

SURETY

General Outline: Product Knowledge, Terms, and Concepts (35 total questions)

A. INSURANCE TERMS AND RELATED CONCEPTS

1. Insurance
2. Insurable interest
3. Risk
4. Hazard
5. Peril
6. Loss
7. Direct
8. Indirect
9. Proximate cause
10. Deductible
11. Indemnity
12. Actual cash value
13. Replacement cost
14. Limits of liability
15. Extensions of coverage
16. Additional coverages
17. Accident
18. Occurrence
19. Cancellation
20. Nonrenewal
21. Liability
22. Negligence

B. POLICY PROVISIONS AND CONTRACT LAW

1. Insuring agreement
2. Conditions
3. Exclusions
4. Definition of the insured
5. Duties of the insured
6. Obligations of the insurance company
7. Proof of loss
8. Notice of claim
9. Assignment
10. Subrogation
11. Arbitration
12. Elements of a contract
13. Warranties, representations, and concealment
14. Binders
15. Sources of insurability information
16. Fair Credit Reporting Act

C. FIDELITY AND SURETY CONTRACTS

1. Definition of fidelity and surety
2. Parties of a contract
3. Obligation of the surety
4. Parties to the surety
5. Principal
6. Obligee
7. Surety
8. Underwriting considerations
9. Premiums and terms of obligations
10. Surety
11. Fidelity
12. Claims
13. Power of attorney

D. PURPOSE AND TYPE OF SURETY

1. Public official
2. Court
3. Judicial
4. Fiduciary
5. Miscellaneous
6. Contract

E. PURPOSE AND TYPE OF FIDELITY BONDS

1. Individual
2. Schedule
3. Blanket
4. Financial institutions

F. BAIL BONDS

1. Surety bail bond
2. Surety bond fee
3. Types of bail
4. Real property
5. Cash
6. Acceptable collateral
7. Appeal bonds
8. Appointing company's underwriting standard

SURETY

Idaho State Laws, Rules, and Regulations (35 questions total)

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

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

A. Responsibilities of the Director of the Department of Insurance (Ref: 41-203)

1. Appointment (Ref: 41-202)
2. General duties and powers (Ref: 41-211, 41-213, 41-247, 41-1016)
3. Examinations (Ref: 41-210, 41-219, 41-220)
4. Hearings/notice of hearings/orders (Ref: 41-212, 41-232, 41-235, 41-1321)
5. Penalties (Ref: 41-117, 41-117A, 41-1016)

B. Definitions

1. Domestic company (Ref: 41-106)
2. Foreign company (Ref: 41-106)
3. Alien company (Ref: 41-106)
4. Authorized and unauthorized companies/admitted and nonadmitted companies (Ref: 41-110)
5. Stock and mutual companies and reciprocals (Ref: 41-301, 41-302, 41-2902)
6. Certificate of authority (Ref: 41-111, 41-305, 41-306)
7. Transacting insurance (Ref: 41-112)

C. Licensing

1. Persons required to be licensed
2. Producer (Ref: 41-1003, 41-1004, 41-1008, 41-1018)
3. Limited lines producer license (Ref: 41-1003, 41-1003, 41-1009)
4. Resident/nonresident (Ref: 41-1003, 41-1009, 41-1010)
5. Temporary license (Ref: 41-1015)
6. Adjuster (Ref: 41-1102, 41-1103, 41-1106, 41-1107)
7. Surplus lines** (Ref: 41-1009, 41-1223)
8. Producer appointment/termination of appointment (Ref: 41-1011, 41-1018, 41-1019, 41-1103)

D. Obtaining a license

1. Qualifications (Ref: 41-1007, 41-1104)
2. License application (Ref: 41-1006, 41-1007, 41-1016)
3. Written examinations (Ref: 41-1006)
4. Exemptions/exceptions (Ref: 41-1005, 41-1007, 41-1012)
5. License denial/refusal (Ref: 41-1011, 41-1016)

E. Maintaining a license

1. Continuing education (Ref: 41-1013, IDAPA 18.06.04)
2. Change of address/place of business (Ref: 41-1008, 41-1009)
3. Fees/renewal (Ref: 41-1008, IDAPA 18.01.02)
4. Record keeping (Ref: 41-1036)
5. License expiration (Ref: 41-1013)
6. Suspension or revocation of licenses/felony convictions (Ref: 41-1016, 41-1026)

F. Producer responsibilities

1. Fiduciary capacity (Ref: 41-1024, 41-1323, 41-1325, 41-1803, IDAPA 18.01.10)
2. Commissions and compensation (Ref: 41-1017, 41-1323)
3. Reporting of actions (Ref: 41-1021)

G. Insurance contracts

1. Filing and approval of policy forms (Ref: 41-1812)
2. Payment of claims (Ref: 41-1328, 41-1828*)
3. Power to contract (Ref: 41-1807)

H. Marketing practices

1. Unfair claims practices (Ref: 41-258, 41-1328, 41-1329, 41-1839, 41-3611)

I. Unfair methods of competition

1. Rebating (Ref: 41-1314)
2. Misrepresentation (Ref: 41-1303)
3. False advertising (Ref: 41-1303, 41-1304)
4. Defamation (Ref: 41-1308)
5. False financial statements (Ref: 41-293, 41-1306)

6. Boycott, coercion, intimidation (Ref: 41-1309)
7. Unfair discrimination (Ref: 41-1313)
8. Coercion of borrower (Ref: 41-1310, 41-1311, 41-1312)
9. Fraud (Ref: 41-290, 41-293)
10. Penalties (Ref: 41-117, 41-1016, 41-1327, 41-1329A)

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

1. Insurance contracts (Ref: 41-1806, 41-1811, 41-1814, 41-1815, 41-1817, 41-1828, 41-1831, 41-1841-43, 41-2401, 41-2506, 41-2507, 41-2508, 41-2509, 41-2510, IDAPA 18.01.02)
2. Renewal, nonrenewal, cancellation
3. Countersignature requirements (Ref: 41-337, 41-338, 41-1023)
4. Rate filings (Ref: 41-1401, 41-1402, 41-1405)
5. Idaho Property and Casualty Guaranty Association act (Ref: 41-3603, 41-3606, 41-3607)
6. Surety (Ref: 41-507)

IDAHO SPECIFIC CONTENT OUTLINE: SURETY

State Laws, Rules, and Regulations

41-106. "DOMESTIC," "FOREIGN," "ALIEN" INSURER DEFINED.

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

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

- (1) An "authorized" insurer is one duly authorized by a subsisting certificate of authority issued by the director to transact insurance in this state.
- (2) An "unauthorized" insurer is one not so authorized.

41-111. "CERTIFICATE OF AUTHORITY," "LICENSE" DEFINED.

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

41-112. "TRANSACTING INSURANCE" DEFINED. "Transacting insurance" includes any of the following:

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

41-117. GENERAL PENALTY.

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

41-117A. PENALTY FOR TRANSACTING INSURANCE WITHOUT PROPER LICENSING.

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

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

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

41-203. TERMS CONSTRUED.

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

41-210. GENERAL POWERS, DUTIES.

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

41-211. RULES.

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

41-212. ORDERS, NOTICES.

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

41-213. ENFORCEMENT.

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

41-219. EXAMINATION OF INSURERS.

