

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.01.23 – RULES PERTAINING TO IDAHO ACQUISITIONS OF CONTROL
AND INSURANCE HOLDING COMPANY SYSTEMS

DOCKET NO. 18-0123-1801

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-3817, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking revises language in Subsection 027.01 regarding extraordinary dividends to be consistent with changes made to Section 41-3812, Idaho Code, following enactment of House Bill 454 in 2018.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018, Idaho Administrative Bulletin, [Volume 18-7, page 132](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Nathan Faragher at nathan.faragher@doi.idaho.gov, or (208) 334-4314.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the above contact and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

Dean L. Cameron
Director Idaho Department of Insurance
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P.O. Box 83720
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Phone: (208) 334-4250
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0123-1801
(Only Those Sections With Amendments Are Shown.)

027. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS.

01. Request for Approval. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following: (3-20-14)

a. The amount of the proposed dividend; (12-24-93)

b. The date established for payment of the dividend; (12-24-93)

c. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value, together with an explanation of the basis for valuation; (12-24-93)

d. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information: (12-24-93)

i. The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; (3-20-14)

ii. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding; (12-24-93)

iii. If the insurer is a life insurer, the net gain from operations for the twelve (12) month period ending the 31st day of December next preceding; ~~and~~ (3-20-14)()

iv. If the insurer is not a life insurer, the net income less ~~net~~ realized capital gains for the twelve (12) month period ending the 31st day of December next preceding ~~and the two preceding twelve (12) month periods; and.~~ (3-20-14)()

~~v. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years. (12-24-93)~~

e. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; and (3-20-14)

f. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs. (12-24-93)

02. Other Dividends. Subject to Section 41-3812, Idaho Code, each registered insurer shall report to the Director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Subsections 027.01.d. (3-20-14)