Law and Ordinance exclusion
- 3. Law and Ordinance coverage
- 4. Valuable Papers and Records
- 5. Vandalism and Malicious Mischief
- 6. Broad Form

G. Crime

- 1. Employee Theft
- 2. Inside the Premises-
  - a. Theft of Money and Securities
  - b. Robbery or Safe Burglary of Other Property
  - c. Robbery or Burglary of Other Property
- 3. Definitions
  - a. Custodian
  - b. Messenger
  - c. Guard or watchperson

H. Others

- 1. National Flood
- 2. Personal Watercraft
- 3. Commercial Ocean Marine
- 4. Earthquake
- 5. Aviation

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**IV. PUBLIC ADJUSTER**

A. Roles and responsibilities of public adjuster

B. Loss Report

- 1. Essential Elements
  - a. Inception/Expiration Date
  - b. Occurrence Date
  - c. Identification of Parties Involved
  - d. Policy Form/Number
  - e. Description of Loss
  - f. Coverages
  - g. Deductible

C. Loss/Damage Valuation

- 1. Direct Loss vs. Indirect Loss (Loss of Use)
- 2. Damages

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## Idaho Specific Knowledge

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

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

A. Responsibilities of the Director of the Department of Insurance ... *Ref: 41-202, 41-203, 41-210 to 41-213, 41-117, 41-117A, 41-219, 41-220, 41-232, 41-235, 41-247, 41-1016, 41-1321*

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|------------------------------|---------------------------------------|
| 1. Appointment               | 4. Penalties                          |
| 2. General duties and powers | 5. Hearings/notice of hearings/orders |
| 3. Examinations              |                                       |

B. Definitions ... *Ref: 41-106, 41-110 to 41-112, 41-301, 41-302, 41-305, 41-306, 41-1003, 41-2902, 41-3201, 41-3210*

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|--|-----------------------------|
| 1. Domestic, Foreign or Alien companies  | 5. Certificate of authority |
| 2. Fraternal company                     | 6. Transacting insurance    |
| 3. Authorized and unauthorized companies | 7. Negotiate                |
| 4. Stock, mutual, reciprocals, companies |                             |

C. Licensing ... *Ref: 41-1003 to 41-1013, 41-1016, 41-1018, 41-1019, 41-1026, 41-1036, 41-1103, 41-1104, IDAPA 18.01.02, IDAPA 18.06.04*

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|--|---|
| 1. Persons required to be licensed                 | 4. Maintaining a license                |
| a. Producer  | a. Record keeping                       |
| b. Resident/nonresident                            | b. Continuing education                 |
| 2. Producer appointment/termination of appointment | c. License expiration                   |
| 3. Obtaining a license                             | d. Fees/renewal                         |
| a. Qualifications                                  | e. felony convictions                   |
| b. License application                             | f. Suspension or revocation of licenses |
| c. Written examinations                            | g. Change of address/place of business  |
| d. Exemptions/exceptions                           |   |
| e. License denial/refusal                          |   |

D. Producer responsibilities ... *Ref: 41-1017, 41-1021, 41-1024, 41-1030, 41-1323, 41-1325, 41-1803, IDAPA 18.06.02, IDAPA 18.06.03*

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|-------------------------|---|
| 1. Fiduciary capacity   | 3. Commissions and compensation                 |
| 2. Reporting of actions | 4. Charging of fees and disclosure requirements |

E. Insurance contracts ... *Ref: 41-1328, 41-1807, 41-1812, 41-1828*

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|--|----------------------|
| 1. Filing and approval of policy forms | 3. Power to contract |
| 2. Payment of claims                   |                      |

F. Marketing practices ... *Ref: 41-117, 41-258, 41-290, 41-293, 41-1016, 41-1303 to 41-1306, 41-1308 to 41-1315, 41-1328, 41-1329, 41-1839, 41-1327, 41-3611, 41-1329A, Bulletin 03-08*

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|----------------------------------|------------------------------------|
| 1. Unfair claims practices       | f. Misrepresentation               |
| 2. Unfair methods of competition | g. Defamation                      |
| a. Rebating                      | h. False advertising               |
| b. Fraud                         | i. False financial statements      |
| c. Twisting                      | j. Boycott, coercion, intimidation |
| d. Coercion of borrower          | 3. Penalties                       |
| e. Unfair discrimination         |                                    |

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

*Ref: 41-1329, 41-1806, 41-1811, 41-1814, 41-1815, 41-1817, 41-1828, 41-1831, 41-1841 to 41-1843, 41-2401, 41-2506 to 41-2510, IDAPA 18.01.20*

- A. Renewal, nonrenewal, cancellation
- B. Commercial, homeowners, personal auto, and casualty policies
- C. Unfair Claims Practices

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

*Ref: 41-258, 41-1842, 41-2401*

- A. Claims methods and practices
  - B. Standard fire policy
  - C. Marine/inland marine
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## Statutes, Bulletins and IDAPAs for the Idaho Knowledge Portion of the Exam

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### 41-110. "AUTHORIZED," "UNAUTHORIZED" INSURER DEFINED.

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

- (1) A "certificate of authority" is one issued by the director evidencing the authority of an insurer to transact insurance in this state.
  - (2) A "license" is authority granted by the director pursuant to this code authorizing the licensee to engage in a business or operation of insurance in this state other than as an insurer, and the certificate by which such authority is evidenced.
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### 41-117. GENERAL PENALTY.

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

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### 41-117A. PENALTY FOR 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.

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

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

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

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

- (1) The director shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code.
  - (2) The director shall have the powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code. (3) The director may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.
  - (4) For any document required to be filed with the director or the department of insurance under the laws of this state, the director may specify the place and manner of filing of the document, including whether an electronic or paper filing is required or acceptable.
  - (5) The director shall have such additional powers and duties as may be provided by other laws of this state.
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### 41-211. RULES.

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

- (1) Orders and notices of the director shall be effective only when in writing signed by him or by his authority.
- (2) Every such order shall state its effective date, and shall concisely state:
  - (a) Its intent or purpose.
  - (b) The grounds on which based.