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

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

- (1) For the purpose of ascertaining compliance with law, and in addition to any right of examination otherwise provided, the director may as often as he deems advisable examine the accounts, records, documents, and transactions, pertaining to or affecting its insurance affairs or proposed insurance affairs, of: (1) any insurance agent, broker, solicitor, consultant, surplus line broker, general agent, or adjuster.
- (2) Any person(s) having a contract under which he enjoys in fact the exclusive or dominant right to manage or control an insurer.
- (3) Any person holding the shares of voting stock or policyholder proxies of a domestic insurer, for the purpose of controlling the management thereof, as voting trustee or otherwise.
- (4) Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself out in this state as so engaging or proposing, or in this state assisting in, the promotion or formation of an insurer or insurance holding corporation, or corporation to finance an insurer or the production of its business.

41-232. HEARINGS IN GENERAL.

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

41-235. NOTICE OF HEARING.

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

41-240. ORDER ON HEARING.

- (1) In the conduct of hearings under this code and making his order thereon, the director shall act in a quasi-judicial capacity.
- (2) Within thirty (30) days after termination of a hearing and completion of the transcript, if any, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this code as to particular proceedings, the director shall make his order on hearing and, subject to subsection (5) below, shall give a copy of the order to each person to whom notice of the hearing was given or required to be given and to any other person who became a party to the hearing by intervention.
- (3) The order shall contain a concise statement of the facts as found by the director, and of his conclusions therefrom, and the matters required by section 41-212 (orders, notices).
- (4) The order may confirm, modify, or nullify action taken under an existing order, or may constitute the taking of any new action coming within the scope of the notice of the hearing.
- (5) If notice of the hearing was given by publication as provided for in section 41-235 the director may publish the order on hearing once each week for four (4) consecutive weeks in the same newspapers in which such notice was published, the first such publication to be made on the date of the order. Publication of the order shall be in lieu of the giving of copies of the order as required under subsection (2) above. At time of first publication the director shall mail to every advisory organization which has filed with him pursuant to section 41-1425, a copy of the published order if the order would affect any interest of members of such advisory organization.

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.

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

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

41-290. FRAUDULENT CLAIMS.

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

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

41-293. INSURANCE FRAUD.

Insurance fraud includes:

- (1) (a) Any person who, with the intent to defraud or deceive an insurer for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer, producer, practitioner or other person, any statement as part of, or in support of, a claim for payment or other benefit, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim; or
 - (b) Any person who, with intent to defraud or deceive an insurer assists, abets, solicits, or conspires with another to prepare or make any statement that is intended to be presented to any insurer, producer, practitioner or other person, in connection with, or in support of, any claim for payment or other benefit, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim;
 - (c) Any person who, with intent to defraud or deceive, presents or causes to be presented to or by an insurer, a producer, practitioner or other person, a false or altered statement material to an insurance transaction;
 - (d) Any insurance producer or other person who, with intent to defraud or deceive, willfully takes premium money knowing that insurance coverage will not be effected;
 - (e) Any practitioner or other person who willfully submits a false or altered statement, with the intent of deceiving an insurer or other person in connection with an insurance transaction or claim;
 - (f) Anyone willfully making a false statement or material misrepresentation to an insurer, employer, practitioner or other person, with the intent to defraud or deceive an insurer or other person, to obtain or extend worker's compensation benefits;
 - (g) Anyone who offers or accepts a direct or indirect inducement to file or solicits another person to file a false statement, with intent to defraud or deceive an insurer;
 - (h) Any person who, with intent to defraud or deceive, transacts insurance of any kind or character, or transmits for a person other than himself an application for a policy of insurance, without proper licensing or after such license has been suspended or revoked;
 - (i) Any practitioner or any other person who, with intent to defraud or deceive, employs, uses or acts as a runner for the purpose of submitting a claim containing false, incomplete, or misleading information concerning any fact or thing material to such claim;
 - (j) Any employer or other person who, with intent to defraud or deceive, presents or causes to be presented to an insurer, producer or any other person or governmental agency any statement containing the number of employees, amount of payroll, job description or job title or any other statement material to worker's compensation insurance which contains false, misleading or incomplete information; or
 - (k) Any person who, with intent to defraud or deceive, obstructs the director in the conduct of any authorized examination.
- (2) A fact, statement or representation is "material" if it includes any of the following:
- (a) Any fact which, if communicated to the producer, insurer, adjuster or representative thereof, would induce him to either decline insurance altogether or not accept it unless a higher premium is paid by the insured;
 - (b) Any fact relating to a claim for insurance benefits which, if disclosed, would be a fair reason for rejecting a claim for insurance benefits;
 - (c) Any fact, the knowledge or ignorance of which would naturally influence the insurer in making or refusing the contract, in estimating the degree or character of the risk, or in fixing the rate of premium;
 - (d) Any fact, the knowledge or ignorance of which would naturally influence the insurer in accepting or rejecting a claim for insurance benefits or compensation, or in determining the amount of compensation or insurance benefits to be paid to the insured; or
 - (e) Any fact that necessarily has some bearing on the subject matter of the insurance coverage or claim for benefits under an insurance contract.
- (3) Any offense committed by use of a telephone, any means of electronic communication or mail as provided by this chapter may be deemed to have been committed at the place from which the telephone call or electronic communication was made, or mail was sent, or the offense may be deemed to have been committed at the place at which the telephone call, electronic communication or mail was received.
- (4) Any violator of this section is guilty of a felony and shall be subject to a term of imprisonment not to exceed fifteen (15) years, or a fine not to exceed fifteen thousand dollars (\$15,000), or both and shall be ordered to make restitution to the insurer or any other person for any financial loss sustained as a result of a violation of this section. Each instance of violation may be considered a separate offense.

41-301. "STOCK" INSURER DEFINED.

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

41-302. "MUTUAL" INSURER DEFINED.

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

41-305. CERTIFICATE OF AUTHORITY REQUIRED.

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

41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT.

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

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

41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT. (continued)

- (6) A foreign insurer licensed and authorized to sell individual or group accident and sickness insurance in another state as defined pursuant to section 41-306A, Idaho Code, and the insurer obtains a certificate of authority pursuant to that section.

41-507. "SURETY INSURANCE" DEFINED.

"Surety insurance" includes:

- (1) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.
- (2) Insurance or guaranty of the obligations of employers under workmen's compensation laws.
- (3) Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship.
- (4) Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including any loss while the same are being transported in armored motor vehicles, or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to such an insured's premises or to his furniture, furnishings, fixtures, equipment, safes, and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.

41-1003. DEFINITIONS.

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

41-1004. LICENSE REQUIRED.

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

41-1005. EXCEPTIONS TO LICENSING.

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

41-1005. EXCEPTIONS TO LICENSING. (continued)

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

41-1006. APPLICATION FOR EXAMINATION.

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

41-1007. APPLICATION FOR PRODUCER LICENSE.

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

41-1008. PRODUCER LICENSE.

- (1) Unless denied licensure pursuant to section 41-1016, Idaho Code, persons who have met the requirements of sections 41-1006 and 41-1007, Idaho Code, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one (1) or more of the following lines of authority:
 - (a) Life insurance coverage on human lives, including benefits of endowment and annuities, benefits in the event of death or dismemberment by accident, and benefits for disability income;
 - (b) Disability, including accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and benefits for disability income;
 - (c) Property insurance coverage for the direct or consequential loss or damage to property of every kind;
 - (d) Casualty insurance coverage against legal liability, including liability for death, injury or disability or damage to real or personal property;
 - (e) Variable life and variable annuity products, meaning insurance coverage provided under variable life insurance contracts and variable annuities;
 - (f) Personal lines, meaning property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
- (g) Any other line of insurance permitted under state laws or rules.

