

TITLE 41
INSURANCE

CHAPTER 4
FEES AND TAXES

41-401. FEES -- LICENSES -- MISCELLANEOUS CHARGES. (1) The director shall collect, and persons so served shall pay to the director fees, licenses, and miscellaneous charges as provided for from time to time by rule promulgated by the director. The director may adjust fees, licenses and miscellaneous charges as necessary to allow the department to meet the appropriation as provided for by law.

(2) Any rule setting fees, licenses and miscellaneous charges shall adhere to the Idaho administrative procedure act except that the effective date of such rule shall be July 1 of the calendar year of enactment or change. If the appropriation is not known or set by April 1, the director shall be authorized to use emergency rulemaking procedures to maintain an effective date of July 1.

(3) Insurance Administrative Account:

(a) There is hereby created an account in the dedicated fund in the state treasury, to be designated the "Insurance Administrative Account" to provide for the expenses of the department of insurance as provided for by law.

(b) The insurance administrative account shall be effective December 31, 1984, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:

1. All moneys appropriated by the legislature.
2. All fees, licenses and miscellaneous charges collected pursuant to this section.

(c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereafter provided by law.

(d) Pending use for purposes of the provisions of the laws of this state, moneys in the insurance administrative account shall be invested by the state treasurer in the same manner as provided under section [67-1210](#), Idaho Code, with respect to other surplus or idle moneys in the state treasury.

(e) At the beginning of each fiscal year, those moneys in the insurance administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account. The balance in this account shall not be considered excessive until such a transfer is required pursuant to the provisions of this subsection.

[41-401, added 1984, ch. 23, sec. 2, p. 39; am. 1993, ch. 124, sec. 1, p. 315; am. 1998, ch. 225, sec. 1, p. 774.]

41-402. PREMIUM TAX. (1) Each authorized insurer, and each formerly authorized insurer with respect to insurance transacted while an authorized insurer, shall file with the director, on or before the dates in each year set forth in subsections (3) and (4) of this section, a statement (on forms as prescribed and furnished by the director) under oath, for the period set forth in subsections (3) and (4) of this section, and pay the director a tax

at the rate set forth in subsection (2) of this section, on the following amounts:

(a) As to life insurers, the amount of all gross premiums received by the insurer on direct risks resident in this state, and also, if a domestic insurer, on direct risks resident in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned coupons and dividends paid to or credited to policyholders.

(b) As to all insurers other than life insurers, the amount of gross direct premiums written on policies covering subjects of insurance resident, located or performed in this state, and also, if a domestic insurer, on such premiums in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned premiums, premiums on policies not taken and dividends paid or credited to policyholders. As to title insurance, "gross premium" means the insurance risk portion of the amount charged for title insurance.

(2) Subject to section [41-403](#), Idaho Code, as that section applies through calendar year 2009, the rate of tax shall be as follows:

(a) As to title insurance, the rate of tax shall be one and five-tenths percent (1.5%).

(b) As to all other kinds of insurance, the rate of tax shall be:

(i) For calendar year 2004 and before, two and seventy-five hundredths percent (2.75%);

(ii) For calendar year 2005, two and five-tenths percent (2.5%);

(iii) For calendar year 2006, two and three-tenths percent (2.3%);

(iv) For calendar year 2007, two and one-tenth percent (2.1%);

(v) For calendar year 2008, one and nine-tenths percent (1.9%);

(vi) For calendar year 2009, one and seven-tenths percent (1.7%);

and

(vii) For calendar year 2010 and thereafter, one and five-tenths percent (1.5%).

(3) (a) Every insurer with a tax obligation under this section shall make prepayment of the tax obligations for the current calendar year's business if the sum of the tax obligations for the preceding calendar year's business is four hundred dollars (\$400) or more.

(b) The director shall credit the prepayments toward the appropriate tax obligations of the insurer for the current calendar year.

(c) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and the current year's rate and shall be paid to the director's office by the due dates and in the following amounts:

(i) On or before June 15, sixty percent (60%);

(ii) On or before September 15, twenty percent (20%); and

(iii) On or before December 15, fifteen percent (15%).

(4) On or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.

(5) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(6) This section shall not apply as to any reciprocal insurer doing exclusively a worker's compensation business and complying with the provisions of the worker's compensation law of this state and writing worker's

compensation only for members under that law, if its representatives or agents or the attorney in fact executing such contracts are not compensated on a commission basis.

(7) This section shall not apply as to life insurance policies issued under pension plans or profit-sharing plans exempt or qualified under section 401(a), 403, 404, 408 or 501(a) of the Internal Revenue Code, as hereafter amended or renumbered from time to time, nor to annuity contracts in general.

(8) This section shall not apply to any reciprocal insurer that exclusively insures members who are governmental entities, as defined by section [6-902](#)(1), (2) and (3), Idaho Code.

(9) Except as otherwise provided in this subsection, this section shall not apply as to any dental care services or as to any dental insurance authorized by [title 41](#), Idaho Code. A tax is hereby imposed upon each contract for dental care services and dental insurance at the rate of four cents (4¢) per contract, per month, such amount to be computed each month. Tax payments shall be made consistent with the documentation requirements and payment dates set forth in this section. The tax imposed in this subsection shall be in lieu of the premium tax provided in this section and in lieu of all other taxes, licenses and fees as provided by section [41-405](#), Idaho Code; provided however, that this subsection shall not apply to entities governed by [chapter 34, title 41](#), Idaho Code.

(10) The amount of tax due for the current year shall be paid in full in the manner and at the times required in this section without any credit or offset for refunds or other amounts due or claimed to be due by the insurer.