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

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

- (1) For the purpose of determining its financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations, and compliance with the law, the director shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer, including the attorney in fact of a reciprocal insurer in so far as insurer transactions are concerned, as often as he deems advisable. The director or any of the director's examiners may conduct an examination, in accordance with the provisions of this section, of any company as often as the director in his sole discretion deems appropriate but shall, at a minimum, conduct an examination of every insurer licensed in this state not less frequently than once every five (5) years. In scheduling and determining the nature, scope and frequency of the examinations, the director shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiners' handbook adopted by the national association of insurance commissioners and in effect when the director exercises discretion under the provisions of this section.
- (2) Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States except as otherwise required by the director.
- (3) The director shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.
- (4) In lieu of an examination under the provisions of this section, of any foreign or alien insurer licensed in this state, the director may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port of entry until January 1, 1994.
- Thereafter, such reports may only be accepted if the insurance department was at the time of the examination accredited under the national association of insurance commissioners' financial regulation standards and accreditation program or, the examination is performed under the supervision of an accredited insurance department or with participation of one (1) or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.
- (5) The term "company" as used in this section shall mean any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory or taxing authority of the director.
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**41-220. EXAMINATION OF AGENTS, BROKERS, CONSULTANTS, MANAGERS, ADJUSTERS, PROMOTERS.**

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

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

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

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

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

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

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**41-247. INQUIRY POWERS OF DIRECTOR.**

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

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**41-258.**

Every fire insurance company must report to the fire marshal, within 7 days of a settlement of \$1,000 or more or death or personal injury. The report needs state the date of fire, the amount of property loss/personal injury, type of stuff destroyed/ damaged, and cause of the fire. The report is in addition to any other report they have to file.

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

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

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**41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT.**

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

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

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**41-401. FEES -LICENSES -MISCELLANEOUS CHARGES.**

- (1) The director shall collect, and persons so served shall pay to the director fees, licenses, and miscellaneous charges as provided for from time to time by rule promulgated by the director. The director may adjust fees, licenses and miscellaneous charges as necessary to allow the department to meet the appropriation as provided for by law.
- (2) Any rule setting fees, licenses and miscellaneous charges shall adhere to the Idaho administrative procedure act except that the effective date of such rule shall be July 1 of the calendar year of enactment or change. If the appropriation is not known or set by April 1, the director shall be authorized to use emergency rulemaking procedures to maintain an effective date of July 1.
- (3) Insurance Administrative Account:
  - (a) There is hereby created an account in the dedicated fund in the state treasury, to be designated the "Insurance Administrative Account" to provide for the expenses of the department of insurance as provided for by law.
  - (b) The insurance administrative account shall be effective December 31, 1984, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:
    1. All moneys appropriated by the legislature.
    2. All fees, licenses and miscellaneous charges collected pursuant to this section.
  - (c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereafter provided by law.
  - (d) Pending use for purposes of the provisions of the laws of this state, moneys in the insurance administrative account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury.
  - (e) At the beginning of each fiscal year, those moneys in the insurance administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account. The balance in this account shall not be considered excessive until such a transfer is required pursuant to the provisions of this subsection.

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

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

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

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

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
  - (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
  - (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
  - (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
  - (10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
  - (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
  - (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
  - (13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or
  - (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.
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#### **41-1806. Insurable interest — Property.**

- (1) No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.
  - (2) "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.
  - (3) The measure of an insurable interest in property is the extent to which the insured might be directly damaged by loss, injury, or impairment thereof.
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#### **41-1811. Representations in applications.**

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

- (a) Fraudulent; or
  - (b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or
  - (c) The insurer in good faith would either not have issued the policy or contract, or would not have issued it at the same premium rate, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.
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#### **41-1814. Standard provisions in general.**

- (1) Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this code pertaining to contracts of particular kinds of insurance. The director may waive the required use of a particular provision in a particular insurance policy form if:
    - (a) He finds such provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy, and
    - (b) The policy is otherwise approved by him.
  - (2) No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the director may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.
  - (3) In lieu of the provisions required by this code for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the director.
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#### **41-1815. Contents of policies in general.**

- (1) Every policy shall specify:
    - (a) The names of the parties to the contract.
    - (b) The subject of the insurance.
    - (c) The risks insured against.
    - (d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.
    - (e) The premium.
    - (f) The conditions pertaining to the insurance.
  - (2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.
  - (3) Subsections (1) and (2) above shall not apply as to surety contracts, or to group insurance policies.
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**41-1817. Additional policy contents.**

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

- (1) Required to be inserted by the laws of the insurer's domicile;
  - (2) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract, or
  - (3) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein.
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**41-1828. PAYMENT DISCHARGES INSURER -PAYMENT TO MARITAL COMMUNITY.**

- (1) Whenever the proceeds of or payments under a life or disability insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.
  - (2) Where the person designated in the policy or contract or by assignment as being entitled thereto is a member of a marital community, whether husband or wife, and the policy or contract is upon the life or disability of either, he or she may receive payment, and shall be and is constituted agent of the marital community with authority to give full acquittance therefor; and such payment to the marital community agent so designated shall fully discharge the insurer from all claims under the policy or contract, but no rights of either member of the marital community, as between themselves, to accounting or division shall be impaired or affected by such payment.
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**41-1831. Forms for proof of loss to be furnished.**

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

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

- (1) Any insurer intending to implement block cancellations or block nonrenewals of insurance policies shall provide the director written notice of such intentions no later than one hundred twenty (120) days prior to such intended action. Such notice shall fully set forth reasons for such action and shall include additional information that the director may deem appropriate. Failure by any insurer to comply with the requirements of this section shall constitute a violation of the provisions of this section and shall render any policy cancellations or nonrenewals by the insurer null and void and without effect. The failure of any insurer to comply with the requirements of this section shall not affect the contract rights of insureds.
  - (2) At the end of sixty (60) days the intended insurer action shall be deemed approved unless prior thereto it has been affirmatively approved by order of the director.
  - (3) Block cancellations or block nonrenewals for the provisions of this section and the enforcement of this code, shall be defined to include any of the following: cancellation or nonrenewal of any class, line, type or subject of insurance, or the withdrawal from the business of insurance in Idaho.
  - (4) The requirements of this section are not a waiver or limitation of the provisions of this code, or other laws of this state, but are additional requirements.
  - (5) The director may issue reasonable regulations to establish requirements for reporting required herein.
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**41-1842. Commercial insurance — Cancellation — Nonrenewal.**

- (1) Applicability. The provisions of this section apply only to:

- (a) Commercial property insurance policies;
- (b) Commercial liability insurance policies other than aviation and employer's liability insurance policies;
- (c) Commercial multiperil insurance policies.