41-1008. PRODUCER LICENSE. (continued)

- (2) An insurance producer license shall remain in effect unless revoked or suspended as long as the renewal fee promulgated by the director pursuant to section 41-401, Idaho Code, is paid and the continuing education requirements for resident insurance producers are met in accordance with section 41-1013, Idaho Code.
- (3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without passing a written examination unless the licensee would otherwise be required to retest under section 41-1013(7), Idaho Code. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.
- (4) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request that the director waive those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.
- (5) The license shall contain the licensee's name, address, personal identification number, the date of issuance, the lines of authority, the expiration date and any other information the director deems necessary.
- (6) Licensees shall inform the director by any means acceptable to the director of a change of address within thirty (30) days of the change. A business entity licensed as a producer shall inform the director by any means acceptable to the director of any change in ownership, officers, directors or the designated licensed producer responsible for compliance pursuant to section 41-1007(2)(b), Idaho Code.
- (7) In order to assist in the performance of the director's duties, the director may contract with nongovernmental entities, including the national association of insurance commissioners or its affiliates or subsidiaries, to perform any ministerial functions related to producer licensing, including the collection of fees, that the director and the nongovernmental entity may deem appropriate.

41-1009. NONRESIDENT PRODUCER LICENSE.

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

41-1010. NONRESIDENT PRODUCERS — SERVICE OF PROCESS.

- (1) Each person applying to be a nonresident producer shall, on a form prescribed by the director, appoint the director as his agent for purposes of receiving service of legal process issued against the producer in this state upon causes of action arising within this state out of transactions under the license. Service upon the director as an agent shall constitute effective legal service upon the producer.
- (2) The appointment shall be irrevocable for as long as there could be any cause of action against the licensee arising out of his insurance transactions in or with respect to this state.
- (3) Duplicate copies of such legal process against the licensee shall be served upon the director by a person competent to serve a summons. At the time of service the plaintiff shall pay the director an appropriate fee to be determined by rule and not exceeding thirty dollars (\$30.00).
- (4) Upon receiving such service, the director shall send one (1) copy of the process by registered or certified mail with return receipt requested to the defendant licensee at his last address of record with the director.
- (5) The director shall keep a record of the day and hour of such service upon him. No proceedings shall be brought against the producer, and the producer shall not be required to appear, plead or answer until the expiration of thirty (30) days after the date of service upon the director.

41-1011. ISSUANCE — REFUSAL OF LICENSE.

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

41-1012. EXEMPTION FROM EXAMINATION.

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

41-1013. CONTINUATION — EXPIRATION OF LICENSES — CONTINUING EDUCATION STATEMENT.

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

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

- (1) The director may impose an administrative penalty not to exceed one thousand dollars (\$1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines brokers), if the director finds that as to the licensee or applicant any one (1) or more of the following causes or violations exist:
 - (a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
 - (b) Violating any provision of title 41, Idaho Code, department rule, subpoena or order of the director or of another state's insurance director;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
 - (e) Misrepresenting the terms of an actual or proposed insurance contract or application for insurance or misrepresenting any fact material to any insurance transaction or proposed transaction;
 - (f) Being convicted of or pleading guilty to a crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code, or that evidences dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;
 - (g) Admitting or being found to have committed any insurance unfair trade practice or fraud;
 - (h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;
 - (j) Forging another's name on an application for insurance or on any document related to an insurance transaction;
 - (k) Improperly using notes or any other reference material to complete an examination for an insurance license;
 - (l) Knowingly accepting insurance business from an individual who is not licensed;
 - (m) Failing to comply with an administrative or court order imposing a child support obligation, provided however, that nothing in this provision shall be deemed to abrogate or modify chapter 14, title 7, Idaho Code;
 - (n) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax; or
 - (o) In the case of a bail agent, compensating or agreeing to compensate any incarcerated person to influence or encourage another incarcerated person or other incarcerated persons to engage the bail agent's services or the services of the bail agent's company or of other bail agents employed by such bail company. For purposes of this subsection, compensating any incarcerated person shall include providing payment in any form to any person, organization or entity designated by the incarcerated person to receive such payment.

41-1016. ADMINISTRATIVE PENALTY — SUSPENSION, REVOCATION, REFUSAL OF LICENSE. (continued)

- (2) The director shall, without hearing, suspend for not more than twelve (12) months, or shall revoke or refuse to continue any license issued under this chapter to a nonresident where:
 - (a) The director has received a final order of suspension, revocation or refusal to continue from the insurance regulatory official or court of jurisdiction of the licensee's home state; or
 - (b) A nonresident no longer has a license in the licensee's home state because the home state license was:
 - (i) Voluntarily surrendered for any reason except relicensing as a resident in another state; or
 - (ii) Otherwise nonrenewed by the nonresident and remains nonrenewed for a period greater than ninety (90) days beyond its expiration date, and without notice to the director of relicensing as a resident in another state. If cause under this provision exists after the expiration of the twelve (12) months, successive suspensions may be imposed by the director without hearing.
- (3) The license of a business entity may be suspended, revoked or refused if the director finds that the violation of an individual licensee, who is registered to or acting on behalf of the business entity, was known or should have been known by one (1) or more of the owners, officers or managers acting on behalf of the business entity and that the violation was not reported to the director and no corrective action was taken.
- (4) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine or administrative penalty pursuant to subsection (1) of this section or any other applicable section.
- (5) The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by title 41, Idaho Code, against any person who is under investigation for or charged with a violation of title 41, Idaho Code, or department rule, even if the person's license or registration has been surrendered or has lapsed by operation of law, or if the person has never been licensed.

41-1017. COMMISSIONS.

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

41-1018. APPOINTMENTS.

- (1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.
- (2) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted.
- (3) Upon receipt of the notice of appointment, the director shall verify, within a reasonable time not to exceed thirty (30) days, that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the director shall notify the insurer within five (5) days of his determination.

41-1019. NOTIFICATION TO DIRECTOR OF TERMINATION.

- (1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director, if the reason for termination is one of the reasons set forth in section 41-1016, Idaho Code, or the insurer has knowledge that the producer was found by a court, governmental body or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 41-1016, Idaho Code. Upon the written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.
- (2) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer for any reason not set forth in section 41-1016, Idaho Code, shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director. Upon written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination.
- (3) The insurer or authorized representative of the insurer shall promptly notify the director in a format acceptable to the director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the director in accordance with subsection (1) of this section.
- (4) A copy of any notification shall be provided to the producer as follows:
 - (a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any other reasons listed in section 41-1016, Idaho Code, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.
 - (b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the director. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the director's file and shall accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.
- (5) Immunities.
 - (a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the director, or an organization of which the director is a member and that compiles information and makes it available to other insurance directors or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the director from an insurer or producer or as a result of any statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the director, provided that the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

41-1019. NOTIFICATION TO DIRECTOR OF TERMINATION. *(continued)*

- (b) In any action brought against a person that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the director, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.
- (c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.
- (6) Confidentiality.
 - (a) Any documents, materials or other information obtained by the director in an investigation pursuant to this section shall be exempt from public disclosure under chapter 1, title 74, Idaho Code.
 - (b) In order to assist in the performance of the director's duties under this chapter, the director:
 - (i) May share documents, materials or other information, including confidential and privileged documents and materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies and law enforcement authorities, and with the national association of insurance commissioners, its affiliates or subsidiaries, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or other information;
 - (ii) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners, its affiliates or subsidiaries and from regulatory agencies and law enforcement authorities of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials or information received with notice or with the understanding that they are confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials or information; and
 - (iii) May enter into agreements governing sharing and use of information consistent with this subsection.
 - (c) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in paragraph (b) of this subsection.
 - (d) Nothing in this chapter shall prohibit the director from releasing final adjudicated actions, including for cause terminations that are open to public inspection pursuant to chapter 1, title 74 and title 41, Idaho Code, to a database or other clearinghouse service maintained by the national association of insurance commissioners or its affiliates or subsidiaries.
- (7) Penalties for failing to report. An insurer, the authorized representative of the insurer, or a producer who fails to report as required under the provisions of this section or who is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have his license or certificate of authority suspended or revoked and may be fined in accordance with section 41-1016 or 41-327, Idaho Code.

