

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 136

BY BUSINESS COMMITTEE

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1016, IDAHO CODE, TO PROVIDE
CAUSE FOR A CERTAIN PENALTY AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-1016, Idaho Code, be, and the same is hereby
amended to read as follows:

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 direc-
tor;

(c) Obtaining or attempting to obtain a license through misrepresenta-
tion 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 con-
tract or application for insurance or misrepresenting any fact material
to any insurance transaction or proposed transaction;

(f) Being convicted of or pleading guilty to any felony, or to a mis-
demeanor which evidences bad moral character, dishonesty, a lack of in-
tegrity 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 demonstrat-
ing 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;

1 (k) Improperly using notes or any other reference material to complete
2 an examination for an insurance license;

3 (l) Knowingly accepting insurance business from an individual who is
4 not licensed;

5 (m) Failing to comply with an administrative or court order imposing a
6 child support obligation, provided however, that nothing in this pro-
7 vision shall be deemed to abrogate or modify chapter 14, title 7, Idaho
8 Code; ~~or~~

9 (n) Failing to pay state income tax or to comply with any administrative
10 or court order directing payment of state income tax; or

11 (o) In the case of a bail agent, compensating or agreeing to compen-
12 sate any incarcerated person to influence or encourage another incar-
13 cerated person or other incarcerated persons to engage the bail agent's
14 services or the services of the bail agent's company or of other bail
15 agents employed by such bail company. For purposes of this subsection,
16 compensating any incarcerated person shall include providing payment
17 in any form to any person, organization or entity designated by the in-
18 carcerated person to receive such payment.

19 (2) The director shall, without hearing, suspend for not more than
20 twelve (12) months, or shall revoke or refuse to continue any license issued
21 under this chapter to a nonresident where:

22 (a) The director has received a final order of suspension, revocation
23 or refusal to continue from the insurance regulatory official or court
24 of jurisdiction of the licensee's home state; or

25 (b) A nonresident no longer has a license in the licensee's home state
26 because the home state license was:

27 (i) Voluntarily surrendered for any reason except relicensing as
28 a resident in another state; or

29 (ii) Otherwise nonrenewed by the nonresident and remains nonre-
30 newed for a period greater than ninety (90) days beyond its expira-
31 tion date, and without notice to the director of relicensing as a
32 resident in another state.

33 If cause under this provision exists after the expiration of the twelve
34 (12) months, successive suspensions may be imposed by the director without
35 hearing.

36 (3) The license of a business entity may be suspended, revoked or re-
37 fused if the director finds that the violation of an individual licensee,
38 who is registered to or acting on behalf of the business entity, was known
39 or should have been known by one (1) or more of the owners, officers or man-
40 agers acting on behalf of the business entity and that the violation was not
41 reported to the director and no corrective action was taken.

42 (4) In addition to or in lieu of any applicable denial, suspension or
43 revocation of a license, a person may, after hearing, be subject to a civil
44 fine or administrative penalty pursuant to subsection (1) of this section or
45 any other applicable section.

46 (5) The director shall retain the authority to enforce the provisions
47 of and impose any penalty or remedy authorized by title 41, Idaho Code,
48 against any person who is under investigation for or charged with a violation
49 of title 41, Idaho Code, or department rule, even if the person's license or

1 registration has been surrendered, or has lapsed by operation of law, or if
2 the person has never been licensed.