The provisions of this section do not apply to: block cancellations or block nonrenewals as provided in section [41-1841](#), Idaho Code, reinsurance, excess and surplus lines insurance, residual market risks, worker's compensation insurance, multistate location risks, policies subject to retrospective rating plans, excess or umbrella policies and such other policies that are exempted by the director of the department of insurance.

- (2) Definitions. For the purposes of this section:

- (a) "Cancellation" means termination of a policy at a date other than its expiration date.
  - (b) "Expiration date" means the date upon which coverage under a policy ends. It also means, for a policy written for a term longer than one (1) year or with no fixed expiration date, each annual anniversary date of such policy.
  - (c) "Nonpayment of premium" means the failure or inability of the named insured to discharge any obligation in connection with the payment of premiums on a policy of insurance subject to this section, whether such payments are payable directly to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit.
  - (d) "Nonrenewal" or "not to renew" means termination of a policy at its expiration date.
  - (e) "Renewal" or "to renew" means the issuance, or the offer so to issue, by an insurer of a policy succeeding a policy previously issued and delivered by the same insurer or an insurer within the same group of insurers, or the issuance of a certificate or notice extending the term of an existing policy for a specified period beyond its expiration date.

(3) Notice of cancellation.

- (a) Permissible cancellations. If coverage under a policy has not been in effect for sixty (60) days and the policy is not a renewal, cancellation of such policy shall be effected by mailing or delivering a written notice to the first-named insured at the last known mailing address shown on the policy at least thirty (30) days before the effective date of the cancellation, provided however, if such cancellation is for the reason stated in subsection (3)(a)(i) of this section, the time such cancellation may be effective following notice shall be as provided in subsection (3)(b)(i) of this section. A cancellation requested by the insured shall be effective on the later of the date requested by the insured or the date it is received by the insurer. After coverage has been in effect for more than sixty (60) days or after the effective date of a renewal policy, whichever is earlier, no insurer shall cancel a policy unless the cancellation is based on at least one (1) of the following reasons:
- (i) Nonpayment of premium.
  - (ii) Fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy.
  - (iii) Activities or omissions on the part of the named insured which increase any hazard insured against, including a failure to comply with loss control recommendations.
  - (iv) Change in the risk which materially increases the risk of loss after insurance coverage has been issued or renewed including, but not limited to, an increase in exposure to regulation, legislation or court decision.
  - (v) Loss or decrease of the insurer's reinsurance covering all or part of the risk or exposure by the policy.
  - (vi) Determination by the director that the continuation of the policy would jeopardize an insurer's solvency or would place the insurer in violation of the insurance laws of this state or any other state.
  - (vii) Violation or breach by the insured of any policy terms or conditions other than nonpayment of premium.

(b) Notification of cancellation.

- (i) A notice of cancellation of insurance coverage by an insurer shall be in writing and shall be mailed or delivered to the first-named insured at the last known mailing address as shown on the policy. Notices of cancellation based on subsections (3)(a)(ii) through (a)(vii) of this section shall be mailed or delivered at least thirty (30) days prior to the effective date of the cancellation. Notices of cancellation for the reason stated in subsection (3)(a)(i) of this section without regard to when such cancellation shall be effected shall be mailed or delivered at least ten (10) days prior to the effective date of cancellation. If delivered via United States mail, the ten (10) day notification period shall begin to run five (5) days following the date of postmark. The notice shall state the effective date of the cancellation.
- (ii) The insurer shall provide the first-named insured with a written statement setting forth the reason(s) for the cancellation if:
  - (1) the insured requests such a statement in writing; and
  - (2) the named insured agrees in writing to hold the insurer harmless from liability for any communication giving notice of or specifying the reasons for a cancellation or for any statement made in connection with an attempt to discover or verify the existence of conditions which would be a reason for a cancellation under this section.

(4) Notice of nonrenewal.

- (a) An insurer may decline to renew a policy if the insurer delivers or mails to the first-named insured, at the last known mailing address, written notice that the insurer will not renew the policy. Such notice shall be mailed or delivered at least forty-five (45) days before the expiration date. If the notice is mailed less than forty-five (45) days before expiration, coverage shall remain in effect until forty-five (45) days after notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date shall be considered pro rata based upon the previous year's rate. For purposes of this section, the transfer of a policyholder between companies within the same insurance group is not a nonrenewal or a refusal to renew. In addition, changes in deductibles, changes in premium, and changes in the amount of insurance or reductions in policy limits or coverage shall not be deemed to be nonrenewals or refusals to renew. Notice of nonrenewal is not required if:
- (i) The insurer or a company within the same insurance group has offered to issue a renewal policy; or
  - (ii) Where the named insured has obtained replacement coverage or has agreed in writing to obtain replacement coverage.
- (b) If an insurer provides the notice described in subsection (4) of this section and thereafter the insurer extends the policy for ninety (90) days or less, an additional notice of nonrenewal is not required with respect to the extension.

