

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0606-1901
(Only Those Sections With Amendments Are Shown.)

18.06.06 – ~~RULES FOR THE SURPLUS LINE~~ **REGULATION RULES**

000. LEGAL AUTHORITY.

~~The statutory authority of this rule is Title 67, Chapter 52, Idaho Code and~~ Title 41, Chapters ~~2 and~~ 12, Idaho Code. (1-1-94)()

001. TITLE AND SCOPE.

01. Title. ~~This rule is titled~~ IDAPA 18.06.06, “~~Rules for the Surplus Line~~ **Regulation Rules.**” (6-30-19)T()

02. Scope. ~~The purpose of this rule is to p~~Provide procedures for the placement of surplus line insurance. (5-3-03)()

002. ~~WRITTEN INTERPRETATIONS (RESERVED)~~

~~The Department of Insurance has or relies upon written interpretive statements of the rule chapter in accordance with Section 67-5201(19)(b)(iv), Idaho Code.~~ (1-1-94)

003. ADMINISTRATIVE APPEALS.

All administrative appeals ~~shall be~~ **are** governed by **Title 41**, Chapter 2, ~~Title 41~~, Idaho Code, ~~and the Idaho Administrative Procedure Act~~, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure, Idaho Rules of Administrative Procedure of the Attorney General ~~—General Provisions.~~ (6-30-19)T()

004. DEFINITIONS.

In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply: ()

01. **Open Lines for Export.** ~~The term~~ “Open Lines for Export” ~~shall mean~~ **is defined as** the class or classes of business which the Director ~~by order or by rule, bulletin, or by publishing on the Department of Insurance website~~, has declared eligible for export in accordance with Section 41-1216, Idaho Code, ~~and for which there appears to be no reasonable or adequate market among authorized insurers, either to acceptance of risk, contract terms, or premium or premium rate.~~ (6-30-19)T()

02. **Lines Other Than Open Lines for Export.** ~~The term~~ “Lines Other Than Open Lines for Export” ~~shall mean~~ **is defined as** the class ~~of or~~ classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with ~~Sections 41-1214, and 41-1215~~ **Title 41 Chapter 12**, Idaho Code. (6-30-19)T()

03. **Diligent Search.** ~~Diligent search or effort by the Surplus Line producer, for purposes of Section 41-1214(2), Idaho Code, shall be deemed to have been~~ **A Broker has** exercised **their obligations under Section 41-1214(2), Idaho Code** if the ~~Surplus Line producer~~ **Broker** or the referring insurance producer ~~shall~~ **submits** a risk to at least ~~three~~ **one (1)** authorized companies ~~y, which are~~ engaged in writing in Idaho the type of coverage sought, or if there are no companies ~~actually~~ engaged in writing such coverage, the risk ~~shall be~~ **is** submitted to at least ~~three~~ **one (1)** companies ~~y that, in the Surplus Line Broker’s or producer’s or the insurance producer’s professional judgment, are~~ **is** the most likely to accept the risk. (6-30-19)T()

04. **Delegated Contractor.** Any contractor to whom activities have been delegated by the Director ~~under Section 41-1232, Idaho Code.~~ ()

005. ~~DELEGATION OF RESPONSIBILITY TO SURPLUS LINES ASSOCIATION.~~

~~The Idaho Department of Insurance delegates the following activities to the Surplus Lines Association of Idaho ("Association"):~~ (6-30-19)T

~~01. Eligibility for Export. Under the general supervision of the Idaho Department of Insurance, the Association will be responsible for determination of eligibility for export of particular proposed coverages to eligible unauthorized insurers.~~ (6-30-19)T

~~02. Broker Compliance. The Association is to examine all submissions from licensed resident and non-resident Idaho Surplus Lines Brokers to assure compliance with Section 41-1217, Idaho Code—Eligible Surplus Lines Insurers.~~ (6-30-19)T

~~03. Requirements of Surplus Lines Association. That the Association, in addition to the responsibilities outlined above, shall:~~ (6-30-19)T