41-1021. REPORTING OF ACTIONS.

- (1) A producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.
- (2) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other

41-1024. REPORTING AND ACCOUNTING FOR PREMIUMS.

- (1) All fiduciary funds received or collected by a producer shall be trust funds received by the producer in a fiduciary capacity, and the producer shall, in the applicable regular course of business, account for and pay the same to the person entitled to the funds. The producer shall establish a separate account for funds belonging to others in order to avoid a commingling of such fiduciary funds with his own funds. The producer may deposit and commingle in such separate account all fiduciary funds so long as the amount of such deposit so held for all other persons is reasonably ascertainable from the records and accounts of the producer. A producer who duly collects and deposits funds into a sweep account maintained by or for the benefit of an applicable insurer shall not be deemed to be in violation of the fiduciary fund account requirement. The director may promulgate rules relating to accounting for and handling of fiduciary funds and the fiduciary fund account.

41-1026. PROCEDURE FOLLOWING SUSPENSION, REVOCATION, DENIAL — REINSTATEMENT.

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

41-1030. PRODUCER COMPENSATION.

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

41-1030. PRODUCER COMPENSATION. (continued)

- (b) Before charging a fee to a retail producer, a wholesale producer shall provide to the retail producer a written statement that describes the services the wholesale producer will perform and the fees the wholesale producer will receive. Information regarding the amount of the fees charged by the wholesale producer shall be disclosed in writing on the face of the policy as a separately itemized charge.

41-1036. RECORDS.

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

41-1103. LICENSE REQUIRED.

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

41-1104. QUALIFICATIONS FOR ADJUSTER'S LICENSE.

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

41-1223. LICENSING OF SURPLUS LINE BROKERS.

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

41-1303. MISREPRESENTATION OR FALSE ADVERTISING OF POLICIES.

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

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

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

41-1306. FALSE FINANCIAL STATEMENTS.

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

41-1308. DEFAMATION.

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

41-1309. BOYCOTT, COERCION AND INTIMIDATION.

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

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

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

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

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

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

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

- (1) The reasonable exercise by any person engaged in any such business of his right to approve or disapprove the insurance or the insurer selected to write the insurance, on reasonable grounds related to the risk selection or underwriting practices of the insurer, the adequacy and terms of the coverage with respect to the interest of such person to be insured thereunder, the quality of service rendered by the insurer or its representative in connection with the insurance, and the financial standards to be met by the insurer; nor of his right to furnish such insurance or to renew any insurance required by the contract of sale or mortgage, trust deed or other loan agreement if the borrower or purchaser has failed to furnish the insurance or renewal thereof within such reasonable time or form as may be specified in the sale or loan agreement. The lender or vendor shall not refuse to accept insurance provided by an acceptable insurer on the ground that such insurance provides more coverage than is required in the sale or loan agreement, unless the additional coverage consists of life or disability insurance.
- (2) The free choice of insurance agent or broker by any borrower or purchaser at any time, and he may revoke any designation of insurance agent or broker at any time irrespective of the provisions of any loan or purchase agreement, mortgage, or trust deed.
- (3) The exercise by any person engaged in such business of his right to furnish such insurance or to renew such insurance, and to charge the account of the borrower or purchaser with the costs thereof, if the borrower or purchaser fails to deliver to the lender or vendor such insurance at least thirty (30) days prior to expiration of the existing policy. If an insurance policy procured by the borrower or purchaser is subsequently substituted for that then in force, the lender or vendor may impose a reasonable service charge as determined by the director for the transaction, and payment of such charge by the agent or broker shall not be a violation of any other provision of this code. No service charge shall be imposed for normal insurance changes made during the term of the policy.
- (4) The director may adopt a uniform statewide schedule of permissive maximum charges for the substitution of policies authorized in subdivision (3) above.

41-1313. UNFAIR DISCRIMINATION — LIFE INSURANCE, ANNUITIES, AND DISABILITY INSURANCE.

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

41-1314. REBATES — ILLEGAL INDUCEMENTS.

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

41-1315. EXCEPTIONS TO DISCRIMINATION OR REBATE PROVISION — LIFE OR DISABILITY POLICIES, AND ANNUITY CONTRACTS.

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

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

41-1321. PROCEDURES AS TO UNDEFINED PRACTICES.

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

41-1323. ILLEGAL DEALING IN PREMIUMS — EXCESS CHARGES FOR INSURANCE.

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

41-1325. BORROWING MONEY FROM CLIENTS.

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

41-1327. VIOLATIONS — PENALTY.

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

41-1327. VIOLATIONS — PENALTY.

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41-1328. PAYMENT OF CLAIMS BY INSURERS. Every insurer issuing a motor vehicle insurance policy, as defined in chapter 5, title 41, Idaho Code, shall, in the event of damage to a covered motor vehicle by collision and the election by the insurer to have such motor vehicle repaired, make payment by check or draft, payable to the repairer or to the named insured and the repairer, jointly, no later than twenty (20) days subsequent to receipt of an itemized bill or invoice covering repairs authorized by the insurer which have been satisfactorily completed.

41-1329. UNFAIR CLAIM SETTLEMENT PRACTICES.

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

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
- (10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or
- (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement

41-1329A. UNFAIR CLAIMS SETTLEMENT PRACTICES — PENALTY.

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

41-1803. "PREMIUM" DEFINED.

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

41-1806. INSURABLE INTEREST — PROPERTY.

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

41-1807. POWER TO CONTRACT — PURCHASE OF INSURANCE BY MINORS.

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

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:

41-1811. REPRESENTATIONS IN APPLICATIONS. (continued)

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

41-1812. FILING, USE AND DISAPPROVAL OF FORMS.

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

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

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

41-1831. FORMS FOR PROOF OF LOSS TO BE FURNISHED.

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

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

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

41-1850. CERTIFICATES OF INSURANCE.

