

18.06.05 – MANAGING GENERAL AGENTS (MGA)

000. LEGAL AUTHORITY.

~~Managing General Agent Act (MGA Act), Title 41, Chapters 15~~Section 41-211, Idaho Code and.

001. ~~TITLE AND SCOPE.~~

~~IDAPA 18.06.05, “Managing General Agents.”~~ This chapter implements and administers provisions of ~~the MGA Managing General Agents (MGA) Act Title 41, Chapter 15, Idaho Code.~~

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Applicability of Statutory Definitions.~~ The definitions ~~contained in the MGA Act~~ as set forth in Section 41-1502, Idaho Code, apply.

011. NOTICE PROVISIONS.

01. **Notice by MGA.** Upon licensure and, thereafter, on or before July 1 of each year, any person, ~~firm, association or corporation~~ acting in the state of Idaho ~~in the capacity of as~~ an MGA ~~as defined in Section 41-1502(3), Idaho Code,~~ provides notice to the Director, ~~of the Department~~ which includes:

- a. A certified copy of the surety bond prescribed by Subsection 013.01-41-1503(3), Idaho Code.
- b. Proof of insurance coverage as prescribed by ~~Subsection 013.02~~ 012.
- c. The appropriate nonrefundable designation fee prescribed by IDAPA 18.01.02.
- d. A list of all names and addresses of insurers doing business in the State of Idaho or Idaho domestic insurers with which the MGA has a contract and a verified statement on a form provided by the Department that the contract(s) contain the provisions prescribed by Section 41-1504, Idaho Code.

02. **Notice by Insurer.** In addition to those items specified in Section 41-1505(5), Idaho Code, notice by the insurer will include:

- a. The name and address of the MGA;
- b. Proof that the MGA has met the bonding requirements of Section 41-1503(3), Idaho Code. (3-31-22)
- ~~bc.~~ Proof that the MGA has met ~~the bonding and~~ insurance requirements of Section ~~013.01~~ 012;
- ~~ed.~~ Procedures and timetable for conducting an onsite review of the underwriting and claims processing operation of the MGA as prescribed by ~~Subsection 41-1505(3), Idaho Code~~; and
- de. The name of an officer of the insurer responsible for the contract.

012. ~~(RESERVED)~~ BOND.

The bond amount, as prescribed in Section 41-1503(3), Idaho Code will be adjusted accordingly on or before July 1 of each year. Coverage cannot be written by the insurer or an affiliate of the insurer employing the MGA.

013. ~~Security Payments.~~

~~01. BOND. ALL MGAS ACQUIRE A SURETY BOND FOR THE PROTECTION OF THE INSURER AND INSURED. THE BOND WILL BE IN THE AMOUNT OF FIFTY THOUSAND DOLLARS~~

~~(\$50,000) OR TEN PERCENT (10%) OF THE AMOUNT OF TOTAL FUNDS HANDLED WITHIN THE PRECEDING YEAR, WHICHEVER IS GREATER. THE BOND AMOUNT WILL BE ADJUSTED ACCORDINGLY ON OR BEFORE JULY 1 OF EACH YEAR. COVERAGE CANNOT BE WRITTEN BY THE INSURER OR AN AFFILIATE OF THE INSURER EMPLOYING THE MGA.~~

~~02. Errors and Omissions Policy~~ **ERRORS AND OMISSIONS POLICY.**

All MGAs acquire and maintain an errors and omissions insurance policy providing for claims arising out of the MGA's negligent acts, errors or omission. The policy coverage limit is set at two hundred fifty thousand dollars (\$250,000) or twenty-five percent (25%) of the gross amount of direct written premiums received by an insurer for the previous calendar year that are attributable to the MGA, whichever is greater. The policy coverage limit will be adjusted accordingly on or before July 1 of each year. Unless approved by the director, coverage will not be written by the insurer or an affiliate of the insurer employing the MGA.

014. INDEPENDENT AUDIT OR EXAMINATION.

01. Annual Independent Audit of MGA. An independent audit by a certified public accountant is conducted annually for MGAs currently under ~~contract, and~~ contract and is to be contracted for by the insurer. The independent audit will include the following:

- a. Report of independent certified public accountant;
- b. Balance sheet;
- c. Statement of income;
- d. Statement of cash flow;
- e. Statement of income and retained earnings;
- f. Notes on financial statements - these notes are those prescribed by General Accepted Accounting Principals; and
- g. A copy of a management letter or a narrative statement setting forth what would have been the content of the management letter had such letter been completed.

02. Examination of MGA. The Department retains authority to examine an MGA notwithstanding the termination of the MGA's contractual authority. Pursuant to the provisions of Title 41, Chapter 2, Idaho Code, ~~the expense of such examination is to be reimbursed to the Department by~~ the insurer employing the MGA reimburses the Department for the expense of such examination.

015. TERMINATION OF CONTRACT.

01. Notice to the Department. Notice of the termination of an agreement between an MGA and an insurer for which the MGA was conducting business in the state of Idaho will include the name of the person, ~~firm, association or corporation~~ acting as an MGA under the terms of the contract and the basis for the termination.

02. Delivery of Records to Insurer upon Termination of Contract. If the contract between an insurer and an MGA is terminated for any reason, the MGA will, upon request by the insurer, deliver all records to the insurer within ninety (90) days of the request.

016. -- 999. (RESERVED)