

STATEMENT OF PURPOSE

RS 20776

Administrators that collect premiums for and pay claims on behalf of insurers (and certain self-funded plans that are required to register) are licensed by the Department of Insurance. When an entity applies to become an administrator where Idaho will be its "home state," current law contains a requirement for an applicant to submit audited financial statements for the two (2) most recent fiscal years. Similarly, once an administrator is licensed, it must submit an annual report that includes an audited financial statement attested to by a certified public accountant. The cost of engaging a certified public accountant for an audit may in some cases create a financial hardship for a small business.

These changes would allow the submission of unaudited financial statements in lieu of audited financial statements, coupled with the requirement of a surety bond in a form prescribed by the Director, upon good cause shown, as determined by the Director.

This will provide a balanced approach for the Department to review financial solvency of administrators and applicants for an administrator's home state license, while reducing costs of regulatory compliance for small businesses.

FISCAL NOTE

None.

CONTACT

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LEGISLATURE OF THE STATE OF IDAHO



Sixty-first Legislature

Second Regular Session - 2012

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO INSURANCE ADMINISTRATORS; AMENDING SECTION 41-911, IDAHO CODE, TO ALLOW SUBMISSION OF UNAUDITED FINANCIAL STATEMENTS IN CONNECTION WITH HOME STATE LICENSE APPLICATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-914, IDAHO CODE, TO REVISE ANNUAL REPORTING REQUIREMENTS FOR LICENSED ADMINISTRATORS.

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

SECTION 1. That Section 41-911, Idaho Code, be, and the same is hereby amended to read as follows:

41-911. HOME STATE LICENSE. (1) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(2) A person applying to Idaho as the home state shall submit to the director an application in the form prescribed by the director that shall include or be accompanied by the following information and documents:

(a) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Idaho secretary of state and other applicable documents and all amendments to such documents;

(b) The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(c) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(d) Audited annual financial statements or reports for the two (2) most recent fiscal years that ~~prove~~ demonstrate that the applicant has a positive net worth. If the applicant has been in existence for less than two (2) fiscal years, the uniform application shall include financial statements or reports, certified by ~~an~~ at least two (2) officers, owners or directors of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which such financial statements or reports have been completed. An audited annual financial report prepared on a consolidated

1 basis shall include a columnar consolidating or combining worksheet
2 that shall be filed with the report and include the following:

- 3 (i) Amounts shown on the consolidated audited financial report
4 shall be shown on the worksheet;
5 (ii) Amounts for each entity shall be stated separately; and
6 (iii) Explanations of consolidating and eliminating entries shall
7 be included.

8 The applicant shall also include such other information as the director
9 may require in order to review the current financial condition of the
10 applicant;

11 (e) In lieu of submitting audited financial statements, and upon writ-
12 ten application by an applicant and good cause shown, the director may
13 grant a hardship exemption from filing audited financial statements and
14 allow the submission of unaudited financial statements. Acceptable
15 formats for unaudited financial statements, which shall include notes,
16 are:

- 17 (i) Reports compiled or reviewed by a certified public accoun-
18 tant; or
19 (ii) Internal financial reports prepared in accordance with GAAP,
20 certified by at least two (2) officers, owners or directors of the
21 administrator.

22 If unaudited financial statements are submitted, the applicant must
23 also secure and maintain a surety bond in a form prescribed by the
24 director for the use and benefit of the director to be held in trust
25 for the benefit and protection of covered persons and any insurer or
26 self-funded plan against loss by reason of acts of fraud or dishonesty,
27 for the greater of ten percent (10%) of funds handled for the benefit of
28 Idaho residents or twenty thousand dollars (\$20,000). Administrators
29 of self-funded plans in Idaho are subject to the mandatory surety bond
30 requirement pursuant to subsection (8) of this section, regardless of
31 whether they file audited or unaudited financial reports;

32 (f) A statement describing the business plan, including information on
33 staffing levels and activities, proposed in this state and nationwide.
34 The plan shall provide details setting forth the applicant's capability
35 for providing a sufficient number of experienced and qualified person-
36 nel in the areas of claims processing, recordkeeping and underwriting;

37 (g) The license application fee as provided for by rule; and
38 (h) Such other pertinent information as may be required by the direc-
39 tor.

40 (3) An administrator licensed or applying for licensure under the pro-
41 visions of this section shall make available for inspection by the director,
42 copies of all contracts with insurers or other persons utilizing the ser-
43 vices of the administrator.