(5) Notice of premium or coverage changes. An insurer shall mail or deliver to the named insured, at the last known mailing address, written notice of a total premium increase greater than ten percent (10%) which is the result of a comparable increase in premium rates, changes in deductibles, reductions in limits, or reductions in coverages at least thirty (30) days prior to the expiration date of the policy. If the insurer fails to provide such thirty (30) day notice, the coverage provided to the named insured shall remain in effect until thirty (30) days after such notice is given or until the effective date of replacement coverage obtained by the named insured, whichever first occurs. For the purposes of this section, notice is considered given thirty (30) days following date of mailing or delivery of the notice to the named insured. If the insured elects not to renew, any earned premium for the period of extension of the terminated policy shall be calculated pro rata at the lower of the current or previous year's rate. If the insured accepts the renewal, the premium increase, if any, and other changes shall be effective on and after the first day of the renewal term.

(6) Proof of notice. Proof of mailing of notice of cancellation, or of nonrenewal or of premium or coverage changes, to the named insured at the last known mailing address showing on the policy, shall be sufficient proof of notice.

(7) Application, effective date and termination. The provisions of this section shall apply only to policies with coverage effective dates after the effective date of this section.

(8) Rules. The director may promulgate rules to implement the provisions of this section. Every rule promulgated within the authority conferred by this act shall be of temporary effect and shall become permanent only by enactment by statute at the regular session of

the legislature first following adoption of the rule. Rules not approved in the above manner shall be rejected, null, void and of no force and effect on July 1, following submission of the rules to the legislature.

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

- (1) No insurer regulated pursuant to this title shall charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a property or casualty policy or coverage based primarily upon an individual's credit rating or credit history.
  - (2) As used in this section, "based primarily" means that the weight given by the insurer to an individual's credit rating or credit history exceeds the weight given by the insurer to all other criteria considered in making the decision to charge a higher premium or to cancel, nonrenew or decline to issue an insurance policy.
  - (3) This section shall apply only to property or casualty insurance, as defined in chapter 5, title 41, Idaho Code, to be used primarily for personal, family or household purposes.
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**41-2401. Standard fire policy.**

- (1) No fire insurer shall issue any fire insurance policy covering on property or interest therein in this state, other than on the form known as the New York standard as revised in 1943, except as follows:
  - (a) An insurer may print on or in its policy its name, location, date of incorporation, plan of operation, whether stock, mutual, reciprocal or organized under special charter provisions, and if mutual or reciprocal whether on cash premium or assessment plan; and if it be a stock company, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued by an agent, the words, "this policy shall not be valid until countersigned by the duly authorized agent of the company at ...."; and, if a mutual or reciprocal insurer, the policy must state the contingent liability, if any, of its policyholders, members, or subscribers for payment of losses and expenses not provided for by its cash funds.
  - (b) An insurer may print or use in its policies printed forms of description and specifications of the property insured.
  - (c) An insurer insuring against damage by lightning may print in the clause enumerating the perils insured against the additional words, "also any damage by lightning whether fire ensues or not," and in the clause providing for an apportionment of loss in case of other insurance the words, "whether by fire, lightning or both."
  - (d) A domestic insurer may print in its policies any provisions which it is authorized or required by the law to insert therein, and any foreign insurer may, with the approval of the director, so print any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state; but the director shall require any provision which, in his opinion modifies the contract of insurance in such a way as to affect the question of loss, to be appended to the policy by an endorsement or rider as hereinafter provided.
  - (e) The blanks in the standard form may be completed in print or in writing.
  - (f) An insurer may print upon policies issued in compliance with the preceding provisions of this section the words, "Idaho standard policy."
  - (g) An insurer may write upon the margin or across the face of the policy, or write or print in type not smaller than nonpareil upon a slip, slips, rider or riders to be attached thereto, provisions adding to or relating to those contained in the standard form; and all such slips, riders, endorsements and provisions must be signed by the officers or agents of the insurer so using them.
  - (h) If the policy be made by a mutual, reciprocal or other insurer having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance such regulations shall apply to and form a part of the policy as the same may be written or printed upon, attached or appended thereto.
  - (i) Every policy shall have legibly inscribed upon its face and filing back suitable words to designate whether the insurer making such insurance be a stock, mutual or reciprocal insurer, provided, that any insurer organized under special charter provisions may so indicate upon its policy and may add a statement of the plan under which it operates in this state.
  - (j) Every fire policy shall contain language that provides for a thirty (30) day written notice to the insured prior to cancellation of the policy, provided however, that where cancellation is for the nonpayment of premium, at least ten (10) days' notice of such cancellation, accompanied by the reason for the cancellation, shall be given. If delivered via United States mail, such ten (10) day notification period shall begin to run five (5) days following the date of postmark. Proof of mailing of notice of cancellation, or of intention not to renew, or of reasons for cancellation or nonrenewal to the named insured at his address shall be sufficient proof of notice.
  - (k) Every fire policy shall provide that it becomes effective at 12:01 a.m. of the standard time of the place where the property covered by the insurance is located, on the effective date of the policy.
- (2) An insurer issuing the standard fire policy is authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under the policy; but nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination.
- (3) The standard fire policy is not mandatory for vehicle insurance, or for marine insurance, or inland marine insurance as the same is defined pursuant to section 41-1401(2), Idaho Code, or for insurance on growing crops.
- (4) Any policy or contract otherwise subject to the provisions of subsection (1) hereof, which includes either on an unspecified basis as to the coverage or for a single premium coverage against the peril of fire and substantial coverage against other perils need not comply with the provisions of subsection (1) hereof, provided:
  - (a) Such policy or contract shall afford coverage, with respect to the peril of fire, not less than the coverage afforded by such standard fire policy,

- (b) The provisions in relation to mortgagee interests and obligations in such standard fire policy shall be incorporated therein without change,
  - (c) Such policy or contract is complete as to all of its terms without reference to the standard form of fire insurance policy or any other policy, and
  - (d) The director is satisfied that such policy or contract complies with the provisions hereof.
- (5) With respect to a commercial insurance policy, such standard fire insurance policy may exclude coverage for loss by fire or other perils insured against if the fire or other perils are caused directly or indirectly by terrorism. As used in this section, the term "terrorism" means a violent act or an act that:
- (a) Is dangerous to human life, property or infrastructure;
  - (b) Results in damage within the United States, or outside of the United States in the case of an air carrier or vessel or the premises of a United States mission; and
  - (c) Is committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States government by coercion.
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#### **41-2506. Cancellation of policies — Definitions.**

