

Dear Senators ANDREASON, McKague, Stennett, and  
Representatives BLACK, Henderson, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Department of Insurance:

IDAPA 18.01.09 - Rules Pertaining To The Consumer Protection in Annuity Transactions (Chapter  
Repeal) (Docket No. 18-0109-1201);

IDAPA 18.01.09 - Rules Pertaining To The Suitability in Annuity Transactions (Chapter Rewrite)  
(Docket No. 18-0109-1202);

IDAPA 18.01.19 - Rules Pertaining To The Insurance Rates and Credit Rating (Docket No.  
18-0119-1201);

IDAPA 18.01.44 - Rules Pertaining To The Schedule of Fees, Licenses and Miscellaneous Charges  
(Fee Rule) (Docket No. 18-0144-1201);

IDAPA 18.01.56 - Rules Pertaining To The Rebates and Illegal Inducements to Obtaining Title  
Insurance Business (Docket No. 18-0156-1201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 09/23/2012. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/21/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the  
memorandum attached below.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee  
**FROM:** Legislative Research Analyst - Ryan Bush  
**DATE:** September 7, 2012  
**SUBJECT:** Department of Insurance

IDAPA 18.01.09 - Rules Pertaining To The Consumer Protection in Annuity Transactions (Chapter Repeal) (Docket No. 18-0109-1201)

IDAPA 18.01.09 - Rules Pertaining To The Suitability in Annuity Transactions (Chapter Rewrite) (Docket No. 18-0109-1202)

IDAPA 18.01.19 - Rules Pertaining To The Insurance Rates and Credit Rating (Docket No. 18-0119-1201)

IDAPA 18.01.44 - Rules Pertaining To The Schedule of Fees, Licenses and Miscellaneous Charges (Fee Rule) (Docket No. 18-0144-1201)

IDAPA 18.01.56 - Rules Pertaining To The Rebates and Illegal Inducements to Obtaining Title Insurance Business (Docket No. 18-0156-1201)

**(1) 18.01.09 - Consumer Protection in Annuity Transactions (Chapter Repeal) (Docket No. 18-0109-1201)**

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.09 - Rules Pertaining To The Consumer Protection in Annuity Transactions (Chapter Repeal). The Department states that it is repealing the current chapter, Docket No. 18-0109-1201, "Consumer Protection in Annuity Transactions" and replacing it with Docket No. 18-0109-1202, "Suitability in Annuity Transactions".

**(2) 18.01.09 - Suitability in Annuity Transactions (Chapter Rewrite) (Docket No. 18-0109-1202)**

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.09 - Rules Pertaining To The Suitability in Annuity Transactions (Chapter Rewrite). The Department states that the proposed rulemaking concerns suitability applicable to insurers and producers in recommending annuities to consumers. The Department proposes to repeal the existing chapter, Docket No. 18-0109-1201, and replace it with this rulemaking. The Department further states that this rulemaking would require insurers and producers to have reasonable grounds to believe an annuity is suitable based on specific facts disclosed by the consumer prior to making a recommendation and would require producers engaged in the sale of annuity products to complete a one-time, four-credit training course. Specifically, this rulemaking accomplishes the following:

(1) Defines terms;

Mike Nugent Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

- (2) Lists transactions that are exempt;
- (3) Provides for duties of insurers and producers including the general rule, collection of information, what constitutes reasonable basis, exceptions, supervision, prohibitions and compliance with FINRA;
- (4) Provides for training for producers;
- (5) Lists requirements for recordkeeping; and
- (6) Provides for violations, penalties and corrective action.

The Department states that negotiated rulemaking was conducted and notice was published in the July 4, 2012, Idaho Administrative Bulletin, Vol. 12-7, page 100. A public meeting was held on July 19, 2012 as provided for in the notice. This rulemaking incorporates by reference provisions of the federal Employee Retirement and Income Security Act, the Internal Revenue Code and Financial Industry Regulatory Authority (FINRA) Rule 2111. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 41-211 and 41-1940, Idaho Code.

### **(3) 18.01.19 - Insurance Rates and Credit Rating (Docket No. 18-0119-1201)**

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.19 - Rules Pertaining To The Insurance Rates and Credit Rating. The Department states that the proposed rulemaking clarifies when and how an insurer's use of consumer credit information will be deemed to be improper and in violation of Section 41-1843, Idaho Code. The proposed rulemaking also permits insurers to use a neutral credit factor or score against which to measure compliance with Section 41-1843, both at initial rating and upon renewal.