- (1) For purposes of this section, the following terms have the following meanings:
 - (a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, that is prepared or issued as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance, insurance binder, policy endorsement or automobile insurance identification card.
 - (b) "Certificate holder" means any person, other than a policyholder, that requests, obtains or possesses a certificate of insurance.
 - (c) "Insurance producer" has the same meaning as provided for in chapter 10, title 41, Idaho Code.
 - (d) "Insurer" has the same definition as provided for in section 41-103, Idaho Code.
 - (e) "Person" means any individual, partnership, corporation, association or other legal entity, including any government or governmental subdivision or agency.
 - (f) "Policyholder" means a person that has contracted with a property or casualty insurer for insurance coverage.
 - (g) "Group master policy" means an insurance policy that provides coverage to eligible persons on a group basis through a group insurance program.
- (2) No person, wherever located, may prepare, issue or knowingly request the issuance of a certificate of insurance unless the form has been filed with the director by or on behalf of an insurer. No person, wherever located, may alter or modify a certificate of insurance form unless the alteration or modification has been filed with the director.
- (3) The director shall disapprove the use of any form filed under this section, or withdraw approval of a form, if the form:
 - (a) Is unfair, misleading or deceptive, or violates public policy;
 - (b) Fails to comply with the requirements of this section; or
 - (c) Violates any provision of title 41, Idaho Code, including any rule promulgated by the director.
- (4) Each certificate of insurance must contain the following or similar statement: "This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend the coverage, terms, exclusions and conditions afforded by the policies referenced herein."
- (5) The current edition of standard certificate of insurance forms promulgated and filed with the director by the association for cooperative operations research and development (ACORD) or the insurance services office (ISO) are not required to be refiled by individual insurers.
- (6) No person, wherever located, shall demand or request the issuance of a certificate of insurance or other document, record or correspondence that the person knows contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.
- (7) No person, wherever located, may knowingly prepare or issue a certificate of insurance or other document, record or correspondence that contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.
- (8) The provisions of this section shall apply to all certificate holders, policyholders, insurers, insurance producers and certificate of insurance forms issued as evidence of property or casualty insurance coverages on property, operations or risks located in this state, regardless of where the certificate holder, policyholder, insurer or insurance producer is located.
- (9) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively alter, amend or extend the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance provides.
- (10) A certificate of insurance may not warrant that the policy of insurance referenced in the certificate comply with the insurance or indemnification requirements of a contract, and the inclusion of a contract number or description, or project number or description, within a certificate of insurance may not be interpreted as doing such. Notwithstanding any requirement, term or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions and conditions of the policy itself.
- (11) A person is entitled to receive notice of cancellation, nonrenewal or any material change or any similar notice concerning a policy of insurance only if the person has such notice rights under the terms of the policy or any endorsement to the policy. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.
- (12) Any certificate of insurance or any other document, record or correspondence prepared, issued or requested in violation of this section shall be null and void and of no force and effect.
- (13) Any person that violates this section shall be subject to an administrative penalty imposed by the director in an amount as provided for in section 41-117, Idaho Code, per violation.
- (14) The director shall have the power to examine and investigate the activities of any person that the director believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person that violates this section.
- (15) The director may, in accordance with section 41-211, Idaho Code, adopt reasonable rules as are necessary or proper to carry out the provisions of this section.
- (16) This section shall not apply to any certificate of insurance prepared and/or issued by an insurer pursuant to any federal law, rule or regulation, or any other law, rule or regulation of this state, in which the specific content and form of said certificate is enumerated therein, or a certificate issued to a person or entity that has purchased coverage under a group master policy.

41-2603. JUSTIFICATION OF SURETY -- DIRECTOR'S CERTIFICATE AS EVIDENCE.

- (1) The director is authorized to issue to any person applying therefor, a certificate showing that any surety insurer that has complied with the laws of the state of Idaho is qualified to do a surety business in this state, and stating the general terms of the risks authorized to be so written.
- (2) Any such certificate or any certified copy of any uncanceled certificate, shall be received in evidence as a sufficient justification of such surety and its authority to do business in this state: provided, however, that the certificate of the county recorder to any such certified copy, or any certificate furnished directly by the director to an applicant therefor, must bear a date the same as, or later than the date of the bond, undertaking or obligation upon which justification is being made.

41-2604. MAY BE SOLE SURETY ON BONDS.

Whenever any bond, undertaking, recognizance or other obligation is by law, or by the charter, ordinances, rules or regulations of any municipality, board, body, organization, court, judge or public officer, required or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety insurer qualified as in this code provided. Execution by such insurer of such bond, undertaking, obligation, recognizance or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule or regulation that such bond, undertaking, obligation, recognizance or guaranty shall

41-2604. MAY BE SOLE SURETY ON BONDS. (continued)

be executed by one surety or by one or more sureties, or that such sureties shall be residents or householders, or freeholders, or either or both, or possess any other qualifications. All courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character shall accept and treat such bond, undertaking, obligation, recognizance or guaranty, when so executed by such insurer, as conforming to, and fully and completely complying with every such requirement of every such law, charter, ordinance, rule or regulation.

41-2605. CERTIFICATE AS EVIDENCE OF AUTHORITY TO BE SOLE SURETY.

The certificate of authority of a surety insurer, issued as provided under this code, shall be evidence of the authority of the insurer to become and to be accepted as sole surety on all private bonds and contracts, and on all bonds, undertakings, recognizances and obligations required or permitted by law or the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer and of the solvency and credit of such insurer for all authorized purposes and its sufficiency as such surety.

41-2606. PREMIUMS ON BONDS--ALLOWANCE AS EXPENSE COSTS--LIMIT AS TO AMOUNT.

- 1) Any assignee, receiver, trustee, committee, guardian, curator, executor, administrator or other fiduciary required as such by law or the order of any court or judge to give bond or undertaking, may include as a part of the lawful expense of executing his trust such sum, paid to a surety insurer or to surety insurers authorized under the laws of this state to do so for becoming his surety on such bond or undertaking, as may be allowed by the court in which, or a judge before whom, he is required to account; and such court or judge shall allow in the settlement of the account of any such fiduciary the premium or premiums so paid to any such insurer or insurers, but not to exceed the premium for such bond or undertaking filed by such insurer or insurers with the director.
- (2) In all other cases where, by the provisions of law, a corporate surety or guarantor is given or required as to an official bond except as to notaries public, the premium to be paid to any such insurer or insurers for becoming such surety or guarantor shall be paid out of the general funds of the divisions of government by or for which the person or persons covered by such bond or undertaking was appointed or elected, but the premiums shall in no case exceed the premiums filed by such insurer or insurers with the director for the individual, schedule or blanket bond given or required.

41-2607. BOND PREMIUMS AS PART OF COSTS IN ACTIONS AND PROCEEDINGS.

In all actions and proceedings a party entitled to recover disbursements therein shall be allowed and may tax and recover such sum paid a surety insurer authorized under the laws of this state to do so for executing any bond, recognizance, undertaking, stipulation or other obligation therein, not exceeding, however, one percent (1%) on the amount of the liability upon such bond, recognizance, undertaking, stipulation, or other obligation during each year the same has been in force.

41-2608. DEPOSIT FOR PROTECTION OF SURETY.

It shall be lawful for any party of whom a bond, undertaking or other obligation is required to agree with his surety or sureties for the deposit of any or all moneys and assets for which such surety or sureties are or may be held responsible with a bank, savings bank, safe deposit or trust company authorized by law to do business as such, or other depository approved by the court or a judge thereof, if such deposit is otherwise proper, for the safe keeping thereof and in such manner as to prevent the withdrawal of such moneys and assets or any part thereof without the written consent of such surety or sureties or an order of the court or a judge thereof, made on such notice to such surety or sureties as such court or judge may direct.

41-2609. RELEASE OF SURETY ON CERTAIN OFFICIAL BONDS.

- (1) The surety or the representative of any surety, upon the bond of any trustee, committee, guardian, assignee, receiver, executor or administrator, or other fiduciary, may apply by petition to the court wherein such bond is directed to be filed, or which may have jurisdiction of such trustee, committee, guardian, assignee, receiver, executor or administrator, praying to be relieved from further liability as such surety, for the acts or omissions of the trustee, committee, guardian, assignee, receiver, executor or administrator or other fiduciary, which may occur after the date of the order relieving such surety to be granted as herein provided for, and to require such trustee, committee, guardian, assignee, receiver, executor or administrator, or other fiduciary, to show cause why he should not account and said surety be relieved from such further liability as aforesaid, and said principal be required to give a new bond.
- (2) Upon the filing of such petition, the court shall issue such order returnable at such time and place and to be served in such manner as the court shall direct, and may restrain such trustee, committee, guardian, assignee, receiver, executor or administrator or other fiduciary from acting except in such manner as it may direct to preserve the trust estate.
- (3) Upon the return of the order to show cause, if the principal in the bond accounts in due form of law and files a new bond duly approved, then the court must make an order releasing the surety filing the petition as aforesaid, from liability upon the bond for any subsequent act or default of the principal. In default of the principal thus accounting and filing the new bond, the court shall make an order directing such trustee, committee, guardian, assignee, receiver, executor or administrator, or fiduciary to account in due form of law within thirty (30) days, and that if the trust fund or estate shall be found or made good and paid over or properly secured, such surety shall be discharged from any and all further liability as such for the subsequent acts or omissions of the trustee, committee, guardian, assignee, receiver, executor, or administrator, or fiduciary, after the date of the surety being so relieved or discharged and discharging such trustee, committee, guardian, assignee, receiver, executor or administrator, or fiduciary.