- (1) As used in sections 41-2506 through 41-2512, Idaho Code:
- (a) "Policy" means any one (1) or more of the following portions of an automobile insurance policy, delivered or issued for delivery in this state, insuring a natural person as named insured, or one (1) or more related individuals resident of the same household, and under which the insured vehicles therein designated are motor vehicles of the private passenger or station wagon type (not used for public or livery conveyance of passengers, or rented to others) or any other four-wheel motor vehicles with a load capacity of fifteen thousand (15,000) pounds or less not used in the occupation, profession, or business of the insured and:
    - (i) Insuring against bodily injury and property damage liability;
    - (ii) Insuring against physical damage;
    - (iii) Insuring against risks commonly included under "comprehensive coverage";
    - (iv) Relating to medical payments;
    - (v) Providing uninsured motorist coverage.
  - (b) Policy does not mean automobile liability insurance:
    - (i) Issued under an assigned risk plan; or
    - (ii) Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.
  - (c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Any policy with a policy period or term of less than six (6) months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six (6) months.
  - (d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.
- (2) Sections 41-2506 through 41-2512, Idaho Code, shall not apply to any policy that has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.
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#### **41-2507. Cancellation of policies — Grounds.**

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

- (1) Nonpayment of premium; or
- (2) The policy was obtained through a material misrepresentation; or
- (3) Any insured violated any of the terms and conditions of the policy; or
- (4) The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations, or his losses covered under any automobile physical damage or comprehensive coverage, for the preceding thirty-six (36) months if called for in the application; or
- (5) As to renewal of the policy, if the insured at any time while the policy was in force failed to disclose fully to the insurer, upon request therefor, facts relative to accidents and losses incurred material to underwriting of the risk; or
- (6) Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or
- (7) The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:
  - (a) Has, within the thirty-six (36) months prior to the notice of cancellation or nonrenewal, had his driver's license under suspension or revocation; or
  - (b) Has a history of and is subject to epilepsy or heart attacks and such individual cannot produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; or
  - (c) Has an accident record, conviction record, either criminal or traffic, physical, mental or other condition which is such that his operation of an automobile might endanger the public safety; or
  - (d) Has, while the policy is in force, engaged in a prearranged competitive speed contest while operating or riding in an automobile insured under the policy; or

- (e) Has, within the thirty-six (36) months prior to the notice of cancellation or nonrenewal, been addicted to the use of narcotics or other drugs; or
  - (f) Uses alcoholic beverages to excess; or
  - (g) Has been convicted, or forfeited bail, during the thirty-six (36) months immediately preceding the notice of cancellation or nonrenewal; for
    - (i) Any felony; or
    - (ii) Criminal negligence resulting in death, homicide or assault arising out of the operation of a motor vehicle; or
    - (iii) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or
    - (iv) Leaving the scene of an accident without stopping to report; or
    - (v) Theft or unlawful taking of a motor vehicle; or
    - (vi) Making fraudulent statements in an application for a driver's license; or
  - (h) Has been convicted of, has had a judgment entered against, or forfeited bail for, three (3) or more violations within the thirty-six (36) months immediately preceding the notice of cancellation or nonrenewal of any law, ordinance or regulation of any state for which a violation point is assessed by the Idaho transportation department under the provisions of section 49-326, Idaho Code, whether or not the violations were repetitions of the same offense or different offenses; or
- (8) The insured automobile is:
- (a) So mechanically defective that its operation might endanger public safety; or
  - (b) Used in carrying passengers for hire or compensation, except that the use of an automobile for a carpool shall not be considered use of an automobile for hire or compensation; or
  - (c) Used in the business of transportation of flammables or explosives; or
  - (d) An authorized emergency vehicle; or
  - (e) Modified or changed in condition during the policy period so as to increase the risk substantially; or
  - (f) Subject to an inspection law and has not been inspected or, if inspected, has failed to qualify; or
- (9) As to the renewal of the policy only, the insured automobile is registered in a jurisdiction other than Idaho.
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**41-2508. Notice of cancellation or intention not to renew.**

- (1) No cancellation of a policy to which section 41-2506 of this act applies shall be effective unless notice thereof is mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation, except that where cancellation is for nonpayment of premium at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason or reasons accompany or are included in the notice, the notice shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than ten (10) days prior to the effective date of cancellation, the insurer will specify the reason or reasons for such cancellation.
  - (2) No insurer shall fail to renew a policy to which section 41-2506 of this act applies unless it shall mail or deliver to the named insured, at the address shown on the policy, at least thirty (30) days' advance notice of its intention not to renew. Unless the reason or reasons accompany or are included in the notice, the notice shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date or nonrenewal, the insurer will specify the reason or reasons for such nonrenewal. This subsection shall not apply in case of nonpayment of premium, or if the insurer has manifested its willingness to renew. Notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other policy procured by the insured, with respect to any automobile designated in both policies. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation or nonrenewal which existed before the effective date of the renewal.
  - (3) Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at his address last of record with the insurer, shall be sufficient proof of notice.
  - (4) When a policy is canceled, other than for nonpayment of premium, or in the event of failure to renew a policy to which subsection (2), above, applies, the insurer shall notify the named insured of any possible eligibility for insurance through an automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew, and shall state that such notice of availability of the automobile assigned risk plan is given pursuant to this section.
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**41-2509. Cancellations and nonrenewal — Exceptions to.**

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

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

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

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#### **41-5802. DEFINITIONS.**

As used in this chapter:

- (1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.
- (2) "Fingerprints" means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.
- (3) "Home state" means the District of Columbia or any state or territory of the United States in which the public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.
- (4) "Individual" means a natural person.
- (5) "Person" means an individual or a business entity.
- (6) "Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:
  - (a) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
  - (b) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
  - (c) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

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#### **41-5803. LICENSE REQUIRED.**

- (1) A person shall not act or hold himself out as a public adjuster in this state unless the person is licensed as a public adjuster in accordance with this chapter.
- (2) A person licensed as a public adjuster shall not misrepresent to a claimant that he or she is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

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#### **41-5804. EXCEPTIONS TO LICENSING.**

Notwithstanding section 41-5803, Idaho Code, a license as a public adjuster shall not be required of the following:

- (1) An attorney admitted to practice in this state, when acting in his or her professional capacity as an attorney;
- (2) A producer licensed in Idaho who acts only on behalf of his or her own insured and does not hold himself or herself out to the public as a public adjuster;
- (3) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
- (4) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster including, but not limited to, photographers, estimators, private investigators, engineers and handwriting experts;
- (5) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or
- (6) A person who settles subrogation claims between insurers.