~~a. For the protection of all concerned have its Articles, By-Laws, Rules, and Procedures approved by the Director. Any changes made therein should receive prior approval before being put into effect. However, any submitted change, if not acted on within sixty (60) days of receipt by the Director, will be deemed approved.~~ (6-30-19)T

~~b. File with the Director, and keep current, a list of its members.~~ (6-30-19)T

~~c. Keep complete records of all transactions concerning Surplus Lines to the end that proper tax may be collected on surplus lines policies and that proper reports will be forwarded to the Director as concerns all submissions. Submissions are to be made by licensed Idaho Surplus Lines Brokers through the Association to the Director on forms approved by the Director, and shall comply with requirements of Chapter 12, Idaho Code.~~ (6-30-19)T

~~d. Make its records available at any time for examination by the Director.~~ (6-30-19)T

~~e. Report through its manager to the Director any known violations of the Surplus Lines Law as cited in Title 41, Chapter 12, Idaho Code.~~ (6-30-19)T

0065 -- 010. (RESERVED)

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011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident *Surplus Line* Broker must be renewed every two (2) years. ~~Both the~~ original license fee and the renewal fee are prescribed in ~~the Rules of the Idaho Department of Insurance ("Department"), IDAPA 18.01.02, "Schedule of Fees, Licenses, and Miscellaneous Charges."~~ ~~Producers are in violation of the Insurance Code if they~~ A broker will not solicit surplus line business before ~~they are~~ being licensed as a *Surplus Line* Broker. ~~If a~~ A broker must notify the Licensing Division of the Department if not renewing the license decides not to renew his license in any particular year, he should notify the Licensing Division of the Department of his intention prior to ~~his~~ the license renewal date. The Director may, ~~in his discretion,~~ allow the continuation of a non-renewed license ~~which is not timely renewed,~~ if, within one (1) year after the renewal date, the licensee submits ~~the appropriate~~ a renewal request and a continuation fee ~~which is~~ twice the amount ~~otherwise~~ required ~~as provided~~ by Section 41-1008(3), Idaho Code. (5-3-03)()

012. ANNUAL REPORT.

Each *Surplus Line* Broker ~~shall~~ will file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on an approved forms ~~approved by the Director.~~ (6-30-19)T()

013. PAYMENT OF STATE TAX.

01. Tax Due March 1. On or before March 1st of each year, ~~all Idaho licensed Surplus Line~~ each licensed Brokers ~~shall~~ will pay premium tax to the Department ~~the premium tax~~ on business written during the preceding calendar year. ~~The Surplus Line Broker must collect this tax, which tax will be collected~~ from the insured, in addition to the stamping fee. (5-3-03)()

02. Tax Summary. By February 1st of each year the *Surplus Lines Association* delegated contractor will provide to each *Surplus Line* Broker a summary of records showing the state tax due the Department for the preceding year. ~~The broker must pay and this amount will be paid~~ to the Department ~~the exact amount of tax indicated on the Surplus Lines Association summary~~ by the Broker. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount must will be paid to the Department. (5-3-03)()

014. PAYMENT OF STAMPING FEES.

01. Application. ~~The~~ A stamping fee ~~shall be~~ is charged on all premiums and policy fees written on Idaho business at a rate established by the *Board of Directors of the Surplus Line Association* delegated contractor and approved by the Department. This rate will may be adjusted ~~from time to time in order~~ to obtain the objectives of the *Association* delegated contractor. The stamping fee cannot be refunded except ~~where there are~~ in the case of extenuating circumstances, ~~reported to, and~~ approved by the *Surplus Lines Association* delegated contractor. (5-3-03)()

02. Association Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the *Association office* delegated contractor, the *Manager* delegated contractor will submit ~~to each Surplus Line Broker~~ an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed to each Broker. (5-3-03)()

03. Payable on Receipt. The Stamping Fee ~~of the Surplus Line Association~~ is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (1-1-94)()