The Department states that negotiated rulemaking was conducted and notice was published in the July 4, 2012, Idaho Administrative Bulletin, Vol. 12-7, page 101. A public meeting was held on July 20, 2012 as provided for in the notice. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 41-211 and 41-1843, Idaho Code.

### **(4) 18.01.44 - Schedule of Fees, Licenses and Miscellaneous Charges (Fee Rule) (Docket No. 18-0144-1201)**

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.44 - Rules Pertaining To The Schedule of Fees, Licenses and Miscellaneous Charges (Fee Rule). The Department states that the proposed rulemaking adds vendors of portable electronic insurance as a new type of limited lines insurance producer license and the requisite fees, pursuant to House Bill 649 (effective 7/1/2013). The proposed rulemaking also increases fees for fingerprints as a result of increased costs from the Idaho State Police. Specifically, this rulemaking establishes an original license fee of one thousand dollars (\$1,000) for vendors with more than ten (10) locations in the state and one hundred dollars (\$100) for vendors with ten (10) or fewer locations. License renewal fees are established as five hundred dollars (\$500) for vendors with more than ten (10) locations and one hundred dollars (\$100) for vendors with ten (10) or fewer locations. Fingerprint processing fees are raised from sixty dollars (\$60) to eighty dollars (\$80).

The Department states that negotiated rulemaking was conducted and notice was published in the July 4, 2012, Idaho Administrative Bulletin, Vol. 12-7, page 102. A public meeting was held on July 19, 2012 as provided for in the notice. The fiscal impact associated with this rulemaking is expected to be revenue neutral.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 41-211, 41-401, 41-1007(1)(b) and 41-1089(6), Idaho Code.

**(5) 18.01.56 - Rebates and Illegal Inducements to Obtaining Title Insurance Business (Docket No. 18-0156-1201)**

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.56 - Rules Pertaining To The Rebates and Illegal Inducements to Obtaining Title Insurance Business. The Department states that the proposed rulemaking adds language to permit title agents to provide attorneys and appraisers plat maps and copies of CCRs without charge. Specifically, this rulemaking allows a title entity to provide to licensed attorneys and licensed appraisers the following documents without charge: plat map reproductions, copies of applicable restrictive covenants and cover letters as provided for in the rule.

The Department states that negotiated rulemaking was conducted and notice was published in the July 4, 2012, Idaho Administrative Bulletin, Vol. 12-7, page 103. A public meeting was held on July 18, 2012 as provided for in the notice. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 41-211, 41-1314 and 41-2708(3), Idaho Code.

cc: Department of Insurance  
William W. Deal  
Tom Donovan

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.09 - CONSUMER PROTECTION IN ANNUITY TRANSACTIONS**

#### **DOCKET NO. 18-0109-1201 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA rule 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers. The Department of Insurance proposes to repeal the existing rule in Docket No. 18-0109-1201, "Consumer Protection in Annuity Transactions" and replace it with the proposed rule, 18-0109-1202, "Suitability in Annuity Transactions" in this bulletin.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 18-0109-1201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 100](#). A public meeting as provided in the notice was held on July 19, 2012.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208) 334-4214 or [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

William Deal  
Idaho Department of Insurance  
700 West State Street, 3rd Floor  
Boise ID 837290-0043  
Phone: (208) 334-4250

---

**IDAPA 18.01.09 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.09 - SUITABILITY IN ANNUITY TRANSACTIONS**  
**DOCKET NO. 18-0109-1202 (CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1940, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 18.01.09 concerns suitability standards applicable to insurers and insurance producers in recommending annuities to consumers. The Department of Insurance proposes to repeal the existing rule in Docket No. 18-0109-1201, and replace it with the proposed rule in this rulemaking.