44 (4) An administrator licensed or applying for licensure under the pro-
45 visions of this section shall produce its accounts, records and files for ex-
46 amination, and make its officers available to give information with respect
47 to its affairs, as often as reasonably required by the director.

48 (5) The director may refuse to issue a license if the director deter-
49 mines that the ~~administrator~~ applicant or any individual responsible for
50 the conduct of affairs of the ~~administrator~~ applicant is not competent,

1 trustworthy, financially responsible or of good personal and business repu-
2 tation, or has had an insurance or an administrator certificate of authority
3 or license denied or revoked for cause by any jurisdiction, or if the direc-
4 tor determines that any of the grounds set forth in section 41-915, Idaho
5 Code, exist with respect to the administrator applicant.

6 (6) A license issued under this section shall remain valid, unless sur-
7 rendered, suspended or revoked by the director, for so long as the adminis-
8 trator continues in business in this state and remains in compliance with the
9 provisions of this chapter and any applicable rules.

10 (7) An administrator licensed or applying for licensure under the pro-
11 visions of this section shall immediately notify the director of any mate-
12 rial change in its ownership, control or other fact or circumstance affect-
13 ing its qualification for a license in this state.

14 (8) An administrator licensed or applying for a home state license that
15 administers or will administer self-funded health plans subject to regula-
16 tion under chapter 40 or 41, title 41, Idaho Code, shall maintain a surety
17 bond in a form prescribed by the director for the use and benefit of the di-
18 rector to be held in trust for the benefit and protection of covered persons
19 and ~~the any insurer or insurers~~ self-funded plan against loss by reason of
20 acts of fraud or dishonesty. The bond shall be in the greater of the follow-
21 ing amounts:

22 (a) One hundred thousand dollars (\$100,000); or

23 (b) An amount equal to the greater of ten percent (10%) of the contribu-
24 tions collected by the administrator from self-funded plans subject to
25 regulation under chapters 40 and 41, title 41, Idaho Code, or ten per-
26 cent (10%) of the benefits paid by such self-funded plans administered
27 during the preceding calendar year. If the administrator did not admin-
28 ister any self-funded plans subject to regulation under chapter 40 or
29 41, title 41, Idaho Code, during the preceding calendar year, the bond
30 shall be in an amount equal to ten percent (10%) of the contributions
31 projected to be received by the administrator from such self-funded
32 plans during the next calendar year.

33 SECTION 2. That Section 41-914, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 41-914. ANNUAL REPORT. (1) Each administrator licensed under the pro-
36 visions of this chapter shall file an annual report for the preceding calen-
37 dar year with the director on or before July 1 of each year, or within such
38 extension of time as the director for good cause may grant. The annual report
39 shall include:

40 (a) ~~An~~ An audited financial statement ~~performed~~ attested to by an inde-
41 pendent certified public accountant. An audited annual financial re-
42 port prepared on a consolidated basis shall include a columnar consol-
43 idating or combining worksheet that shall be filed with the report and
44 include the following:

45 (a*i*) Amounts shown on the consolidated audited financial report
46 shall be shown on the worksheet;

47 (b*ii*) Amounts for each entity shall be stated separately; and

48 (c*iii*) Explanations of consolidating and eliminating entries
49 shall be included.

1 (b) In lieu of submitting an audited financial statement, and upon
2 written application by an administrator and good cause shown, the di-
3 rector may grant a hardship exemption from filing audited financial
4 statements and allow the submission of unaudited financial statements.
5 Acceptable formats for unaudited financial statements, which shall in-
6 clude notes, are:

7 (i) Reports compiled or reviewed by a certified public accoun-
8 tant; or

9 (ii) Internal financial reports prepared in accordance with GAAP,
10 certified by at least two (2) officers, owners or directors of the
11 administrator.

12 If unaudited financial statements are submitted, the administrator
13 must secure and maintain a surety bond in a form prescribed by the
14 director for the use and benefit of the director to be held in trust
15 for the benefit and protection of covered persons and any insurer or
16 self-funded plan against loss by reason of acts of fraud or dishonesty,
17 for the greater of ten percent (10%) of funds handled for the benefit of
18 Idaho residents or twenty thousand dollars (\$20,000).

19 (2) The annual report shall be in the form and contain such matters as
20 the director prescribes and shall be verified by at least two (2) officers,
21 owners or directors of the administrator.

22 (23) The annual report shall include the complete names and addresses
23 of all insurers and for self-funded plans, all employers and trusts, with
24 which the administrator had agreements during the preceding fiscal year.
25 The report shall also include the number of Idaho residents covered by each
26 of the plans.