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#### **41-5805. APPLICATION FOR LICENSE. [EFFECTIVE UPON A STATE'S PARTICIPATION IN NAIC'S CENTRAL REPOSITORY FOR CRIMINAL BACKGROUND INFORMATION]**

- (1) A person applying for a public adjuster license shall make application to the department on an application form prescribed by the department.
  - (2) The applicant shall declare under penalty of perjury and 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.
  - (3) In order to make a determination of license eligibility, the department is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the Idaho state police and the federal bureau of investigation (FBI) for state and national criminal history record checks; the department shall require a criminal history record check on each applicant in accordance with this chapter. The department shall require each applicant to submit a full set of fingerprints in order for the department to obtain and receive national criminal history records from the FBI criminal justice information services division.
    - (a) The department may contract for the collection, transmission and resubmission of fingerprints required under this section. If the department does so, the fee for collecting, transmitting and retaining fingerprints shall be payable directly to the contractor by the person. The department may agree to a reasonable fingerprinting fee to be charged by the contractor.
    - (b) The department is authorized to receive criminal history record information in lieu of the Idaho state police that submitted the fingerprints to the FBI.
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**41-5806. LICENSE QUALIFICATIONS.**

- (1) Before issuing a public adjuster license to an applicant under this section, the department shall find that the applicant:
  - (a) Is at least eighteen (18) years of age;
  - (b) Is eligible to designate this state as his or her home state or is a nonresident who is eligible for a license under section 41-5809, Idaho Code;
  - (c) Has successfully passed the public adjuster examination;
  - (d) Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in section 41-5811, Idaho Code;
  - (e) Is trustworthy, reliable, and of good reputation, evidence of which may be determined by the department;
  - (f) Is financially responsible to exercise the license and has provided proof of financial responsibility as required in section 41-5812, Idaho Code;
  - (g) Has paid the fees set forth by rule adopted pursuant to section 41-401, Idaho Code; and
  - (h) Maintains an office in the home state of residence with public access by reasonable appointment and/or regular business hours. This includes a designated office within a home state of residence.
- (2) In addition to satisfying the requirements of subsection (1), when applicable, a business entity shall:
  - (a) Designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws and rules of this state;
  - (b) Designate only licensed individual public adjusters to exercise the business entity's license; and
  - (c) The department may require any documents reasonably necessary to verify the information contained in the application.

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**41-5807. EXAMINATION.**

- (1) An individual applying for a public adjuster license under this chapter shall pass a written examination unless exempt pursuant to section 41-5808, Idaho Code. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the department.
- (2) The department may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth by rule of the department.
- (3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the department in an amount set by rule of the department adopted pursuant to section 41-401, Idaho Code.
- (4) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

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**41-5808. EXEMPTIONS FROM EXAMINATION.**

- (1) An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any prelicensing examination. This exemption is only available if the person is currently licensed in that state or if the person applies for a license in this state within ninety (90) days of cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the national association of insurance commissioners (NAIC), its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed and in good standing.
- (2) A person licensed as a public adjuster in another state based on a public adjuster examination who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to section 41-5805, Idaho Code. No prelicensing examination shall be required of that person to obtain a public adjuster license.
- (3) An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in this state shall not be required to complete any prelicensing examination. This exemption is only available if the application is received within twelve (12) months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.
- (4) A licensed individual who moves and establishes residency in this state must apply for a resident license within ninety (90) days of establishing residency here and must relinquish his or her resident license in the former home state.

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**41-5809. NONRESIDENT LICENSE RECIPROCITY.**

- (1) Unless denied licensure pursuant to sections 41-5810 or 41-5811, Idaho Code, a nonresident person shall receive a nonresident public adjuster license if:
  - (a) The person is currently licensed as a resident public adjuster and in good standing in his or her home state;
  - (b) The person has submitted the proper request for licensure, has paid the fees required by rule of the department adopted pursuant to section 41-5806(1)(g), Idaho Code, and has provided proof of financial responsibility as required in section 41-5812, Idaho Code;
  - (c) The person has submitted or transmitted to the department the appropriate completed application for licensure; and
  - (d) The person's home state awards nonresident public adjuster licenses to residents of this state on the same basis.
- (2) The department may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

- (3) As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in his or her home state. The nonresident public adjuster license issued under this section shall terminate and be surrendered immediately to the department if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his or her new home state. Notification to the state or states where a nonresident license is issued must be made as soon as possible, within thirty (30) days of the change in new state resident license. The licensee shall include new and old addresses. A new state resident license is required for nonresident licenses to remain valid. The new state resident license must have reciprocity with the licensing nonresident state(s) for the nonresident license not to terminate.
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#### **41-5810. LICENSE.**

- (1) Unless denied licensure under this chapter, persons who have met the requirements of this chapter shall be issued a public adjuster license.
- (2) A public adjuster license shall remain in effect unless revoked, terminated or suspended as long as the request for renewal and the fee set forth in the rule promulgated under section 41-5806(1)(g), Idaho Code, is paid and any other requirements for license renewal are met by the due date.
- (3) The licensee shall inform the department by any means acceptable to the department of a change of address, change of legal name, or change of information submitted on the application within thirty (30) days of the change.
- (4) A public adjuster who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal, reinstate his or her public adjuster license upon the department's receipt of the request for renewal, payment of a penalty in the amount of double the unpaid renewal fee and certification that all continuing education requirements have been met. The new public adjuster license shall be effective the date the department receives all of the above stated items required for reinstatement.
- (5) A licensed public adjuster who is unable to comply with license renewal procedures due to military service, a long-term medical disability or some other extenuating circumstance, may request a waiver of those procedures. The public adjuster may also request a waiver of any examination requirement, fine or other sanction imposed for failure to comply with renewal procedures.
- (6) The license shall contain the licensee's name, city and state of business address, license number, the date of issuance, the expiration date and any other information the department deems necessary.
- (7) In order to assist in the performance of the department's duties, the department may contract with nongovernmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees and data, related to licensing that the department may deem appropriate.
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#### **41-5811. LICENSE DENIAL, NONRENEWAL OR REVOCATION.**