The proposed rulemaking is based on the 2010 NAIC Model Regulation 275 Suitability in Annuity Transactions. The new rule requires the producer or insurer to have reasonable grounds to believe an annuity is suitable based on specific information of the consumer prior to making a recommendation to the consumer. The rule also requires producers engaged in the sale of annuity products to complete a one-time, four-credit training course.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket No. 18-0109-1201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 100](#). A public meeting as provided in the notice was held on July 19, 2012.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Provisions of federal law, namely, the Employee Retirement and Income Security Act and the Internal Revenue Code, and FINRA Rule 2111.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208) 334-4214 or [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

William Deal  
Idaho Department of Insurance  
700 West State Street, 3rd Floor  
PO Box 83720, Boise ID 83720-0043  
Phone: (208) 334-4250

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 18-0109-1202**

**IDAPA 18**  
**TITLE 01**  
**CHAPTER 09**

**18.01.09 - SUITABILITY IN ANNUITY TRANSACTIONS**

**000. LEGAL AUTHORITY.**

This rule is promulgated pursuant to authority granted by Sections 41-211 and 41-1940, Idaho Code. ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 18.01.09, "Suitability in Annuity Transactions." ( )

**02. Scope.** This rule applies to any recommendation to purchase or exchange an annuity made to a consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended. ( )

**002. PURPOSE.**

**01. Purpose.** The purpose of this rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. ( )

**02. Violation of Rule.** Nothing herein is construed to create or imply a private cause of action for a violation of this rule. ( )

**003. WRITTEN INTERPRETATIONS.**

There are no written interpretations for these rules. ( )

**004. ADMINISTRATIVE APPEALS.**

All administrative appeals are governed by 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 of the Attorney General," Subchapter B -- Contested Cases. ( )

**005. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** IDAPA 18.01.09, "Suitability in Annuity Transactions," adopts and incorporates by reference parts of the following documents: ( )

**a.** United States Code, Title 29 - Labor, Chapter 18 - Employee Retirement and Income Security Act (ERISA). ( )

**b.** United States Code, Title 26 - Internal Revenue Code. ( )

**c.** FINRA Rule 2111, effective July 9, 2012. ( )

**02. Availability of Referenced Documents.** ( )

**a.** Printed copies of the documents described in Subsections 005.01.a. and 005.01.b. are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 as well as from the Department; the telephone number is (202) 512-1800, and electronic copies are available online at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title29/pdf/USCODE-2011-title29-chap18.pdf> and <http://www.law.cornell.edu/uscode/text/26>. ( )

**b.** A printed copy of the document described in 005.01.c. is available from FINRA, Two Union Square, 601 Union Street, Suite 1616, Seattle, WA 98101-2327, telephone (206) 624-0790, as well as from the Department, and an electronic copy is available online at [http://finra.complinet.com/en/display/display\\_main.html?rbid=2403&element\\_id=9859](http://finra.complinet.com/en/display/display_main.html?rbid=2403&element_id=9859). ( )

**006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

**01. Office Hours.** The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ( )

**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ( )

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. ( )

**007. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

**008. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Annuity.** An annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity. ( )

**02. Continuing Education Credit or CE Credit.** One continuing education credit as more particularly described in IDAPA 18.01.53, "Continuing Education". ( )

**03. Continuing Education Provider or CE Provider.** An individual or entity that is approved to offer continuing education courses pursuant to IDAPA 18.01.53, "Continuing Education". ( )

**04. FINRA.** The Financial Industry Regulatory Authority or a succeeding agency. ( )

**05. Insurer.** A company required to be licensed under the laws of this state to provide insurance products, including annuities. ( )

**06. Producer.** A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. ( )

**07. Recommendation.** Advice provided by a producer or an insurer to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice. ( )

**08. Replacement.** A transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer or to proposing insurer that by reason of the transaction, an existing policy or contract has been or is to be: ( )

**a.** Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated; ( )



**b.** Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values; ( )

**c.** Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; ( )

**d.** Reissued with any reduction in cash value; or ( )

**e.** Used in a financed purchase. ( )

**09. Suitability Information.** Information that is reasonably appropriate to determine the suitability of a recommendation, including the following: ( )

**a.** Age; ( )

**b.** Annual income; ( )

**c.** Financial situation and needs, including the financial resources used for the funding of the annuity; ( )

**d.** Financial experience; ( )

**e.** Financial objectives; ( )

**f.** Intended use of the annuity; ( )

**g.** Financial time horizon; ( )

**h.** Existing assets, including investment and life insurance holdings; ( )

**i.** Liquidity needs; ( )

**j.** Liquid net worth; ( )

**k.** Risk tolerance; and ( )

**l.** Tax status. ( )

**011. TRANSACTION EXEMPTIONS.** Unless otherwise specifically included, this rule does not apply to transactions involving: ( )