015. COLLECTION OF TAXES.

01. Idaho Premium Taxes. Idaho Premium Tax must will be collected from the insured. ~~This tax is charged on the premium paid.~~ Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes must will be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (5-3-03)()

02. **Purchasing Groups.** Purchasing groups that obtain insurance from an unauthorized or authorized surplus lines insurer must will use an Idaho-licensed surplus lines b Broker ~~licensed in the state of Idaho~~. The Surplus Lines Broker is responsible to collect and submit all taxes and fees ~~to the Surplus Lines Association~~ as required by this Chapter. (5-3-03)()

016. **REPORTING TAXES AND STAMPING FEES.**

Brokers must are to report premium taxes and stamping fees in increments of not less than one year. ~~If a b~~ A Broker ~~elects to who~~ collects quarterly or monthly payments of premiums from the insured, ~~he may do so, providing he will~~ provide reports of the premium tax and stamping fee in the initial submission or renewal for a full year. (1-1-94)()

017. **PLACEMENT AND COMMISSIONS.**

01. **Basic Requirement.** All surplus line business ~~whether produced from within the state of Idaho or outside, must is to~~ be placed through a licensed Surplus Line Broker. Each producer of surplus line business must will hold an Idaho resident or non-resident producer license ~~for Idaho~~. (5-3-03)()

02. **Idaho Producer.** When a producer requests placement by a licensed Surplus Line Broker, the commission received and paid ~~shall will~~ be based on the mutual written agreement of the parties ~~concerned~~. (6-30-19)T()

018. **SUBMISSION TIME PERIODS.**

All affidavits, submissions, certificates, endorsements and other documents for insurance written for Open Lines for Export and Other Than Open Lines for Export must be received at by the Surplus Lines Association delegated contractor within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, ~~then~~ the information with submission form and affidavit, if applicable, will be forwarded. The b Broker is responsible for meeting this requirement ~~and the burden of compliance is upon him~~. (6-30-19)T()

019. **OPEN LINES FOR EXPORT.**

Pursuant to Section 41-1216, the Director will publish A list of approved classes of insurance coverage or risks ~~shall be published by the Director and a copy of which shall be delivered to and maintained by a delegated association, if one has been delegated. These classes are recognized by the Department and the Association as eligible for export since it has been previously determined that an adequate market among authorized insurers does not exist in Idaho. Under this provision, brokers are not required to comply with sections 41-1214(2), (3) and 41-1215 of the Idaho Insurance Code, but proper submission must be provided to the Director or to a delegated association, if one has been delegated pursuant to Section 41-1232(c), Idaho Code, within thirty (30) days after the insurance policy is received by the Idaho broker~~. If a risk does not appear on this list, then the b Broker must file the normal submission forms and documents and ~~he must~~ execute the broker's affidavit. (6-30-19)T()

020. **BROKERS RECORDS.**

~~Each broker shall keep in his office a~~ A full and true record of each surplus line coverage procured by ~~him as outlined in section 41-1227 of the Idaho Insurance Code~~ each Broker is to be maintained by the Broker. Reports of all documents processed by the Surplus Lines Association delegated contractor will be provided on a monthly basis to the b Broker. These reports, in addition to the broker's copy of policies and endorsements, must be kept for a period of five (5) years and are subject to examination by the d Director. (5-3-03)()

021. **APPROVED LIST OF INSURERS.**

Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves A list, ~~commonly known as the "white" list, containing the only non-admitted companies authorized of unauthorized insurers, whether foreign or alien, eligible~~ to write surplus line business in ~~this state will be issued from time to time by the Director. While this list is in effect, a b~~ Idaho. Brokers may only place surplus line business with ~~those~~ only on the current list. ~~After receiving the updates from the Director, t~~ The association delegated contractor will ~~keep b~~ inform Brokers informed of additions and changes through timely notice to the list. (7-1-98)()

022. -- 999. (RESERVED)