- (1) The department may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license or may levy a civil penalty in accordance with section 41-1016, Idaho Code, or any combination of actions, for any one (1) or more of the following causes:
- (a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
  - (b) Violating any insurance laws, or violating any rule, regulation, subpoena or order of the department or of another state's insurance department;
  - (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) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
  - (f) Having been convicted of 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) Having admitted to or been found to have committed any insurance unfair trade practice or insurance fraud;
  - (h) Using fraudulent, coercive or dishonest practices; or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
  - (i) Having an insurance license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
  - (j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
  - (k) Cheating, including 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 but who is required to be licensed by the department;
  - (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; or
  - (n) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.
- (2) The license of a business entity may be suspended, revoked or refused if the department finds, after hearing, that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the department nor corrective action taken.
- (3) 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 according to section 41-1016, Idaho Code.
- (4) The department shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and title 41, Idaho Code, against any person who is under investigation for or charged with a violation of this chapter or title 41, Idaho Code, even if the person's license or registration has been surrendered or has lapsed by operation of law.
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**41-5812. BOND OR LETTER OF CREDIT.**

Prior to issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the department through a security bond or irrevocable letter of credit.

- (1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:
    - (a) Shall be in the minimum amount of twenty thousand dollars (\$20,000);
    - (b) Shall be in favor of this state and shall specifically authorize recovery by the department on behalf of any person in this state who sustained damages as the result of erroneous acts, a failure to act, conviction of fraud, or conviction of unfair practices in his or her capacity as a public adjuster; and
    - (c) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the department and given to the licensee.
  - (2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:
    - (a) Shall be in the minimum amount of twenty thousand dollars (\$20,000);
    - (b) Shall be to an account within the department and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, a failure to act, fraudulent acts, or unfair practices in his or her capacity as a public adjuster; and
    - (c) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the department and given to the licensee.
  - (3) The issuer of the evidence of financial responsibility shall notify the department upon termination of the bond or letter of credit, unless otherwise directed by the department.
  - (4) The department may ask for the evidence of financial responsibility at any time deemed relevant.
  - (5) The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.
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**41-5813. CONTINUING EDUCATION.**

- (1) An individual, who holds a public adjuster license and who is not exempt under subsection (2) of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, including three (3) hours of law or ethics, reported on a biennial basis in conjunction with the license renewal cycle.
  - (2) This section shall not apply to:
    - (a) Licensees not licensed for one (1) full year prior to the end of the applicable continuing education biennium; or
    - (b) Licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.
  - (3) Only continuing education courses approved by the department shall be used to satisfy the continuing education requirement of subsection (1) of this section.
  - (4) Failure of the licensee to comply with the applicable education requirement 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-one (31) 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 from the licensing period in which the license was terminated. After the license has been expired for one (1) year or more, the individual must reapply and retest as a new applicant.
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**41-5814. PUBLIC ADJUSTER FEES.**

- (1) A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling claims in this state if that person is required to be licensed under this chapter and is not so licensed.
  - (2) A person shall not accept a commission, service fee or other valuable consideration for investigating or settling claims in this state if that person is required to be licensed under this chapter and is not so licensed.
  - (3) A public adjuster may pay or assign commission, service fees or other valuable consideration to persons who do not investigate or settle claims in this state, unless the payment would violate section 41-1314, Idaho Code.
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**41-5815. CONTRACT BETWEEN PUBLIC ADJUSTER AND INSURED.**

- (1) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:
  - (a) Legible full name of the adjuster signing the contract, as specified in department records;
  - (b) Permanent home state business address and phone number;
  - (c) Department license number;
  - (d) Title of "public adjuster contract";
  - (e) Insured's full name, street address, insurance company name and policy number, if known, or upon notification;
  - (f) Description of the loss and its location, if applicable;
  - (g) Description of services to be provided to the insured;

- (h) Signatures of the public adjuster and the insured;
  - (i) Date contract was signed by the public adjuster and date the contract was signed by the insured;
  - (j) Attestation language stating that the public adjuster is fully bonded pursuant to state law; and
  - (k) Full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services.
- (2) The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.
- (a) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.
  - (b) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.
- (3) If the insurer, not later than seventy-two (72) hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:
- (a) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
  - (b) Inform the insured that the loss recovery amount might not be increased by insurer; and
  - (c) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.
- (4) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party that is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured including, but not limited to, any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word "firm" shall include any person.
- (5) A public adjuster contract may not contain any contract term that:
- (a) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as a percentage of each check issued by an insurance company;
  - (b) Requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;
  - (c) Imposes collection costs or late fees; or
  - (d) Precludes a public adjuster from pursuing civil remedies.
- (6) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:
- (a) Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are three (3) types of adjusters that could be involved in that process. The definitions of the three types are as follows:
    - (i) "Company adjuster" means the insurance adjusters are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. They will not charge you a fee.
    - (ii) "Independent adjuster" means the insurance adjusters are hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.
    - (iii) "Public adjuster" means the insurance adjusters do not work for any insurance company. They work for the insured to assist in the preparation, presentation and settlement of the claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement or other method of compensation.
  - (b) The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to do so.
  - (c) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim.
  - (d) The public adjuster is not a representative or employee of the insurer.
  - (e) The salary, fee, commission or other consideration is the obligation of the insured, not the insurer.
- (7) The contract shall be executed in duplicate to provide an original contract to the public adjuster, and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the department.
- (8) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.
- (9) The public adjuster shall give the insured written notice of the insured's rights as provided in this section.
- (10) The insured has the right to rescind the contract within three (3) business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three (3) business day period.
- (11) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within twenty-eight (28) days following the receipt by the public adjuster of the cancellation notice.