**01. Direct Response Solicitations.** A response to a direct solicitation where there is no recommendation made based on information collected from the consumer pursuant to this rule; ( )

**02. Contracts Used to Fund.** Contracts that are used to fund: ( )

**a.** An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); ( )

**b.** A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer; ( )

**c.** A government or church plan defined in Section 414 of the IRC, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, as amended; ( )

**d.** A nonqualified deferred compensation arrangement established or maintained by an employer or

- plan sponsor; ( )
- e.** Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; ( )
  - f.** Formal prepaid funeral contracts; or ( )
  - g.** Prepaid contracts used to fund funeral and related funeral expenses governed by Sections 54-1131 et seq., Idaho Code. ( )

**012. -- 014. (RESERVED)**

**015. DUTIES OF INSURERS AND OF PRODUCERS.**

**01. General Rule.** In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the producer or insurer must have a reasonable basis to believe that the recommendation is suitable for the consumer based on the facts disclosed by the consumer. These facts include the consumer's suitability information and information regarding the consumer's investments and other insurance products, and financial situation and needs. The seller must also have a reasonable basis to believe all of the following: ( )

- a.** The consumer has been reasonably informed of various features of the annuity, including: ( )
  - i.** The potential surrender period and surrender charge; ( )
  - ii.** The potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; ( )
  - iii.** Mortality and expense fees; ( )
  - iv.** Investment advisory fees; ( )
  - v.** Potential charges for and features of riders; ( )
  - vi.** Limitations on interest returns; ( )
  - vii.** Insurance and investment components; and ( )
  - viii.** Market risk; ( )
- b.** The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit; ( )
- c.** The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable for the particular consumer based on his suitability information; and ( )
- d.** In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable and the producer or insurer has considered whether the consumer: ( )
  - i.** Will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living or other contractual benefits), or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements; or ( )
  - ii.** Would benefit from product enhancements and improvements; or ( )
  - iii.** Has had another annuity exchange or replacement and, in particular, an exchange or replacement

within the preceding thirty-six (36) months. ( )

**02. Collection of Information.** Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, a producer, or insurer when no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information. ( )

**03. Reasonable Basis.** Except as permitted under Subsection 015.04, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information. ( )

**04. Exceptions.** ( )

**a.** Except as provided under Paragraph 015.04.b., neither a producer nor an insurer shall have any obligation to a consumer under Subsection 015.01 or 015.03 related to any annuity transaction if: ( )

i. No recommendation is made; or ( )

ii. A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer; or ( )

iii. A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or ( )

iv. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the producer. ( )

**b.** An insurer's issuance of an annuity subject to Paragraph 015.04.a. will be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued. ( )

**05. Record Keeping.** A producer or, when no producer is involved, the responsible insurer representative, shall at the time of sale: ( )

**a.** Make a record of any recommendation subject to Subsection 015.01; ( )

**b.** Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and ( )

**c.** Obtain a customer signed statement that acknowledges that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's or insurer's recommendation. ( )

**06. Supervision for Compliance.** ( )

**a.** An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this rule. This includes, but is not limited to, the following: ( )

i. Establishing and maintaining reasonable procedures to inform its producers of the requirements of this rule and incorporating the requirements of this rule into relevant producer training manuals; ( )

ii. Establishing standards for producer product training and establishing and maintaining reasonable procedures to require its producers to comply with the requirements of Section 016 of this rule; ( )

iii. Providing product-specific training and training materials that explain all material features of its annuity products to its producers; ( )

iv. Establishing and maintaining procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that a recommendation is suitable. ( )

Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria; ( )

v. Establishing and maintaining procedures to detect recommendations that are not suitable. These procedures may include confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters; or programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this rule by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and ( )

vi. Annually providing a report to senior management, including those responsible for audit functions, that details a review, with appropriate testing designed to determine the effectiveness of the supervision system, and includes any exceptions found and any corrective actions taken or recommended. ( )