41-2610. ESTOPPEL TO DENY CORPORATE POWER.

Any insurer giving any bond or recognizance referred to in sections [41-2604](#) through [41-2608](#) shall be estopped, in any proceeding to enforce the liability which it has assumed to incur, to deny its corporate power to execute such instrument or assume such liability.

41-2612. RELEASE OF SURETY ON BOND OF LICENSEE OR PERMITTEE.

- (1) The surety or the representative of any surety upon any bond given on behalf or for the use and benefit of any person, firm, copartnership, association or corporation as a licensee or permittee under any law of the state of Idaho, or any municipality thereof, desiring to be released from subsequent liability and responsibility on such bond, shall serve a written notice upon the principal of such bond that on and after twenty (20) days from the date of service of such notice, the surety will withdraw as surety on such bond, and a copy of such notice shall forthwith be served upon the official with whom such bond is filed.
- (2) Such notice shall be served personally upon the principal if found within the state of Idaho, and if not, by registered mail directed to the principal at his last known address. If the principal cannot be served either personally or by registered mail, service shall be made by publication of the notice in a newspaper of general circulation in the county of the residence or principal place of business of the principal, once a week for a period of two consecutive weeks. Service upon the principal shall be complete one week from the date of the last publication. The affidavit of the persons so serving such notice, with the registered return receipt card attached thereto, if such service has been made by mail, or the affidavit of the publisher of the newspaper, shall be sufficient proof of service of such notice.
- (3) Proof of such service shall be filed with the official having custody of the bond and the liability of the surety shall cease after a period of twenty (20) days from the date of the service of such notice on the principal. If the principal fails within such twenty (20) day period to file with the proper official a new bond the permit or license shall be canceled and terminated.

41-2613. SURETY COMPANIES AUTHORIZED TO BECOME SURETY UNDER ARREST BOND CERTIFICATE -- CERTIFICATE AS CASH BAIL.

- (A) Right of qualified surety company to become surety with respect to guaranteed arrest bond certificates.
- (1) Any domestic or foreign surety company which has qualified to transact surety business in this state by complying with the provisions of title 41, Idaho Code, may, in any year, become surety in an amount not to exceed two hundred (\$200) dollars with respect to any guaranteed arrest bond certificates issued in such year by an automobile club or association by filing with the department of insurance of this state an undertaking thus to become surety.
 - (2) Such undertaking shall be in form to be prescribed by the director of the department of insurance and shall state the following:
 - (a) The name and address of the automobile club or clubs or automobile association or associations with respect to the guaranteed arrest bond certificates of which the surety company undertakes to be surety.
 - (b) The unqualified obligation of the surety company to pay the fine or forfeiture in an amount not to exceed two hundred (\$200) dollars of any person who, after posting a guaranteed arrest bond certificate with respect to which the surety company has undertaken to be surety, fails to make the appearance to guarantee which the guaranteed arrest bond certificate was posted.
 - (3) The term "guaranteed arrest bond certificate," as used herein, means any printed card or other certificate issued by an automobile club or association to any of its members, which said card or certificate is signed by such member and contains a printed statement that such automobile club or association and a surety company guarantee the appearance of the person whose signature appears on the card or certificate and that they will, in the event of failure of said person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed two hundred (\$200) dollars.
- (B) Guaranteed arrest bond certificates as cash bail. Any guaranteed arrest bond certificate with respect to which a surety company has become surety, as provided in section (A) hereof shall, when posted by the person whose signature appears thereon, be accepted in lieu of cash bail in an amount not to exceed two hundred (\$200) dollars, as a bail bond, to guarantee the appearance of such person in any court, including municipal courts, in this state, at such time as may be required by the court, when such person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality in this state (except for the offense of driving while intoxicated or for any felony) committed prior to the date of expiration shown on such guaranteed arrest bond certificates; provided, that any such guaranteed arrest bond certificate so posted as a bail bond in any court in this state shall be subject to the forfeiture and enforcement provisions with respect to bail bonds posted in criminal cases under the law as it now exists or may hereafter be amended, and that any such guaranteed arrest bond certificate posted as a bail bond in any municipal court in this state shall be subject to the forfeiture and enforcement provisions of the charter or ordinance of the particular municipality pertaining to bail bonds posted.

41-2650. SHORT TITLE.

This chapter may be cited as the mortgage guaranty insurance act.

41-2651. DEFINITIONS.

In this chapter unless context or subject matter otherwise requires:

- (1) "Mortgage guaranty insurance" means:
 - (a) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real property, provided the improvement on such real property is a residential building or buildings designed for occupancy by not more than four families, or a condominium unit.
 - (b) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real property, provided the improvement on such real property is a building or buildings designed for occupancy by five (5) or more families or de- signed to be occupied for industrial or commercial purposes.
 - (c) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real property, provided the improvement on such real property is a building or buildings designed to be occupied for industrial or commercial purposes.
- (2) "Authorized real property security" for the purposes of paragraphs (a) and (b) of subsection (1) of this section means an amortized note, bond or other evidence of indebtedness, not exceeding one hundred three percent (103%) of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real property with any percentage in excess of one hundred percent (100%) being used to finance fees and closing costs on such indebtedness; provided:
 - (a) The real property loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is super-vised and regulated by a department of this state or an agency of the federal government, is authorized to make.
 - (b) The improvement on such real property is a building or buildings designed for occupancy as specified by paragraphs (a) and (b) of subsection (1) of this section.
 - (i) The lien on such real property may be subject and subordinate to the following:
 - (ii) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.
 - (iii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way of support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.
- (3) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles or losses.
- (4) "Policyholders' surplus" means the aggregate of paid-in capital stock, surplus and contingency reserve.

41-2652. AUTHORITY TO TRANSACT BUSINESS.

Mortgage guaranty insurance may be transacted only by a stock insurer while possessing and maintaining paid-in capital stock of not less than one million five hundred thousand dollars (\$1,500,000) and surplus of not less than one million five hundred thousand dollars (\$1,500,000) and duly authorized to transact insurance in this state. The insurer shall not transact in any jurisdiction any kind of insurance other than mortgage guaranty insurance.

41-2653. LIMITS OF RISK.