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#### **41-5816. ESCROW OR TRUST ACCOUNTS.**

A public adjuster who receives, accepts or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a noninterest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

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**41-5817. RECORD RETENTION.**

- (1) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:
  - (a) Name of the insured;
  - (b) Date, location and amount of the loss;
  - (c) Copy of the contract between the public adjuster and insured;
  - (d) Name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
  - (e) Itemized statement of the insured's recoveries;
  - (f) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
  - (g) A register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;
  - (h) Name of public adjuster who executed the contract;
  - (i) Name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and
  - (j) Evidence of financial responsibility in a format prescribed by the department.
- (2) Records shall be maintained for at least five (5) years after the termination of the transaction with an insured and shall be open to examination by the department at all times.
- (3) Records submitted to the department in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the department pursuant to section 74-107, Idaho Code.

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**41-5818. STANDARDS OF CONDUCT OF PUBLIC ADJUSTER.**

- (1) A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty the interest of his or her client alone; and to render to the insured such information, counsel and service, as within the knowledge, understanding and opinion in good faith of the licensee, as will best serve the insured's insurance claim needs and interests.
- (2) A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.
- (3) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter.
- (4) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in section 41-5815(6), Idaho Code.
- (5) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in section 41-5815(4), Idaho Code.
- (6) The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any person.
- (7) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing, including the source and amount of any such compensation.
- (8) Public adjusters shall adhere to the following general ethical requirements:
  - (a) A public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;
  - (b) A public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;
  - (c) No public adjuster, while so licensed by the department, may represent or act as a company adjuster or as an independent adjuster on the same claim;
  - (d) The contract shall not be construed to prevent an insured from pursuing any civil remedy after the three (3) business day revocation or cancellation period;
  - (e) A public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and
  - (f) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.
- (9) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

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**41-5819. REPORTING OF ACTIONS.**

- (1) The public adjuster shall report to the department any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

- (2) Within thirty (30) days of the initial pretrial hearing date, the public adjuster shall report to the department any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.
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### **18.01.02 – Schedule of Fees, Licenses, and Miscellaneous Charges**

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

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

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

##### **SCOPE.**

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

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

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

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

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

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

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

a. The annual continuation fee is due on March 1st each year and is payment of the insurer's fees due through the following February.

b. The annual continuation fee is charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid will cover the insurer's fees through the following February.

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

a. If insurer's policy holders' surplus at the preceding December 31 is less than ten million dollars (\$10,000,000) - One thousand dollars (\$1,000).

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

c. If insurer's policy holders' surplus at the preceding December 31 is one hundred million (\$100,000,000) or greater - Four thousand five hundred dollars (\$4,500).

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

a. Five hundred dollars (\$500):

i. All reinsurers, listed pursuant to Section 41-515, Idaho Code.

ii. Authorized surplus line insurers.

iii. County mutual insurers.

iv. Fraternal benefit societies.

v. Hospital and/or professional service corporations.

vi. Self-funded health care plans.

vii. Domestic Risk retention groups.

viii. Petroleum clean water trusts.

ix. Rating organizations.

x. Advisory organizations.

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

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

a. Certificate of authority renewal, license renewal, and annual registration.

b. Arson, fire and fraud investigation costs.

c. Annual statement filing.

d. Agent appointment and renewal of appointment.

e. Filings under Title 41, Chapter 38, Idaho Code, Acquisitions of Control and Insurance Holding Company Systems.

f. Filing of amendments to Articles of Incorporation.

g. Filing of amendments to Bylaws.

h. Amendments to Certificate of Authority.

i. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code.

j. Quarterly statement filing.

k. Examination expenses.

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

a. Fees for application for producer license.

b. Costs incurred by the Department for investigation of an applicant for producer license.

c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code.

d. Costs incurred for experts and consultants when allowed by Idaho Code.

e. Penalties or fines levied by or payable to the Department of Insurance.

f. All fees set forth under Section 040.

06. Failure to Pay Fee. Failure to pay the annual continuation fee on or before March 1st each year will result in the expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code.

07. Reinstatement Fee. The reinstatement fee referenced in Section 41-324(3), Idaho Code, is the amount referenced above for the insurer or entity continuation fee.

21. -- 029. (RESERVED)

30. PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and need to be paid with the filing 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. Resignation as managing general agent (annual) -- eighty dollars (\$80).
- c. Administrators (biennial) -- eighty dollars (\$80).
  - i. Renewal form is filed on or before December 31.
  - ii. Any renewal form postmarked after December 31 includes a penalty in an amount equal to the renewal fee.
  - iii. A renewal form postmarked after January 31 needs to be submitted as a new application with supporting documents and the full application fee.
- d. Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically.
- e. Life settlement providers (biennial) -- three hundred dollars (\$300).
- f. Life settlement brokers (biennial) -- eighty dollars (\$80).
- g. Independent review organization (biennial) -- three hundred dollars (\$300).

31. -- 039. (RESERVED)

40. MISCELLANEOUS FEES.

01. Certified Copy. Certified copy of certificate of authority, license or registration - Fifty dollars (\$50).

02. Certificate Under Seal. Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars (\$20).

03. Documents Filed. For each copy of a document filed in the DOI, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -- Twenty dollars (\$20) for each rate or form filed in excess of ten (10) per calendar year.

04. Insurer Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -- Thirty dollars (\$30).

05. Agent Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident producer or other person for which the director is authorized to serve as statutory agent for service of process -- Thirty dollars (\$30).

06. Continuing Education. Filing continuing education applications for approval and certification of subjects of courses (each application) -- Twenty-five dollars (\$25).

41.-- 049. (RESERVED)

50. REFUNDS.

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

51. OVERPAYMENTS.

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

52.-- 999. (RESERVED)

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