(11) An insurer shall round to the nearest whole dollar any amount shown or required to be shown on any return, form, statement, or other document submitted to the director. Any record or other document prepared or maintained by the director shall express any dollar amount rounded to the nearest whole dollar.

[41-402, added 1977, ch. 303, sec. 2, p. 849; am. 1979, ch. 318, sec. 1, p. 854; am. 1982, ch. 352, sec. 1, p. 872; am. 1983, ch. 4, sec. 12, p. 12; am. 1987, ch. 340, sec. 1, p. 720; am. 1988, ch. 366, sec. 1, p. 1077; am. 1994, ch. 383, sec. 1, p. 1229; am. 2001, ch. 111, sec. 1, p. 400; am. 2004, ch. 356, sec. 1, p. 1063; am. 2007, ch. 151, sec. 1, p. 461; am. 2019, ch. 45, sec. 1, p. 124.]

41-402A. REFUNDS. Where there has been an overpayment of any taxes, fines or penalties due under this chapter, the director is authorized to refund all such taxes, fines or penalties erroneously or illegally collected or paid. No such refund shall be paid after one (1) year from the due date of the statement required in section [41-402](#)(4), Idaho Code, unless before the expiration of such period a written claim is filed therefore by the insurer on such forms and in such manner as is prescribed by the director.

[41-402A, added 1987, ch. 340, sec. 2, p. 722.]

41-404. PENALTY FOR FAILURE TO PAY TAX. Any insurer failing to render the statement and pay the tax required under section [41-402](#), Idaho Code, on or before the date due, including any extension of time granted by the director pursuant to section [41-335](#) (1), Idaho Code, shall be liable to a fine of twenty-five dollars (\$25.00) for each additional day of delinquency; and the taxes may be collected by distraint and recovered by an action to be insti-

tuted by the attorney general in the name of the state in any court of competent jurisdiction. The director shall suspend or revoke the certificate of authority of the delinquent insurer until the statement is filed and the taxes and fine, if any, are fully paid.

[41-404, added 1961, ch. 330, sec. 107, p. 645; am. 1969, ch. 214, sec. 13, p. 625; am. 1988, ch. 366, sec. 7, p. 1081.]

41-405. PREMIUM TAX IN LIEU OF OTHER TAXES -- LOCAL TAXES PROHIBITED. (1) Payment to the director by an insurer of the tax upon its premiums as in this chapter required, shall be in lieu of all other taxes upon premiums, taxes upon income, franchise or other taxes measured by income, and upon the personal property of the insurer and the shares of stock or assets thereof; provided, that all real property, if any, of the insurer shall be listed, assessed and taxed the same as real property of like character of individuals.

(2) The state of Idaho hereby preempts the field of imposing excise, privilege, franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers and their agents and other representatives as such; and no county, city, municipality, district, or other political subdivision or agency in this state shall levy upon insurers, or upon their agents and representatives as such, any such tax, license or fee; nor shall any such county, city, municipality, district, political subdivision or agency require of any such insurer, agent or representative, duly authorized or licensed as such under this code, any additional authorization, license, or permit of any kind for conducting therein transactions otherwise lawful under the authority or license granted under this code.

[41-405, added 1961, ch. 330, sec. 108, p. 645.]

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section [59-1014](#), Idaho Code. The director shall file with the state controller a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account.

Such funds shall be distributed as follows:

(a) The director may deposit up to twenty percent (20%) of the funds received in the insurance refund account which is hereby created for the purpose of repaying overpayments of any taxes, fines, and penalties or other erroneous receipts. There is hereby appropriated out of the insurance refund account so much thereof as shall be necessary for the payment of refunds. Any unencumbered balance remaining in the insurance refund account on June 30 of each and every year in excess of forty thousand dollars (\$40,000) shall be transferred to the general fund and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

(b) That portion of the premium tax, payable to the public employee retirement fund as provided in section [59-1394](#), Idaho Code, shall be distributed to that fund.

(c) That portion of the premium tax necessary to cover administrative costs incurred by the department in placing insurance companies or any

other insurance entities into receivership or under administrative supervision, and such costs cannot be satisfied from the assets of these companies or entities, shall be distributed to the insurance insolvency administrative fund which is hereby created. There is hereby appropriated out of the insurance insolvency administrative fund so much thereof as shall be necessary, but not to exceed two hundred thousand dollars (\$200,000) in any one (1) fiscal year, for the payment of the department's administrative expenses incurred in carrying out such receiverships or supervision. A balance of one hundred thousand dollars (\$100,000) shall be maintained in this fund on June 30 of each year.

(d) After all other deductions authorized in this section have been made, if the premium tax remaining exceeds forty-five million dollars (\$45,000,000), one-fourth (1/4) of such excess is hereby appropriated and shall be paid to the Idaho individual high risk reinsurance pool established in [chapter 55, title 41](#), Idaho Code.

(e) The balance of the premium tax, fines and penalties shall be distributed to the general fund of the state of Idaho.

(f) All moneys received for fees, licenses and miscellaneous charges collected shall be distributed to the insurance administrative account.

(2) The director shall make and file with the state controller an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month.

[41-406, added 1984, ch. 23, sec. 3, p. 40; am. 1987, ch. 340, sec. 5, p. 723; am. 1993, ch. 118, sec. 1, p. 296; am. 1994, ch. 180, sec. 82, p. 481; am. 2000, ch. 64, sec. 1, p. 144; am. 2000, ch. 472, sec. 18, p. 1642; am. 2003, ch. 308, sec. 8, p. 848; am. 2012, ch. 158, sec. 1, p. 433; am. 2013, ch. 90, sec. 1, p. 221; am. 2016, ch. 361, sec. 1, p. 1067.]