- (1) The insurer shall not retain risk as to anyone (1) loan, or as to all loans secured by properties in a single housing tract or a contiguous tract, in an amount in excess of ten percent (10%) of the insurer's policyholders' surplus. In determining the amount of risk retained, applicable reinsurance in an assuming insurer authorized to trans-act insurance in this state or approved by the director shall be deducted from the total direct risk insured. For the purposes of this section "contiguous" means not separated by more than one-half (1/2) of a mile.
- (2) The insurer shall not at any time have outstanding aggregate risk liability, net of applicable reinsurance, under mortgage guaranty insurance in amount in excess of twenty-five (25) times its policyholders' surplus.
- (3) The director may waive the requirement of subsection (2) of this section upon a written request of the insurer and finding that the insurer is in compliance with any requirements or conditions imposed by the insurer's state of domicile and the insurer's policyholder surplus is reasonable in relationship to the insurer's aggregate insured risk and adequate to its financial needs. In reviewing a written request for approval to exceed the twenty-five (25) times its policyholders' surplus limitation, the director may retain outside experts to assist in the review. The insurer shall bear the cost of outside experts retained for the review.
- (4) If at any time the insurer's outstanding risk liability as to mortgage guaranty insurance exceeds the limitations stated in subsection (2) of this section and the insurer has not received a written waiver from the director, the insurer shall accept no new mortgage guaranty insurance risks while such excess exists.
- (5) The director may suspend or revoke the certificate of authority of an insurer which violates the provisions of this section.

41-2654. RESERVES.

The insurer shall, as to mortgage guaranty insurance written by it, maintain unearned premium, contingency, and loss reserves as required by [chapter 6, title 41](#), Idaho Code, except the unearned premium reserve for those policies covering a risk period of more than five years shall be computed in accordance with formulae filed by the insurer and approved by the director.

41-2655. SCHEDULE OF PREMIUM CHARGES.

The insurer shall adopt, print and make available to persons desiring the same, a schedule of premium charges for mortgage guaranty insurance policies. The schedule shall show the entire amount of premium charge for each type of mortgage guaranty insurance policy issued by the insurer. The insurer shall not quote any premium charge to any person which is less than that currently available to others in this state for the same type of mortgage guaranty insurance policy. The amount by which any premium charge is less than that called for in the current schedule of premium charges is an unlawful rebate.

41-2656. ADVERTISING.

No lending institution or lender, any of whose authorized real property securities are insured by mortgage guaranty insurance pursuant to this chapter, shall state in any form of advertising that the real property loans of the institution or lender are "insured loans" unless the advertising also clearly states that the loans are insured by private insurers named in the advertising; and no such advertising shall be published for dissemination in this state unless the insurer so advertised is authorized to transact such insurance by this state.

41-2902. "RECIPROCAL INSURER" DEFINED.

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

41-3611. SUBROGATION OF ASSOCIATION TO RIGHTS OF CLAIMANTS — RECEIVER, LIQUIDATOR, OR SUCCESSOR BOUND BY ASSOCIATION CLAIM SETTLEMENTS — PERIODIC FILING OF STATEMENTS OF PAID CLAIMS WITH RECEIVER OR LIQUIDATOR.

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

BULLETIN NO. 18-06

DATE: July 13, 2018

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

FROM: Dean L. Cameron, Director

SUBJECT: Certificates of Insurance

Background and Introduction

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

Certificates of Insurance

Idaho Code § 41-1850(2) prohibits any person from preparing, issuing or knowingly requesting the issuance of a certificate of insurance unless the form of the certificate has been filed with the Director of the Department of Insurance (Director) by or on behalf of an insurer. The Director has received and accepted filings of certificate of insurance forms filed by ISO and certain carriers. Consistent with Idaho Code § 41-1850(5), if a carrier uses a filed ISO or ACORD form, that form need not be refiled by each carrier. Additionally, where other law provides for a particular certificate of insurance form to be used, once that form has been filed by or on behalf of an insurer with the Director, then individual carriers will not need to refile the form.

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

Idaho Code § 41-1850(4) codifies elements of Bulletin Nos. 68-1 and 08-3* by requiring that each certificate of insurance include the following or a similar statement:

This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend coverage, terms, exclusions and conditions afforded by the policies referenced herein

Idaho Code § 41-1850(6) and (7) prohibit any person from knowingly demanding or requesting or knowingly preparing or issuing a certificate of insurance or other document, record or correspondence that contains false or misleading information or purports to affirmatively or negatively alter, amend or extend coverage provided by the policy of insurance to which a certificate of insurance makes reference. Idaho Code § 41-1850(10), amended in 2018, still confirms that the insurance referenced in a certificate is subject to all terms, exclusions and conditions of the policy itself. However, the amendment allows a certificate of insurance to include reference to a contract number or description or a project number or description, but by doing so the certificate may not and does not warrant that the referenced policy complies with the insurance or indemnification requirements of a contract or project.

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

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

*Bulletins 68-1 and 08-3, which are superseded by this bulletin, required the following language in each certificate: "This Certificate of Insurance neither affirmatively nor negatively amends, extends, nor alters the coverage afforded by the policy or policies numbered in this certificate." The Department considers this language sufficiently similar to the new statutory language to be permissible.

18.01.01 – RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

000.LEGAL AUTHORITY.

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

001.TITLE AND SCOPE.

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

002. -- 009.(RESERVED)

010.DEFINITIONS.

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

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

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

011. -- 099. (RESERVED)

100. INITIAL PRIVACY NOTICE TO CONSUMERS.

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

101. -- 149.(RESERVED)

150. ANNUAL PRIVACY NOTICE TO CUSTOMERS.

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

151. -- 199.(RESERVED)

200.INFORMATION TO BE INCLUDED IN PRIVACY NOTICES.

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

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

201.DESCRPTION OF PARTIES SUBJECT TO EXCEPTIONS.

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

202.SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS.

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

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

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

204. -- 249.(RESERVED)

250.FORM OF OPT OUT NOTICE TO CONSUMERS.

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

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

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

252. -- 299.(RESERVED)

300.REVISED PRIVACY NOTICES.

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

301. -- 349.(RESERVED)

350.DELIVERY.

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

351. -- 399.(RESERVED)

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

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

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

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

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

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

403. -- 449.(RESERVED)

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

01. General Rule.

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

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

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

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

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

453. -- 499.(RESERVED)

500.NONDISCRIMINATION.

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

501. -- 999.(RESERVED)

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

Appendix A Sample Clauses

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

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

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

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

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

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

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

Sample Clause A-2, Alternative 1:

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

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

Sample Clause A-2, Alternative 2:

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

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

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

Sample Clause A-3:

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

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

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

Sample Clause A-4:

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

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

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

Sample Clause A-5, Alternative 1:

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

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

Sample Clause A-5, Alternative 2:

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

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

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

Sample Clause A-6:

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

A-7-Confidentiality and security (all institutions)

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

Sample Clause A-7:

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

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

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

001.SCOPE.

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

002. -- 010.(RESERVED)

011.FEES PAYABLE IN ADVANCE.

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

012. -- 019.(RESERVED)

020.INSURER FEES.

01. Annual Continuation Fee. All insurers and other entities (set forth in Section 020) licensed, listed, or approved to do business in the state of Idaho will pay an annual continuation fee.
 - a. The annual continuation fee is due on March 1st each year and is payment of the insurer's fees due through the following February.
 - b. The annual continuation fee is charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid will cover the insurer's fees through the following February.
02. Fee for Insurers. For all insurance companies receiving a certificate of authority pursuant to Title 41, Chapter 3, Idaho Code, the annual continuation fee is as follows:
 - a. If insurer's policy holders' surplus at the preceding December 31 is less than ten million dollars (\$10,000,000) - One thousand dollars (\$1,000).
 - b. If insurer's policy holders' surplus at the preceding December 31 is ten million (\$10,000,000) or more, but less than one hundred million (\$100,000,000) – Two thousand five hundred dollars (\$2,500).
 - c. If insurer's policy holders' surplus at the preceding December 31 is one hundred million (\$100,000,000) or greater - Four thousand five hundred dollars (\$4,500).
03. Fees of Other Entities. The following entities will be assessed an annual continuation fee:
 - a. Five hundred dollars (\$500):
 - i. All reinsurers, listed pursuant to Section 41-515, Idaho Code.
 - ii. Authorized surplus line insurers.
 - iii. County mutual insurers.
 - iv. Fraternal benefit societies.
 - v. Hospital and/or professional service corporations.
 - vi. Self-funded health care plans.
 - vii. Domestic Risk retention groups.
 - viii. Petroleum clean water trusts.
 - ix. Rating organizations.
 - x. Advisory organizations.
 - b. One hundred dollars (\$100): Purchasing groups.
04. Fees Provide. The annual continuation fee includes, but is not limited to, the following:
 - a. Certificate of authority renewal, license renewal, and annual registration.
 - b. Arson, fire and fraud investigation costs.
 - c. Annual statement filing.
 - d. Agent appointment and renewal of appointment.
 - e. Filings under Title 41, Chapter 38, Idaho Code, Acquisitions of Control and Insurance Holding Company Systems.
 - f. Filing of amendments to Articles of Incorporation.
 - g. Filing of amendments to Bylaws.
 - h. Amendments to Certificate of Authority.
 - i. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code.
 - j. Quarterly statement filing.
 - k. Examination expenses.
05. Not Provided in Fees. Payment of the annual continuation fee will not exempt the insurer or entity from the following:
 - a. Fees for application for producer license.
 - b. Costs incurred by the Department for investigation of an applicant for producer license.
 - c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code.
 - d. Costs incurred for experts and consultants when allowed by Idaho Code.
 - e. Penalties or fines levied by or payable to the Department of Insurance.
 - f. All fees set forth under Section 040.
06. Failure to Pay Fee. Failure to pay the annual continuation fee on or before March 1st each year will result in the expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code.
07. Reinstatement Fee. The reinstatement fee referenced in Section 41-324(3), Idaho Code, is the amount referenced above for the insurer or entity continuation fee.

021. -- 029.(RESERVED)

030.PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and need to be paid with the filing application for original license:
 - a. Administrators -- three hundred dollars (\$300).
 - b. Producers -- eighty dollars (\$80).
 - c. Designation as a managing general agent -- eighty dollars (\$80).
 - d. Adjusters and public adjusters -- eighty dollars (\$80).
 - e. Reinsurance intermediary -- eighty dollars (\$80).
 - f. Surplus line brokers -- eighty dollars (\$80).
 - g. Life settlement providers -- five hundred dollars (\$500).
 - h. Life settlement brokers -- three hundred dollars (\$300).
 - i. Independent review organization -- five hundred dollars (\$500).
 - j. Vendor of portable electronics insurance, a type of limited lines producer:
 - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- one thousand dollars (\$1,000).
 - ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100).
02. Examination Fees. Each time a producer or adjuster's examination is taken for licensing under Title 41, Chapters 10 and 11, Idaho Code, the applicant may pay a fee to a third-party testing vendor in the amount established by contract between the department and the vendor.
03. Fingerprint Processing. Processing fingerprints (as applicable) -- not to exceed eighty dollars (\$80).
04. License Renewal. The following fees are due and need to be paid for each license to renew or continue:
 - a. Adjusters, public adjusters, and producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically.
 - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars (\$500).
 - ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100).
 - b. Redesignation as managing general agent (annual) -- eighty dollars (\$80).
 - c. Administrators (biennial) -- eighty dollars (\$80).
 - i. Renewal form is filed on or before December 31.
 - ii. Any renewal form postmarked after December 31 includes a penalty in an amount equal to the renewal fee.
 - iii. A renewal form postmarked after January 31 needs to be submitted as a new application with supporting documents and the full application fee.
 - d. Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically.
 - e. Life settlement providers (biennial) -- three hundred dollars (\$300).
 - f. Life settlement brokers (biennial) -- eighty dollars (\$80).
 - g. Independent review organization (biennial) -- three hundred dollars (\$300).

031. -- 039.(RESERVED)

040.MISCELLANEOUS FEES.

01. Certified Copy. Certified copy of certificate of authority, license or registration - Fifty dollars (\$50).
02. Certificate Under Seal. Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars (\$20).
03. Documents Filed. For each copy of a document filed in the DOI, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -- Twenty dollars (\$20) for each rate or form filed in excess of ten (10) per calendar year.
04. Insurer Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -- Thirty dollars (\$30).
05. Agent Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident producer or other person for which the director is authorized to serve as statutory agent for service of process -- Thirty dollars (\$30).
06. Continuing Education. Filing continuing education applications for approval and certification of subjects of courses (each application) -- Twenty-five dollars (\$25).

041. -- 049.(RESERVED)

050.REFUNDS.

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

051.OVERPAYMENTS.

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

052. -- 999.(RESERVED)

IDAPA 18.06.04 – CONTINUING EDUCATION

000. LEGAL AUTHORITY.

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

001. SCOPE.

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

002. -- 009. (RESERVED)

010. DEFINITIONS.

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

011. (RESERVED)

012. BASIC REQUIREMENTS.

01. Proof of Completion. As a condition for the continuation of a license, a licensee must complete a total of 24 hours of continuing education credits, including a minimum of 3 ethics credits on or before the licensing renewal date every two (2) years. Proof of satisfactory completion of approved subjects or courses will be downloaded to licensing records by the system vendor in a format acceptable to the Director.
 - a. No more than four (4) hours of continuing education credit from courses approved for adjusters or public adjusters can apply toward the continuation of a producer license.
02. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing education requirement is to be completed within the two (2) year period immediately preceding renewal of the license. Courses cannot have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam.

013. EXCEPTIONS/EXTENSIONS.

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

014. CONTINUING EDUCATION ADVISORY COMMITTEE.

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

015. PROGRAM REQUIREMENTS.

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

016. PROGRAMS WHICH QUALIFY.

01. Requirements of Acceptable Program. A specific program will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs need to meet the standards outlined in Section 018.
02. Subjects Which Qualify.
 - a. The following general subjects are acceptable for producers.
 - i. Insurance, fixed & indexed annuities, and risk management.
 - ii. Insurance laws and rules.
 - iii. Mathematics, statistics, and probability.
 - iv. Economics.
 - v. Business law.
 - vi. Finance.
 - vii. Taxes, trusts, estate planning.
 - viii. Business environment, management, or organization.
 - ix. Securities.

- b. The following general subjects are acceptable for adjusters and public adjusters.
 - i. Insurance.
 - ii. Insurance laws and rules.
 - iii. Mathematics, statistics, and probability.
 - iv. Economics.
 - v. Business law.
 - vi. Restoration.
 - vii. Communications.
 - viii. Arbitration.
 - ix. Mitigation.
 - x. Glass replacement and/or repair.
- c. Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to professional competence and meet the standards set forth in this rule. The responsibility for substantiating that a particular program meets the requirements of this rule rests solely upon the licensee.

017. PROGRAMS WHICH DO NOT QUALIFY.

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

018. STANDARDS FOR CONTINUING EDUCATION PROGRAMS.

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

01. Program Development.
 - a. The program provides significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants.
 - b. The program is developed by persons who are qualified in the subject matter and instructional design.
 - c. The program content is current or up to date.
02. Program Presentation.
 - a. Instructors are qualified, both with respect to program content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course competently.
 - b. The number of participants and physical facilities is consistent with the teaching method specified.
 - c. All programs will include some means for evaluating quality.

019. MEASUREMENT OF CREDIT.

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

020. CONTROLS AND REPORTING.

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

021. APPROVED PROGRAMS OF STUDY - CERTIFICATION BY DIRECTOR.

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