**b. Contracting.** ( )

i. Nothing in this subsection restricts an insurer from contracting for performance of a function (including establishing and maintaining procedures) required under Paragraph 015.06.a. of this rule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to Section 025 of this rule regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with Subsection 015.06.a.ii.(2) of this rule. ( )

ii. An insurer's supervision system under Paragraph 015.01.a. of this rule must include supervision of contractual performance under Subsection 015.06. This supervision of performance includes, but is not limited to, the following: ( )

(1) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and ( )

(2) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed. ( )

**c.** An insurer is not required to include in its system of supervision a producer's recommendations to consumers of products other than the annuities offered by the insurer. ( )

**07. Prohibitions.** A producer may not dissuade, or attempt to dissuade, a consumer from: ( )

**a.** Truthfully responding to an insurer's request for confirmation of suitability information; ( )

**b.** Filing a complaint; or ( )

**c.** Cooperating with the investigation of a complaint. ( )

**08. Compliance With FINRA.** ( )

**a.** Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions as reflected in FINRA Rule 2111 will satisfy the requirements under this rule. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection limits the Director's ability to enforce the provisions of this rule or investigate for compliance. ( )

**b.** For Paragraph 015.08.a. to apply, an insurer must: ( )

i. Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and ( )

ii. Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system. ( )

**016. PRODUCER TRAINING.**

**01. General Rule.** A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided, product-specific training standards and materials to comply with this subsection. ( )

**02. Required Producer Training Courses and Education.** ( )

**a.** A producer who engages in the sale of annuity products shall complete a one-time, four-credit training course approved by the Department and provided by the Department-approved education provider. ( )

**b.** Producers who hold a life insurance line of authority on the effective date of this rule and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this rule. Individuals who obtain a life insurance line of authority on or after the effective date of this rule may not engage in the sale of annuities until the annuity training course required under this subsection has been completed. ( )

**c.** The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) CE credits, but may be longer. ( )

**d.** The training required under this subsection shall include information on the following topics: ( )

i. The types of annuities and various classifications of annuities; ( )

ii. Identification of the parties to an annuity; ( )

iii. How fixed, variable and indexed annuity contract provisions affect consumers; ( )

iv. The application of income taxation of qualified and non-qualified annuities; ( )

v. The primary uses of annuities; and ( )

vi. Appropriate sales practices, replacement and disclosure requirements. ( )

**e.** Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline. ( )

**f.** A provider of an annuity training course intended to comply with this subsection shall register as a CE provider in this State and comply with the rules and guidelines applicable to producer continuing education courses as set forth in IDAPA 18.01.53. ( )

**g.** Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with IDAPA 18.01.53. ( )

**h.** Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with IDAPA 18.01.53. ( )

**i.** The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State.

( )

**j.** An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by Department-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers. ( )

**017. -- 020. (RESERVED)**

**021. RECORDKEEPING.**

**01. Maintaining Records.** Insurers and producers must maintain, and be able to provide to the Director, records of all information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for as long as the insurance transaction remains in force. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer. ( )

**02. Termination.** If the producer's appointment with the insurer is terminated or his license is suspended or revoked, the producer must remit copies of all records as described under Subsection 021.01 to the insurer within twenty-one (21) days of termination or change in license status. ( )

**03. Form.** Records required to be maintained by this rule may be maintained on any media and by any process that accurately reproduces the original document. ( )

**022. -- 024. (RESERVED)**

**025. COMPLIANCE MITIGATION - VIOLATIONS - PENALTIES.**

**01. Corrective Action.** An insurer is responsible for compliance with this rule. If a violation occurs, either because of the action or inaction of the insurer or its producer, the Director may order: ( )

**a.** An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's or producer's violation of this rule; ( )

**b.** A general agency, independent agency or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this rule; and ( )

**c.** Appropriate penalties and sanctions. ( )

**02. Violation.** Any violation of this rule will be deemed a violation of Section 41-1940, Idaho Code. ( )

**03. Reduction of Penalty.** Any applicable penalty under Section 41-117, Idaho Code, for a violation of this rule may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice. ( )

**026. -- 999. (RESERVED)**

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.19 - INSURANCE RATES AND CREDIT RATING**  
**DOCKET NO. 18-0119-1201**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed amendment to IDAPA 18.01.19.100 clarifies when and how an insurer's use of consumer credit information will be deemed to be improper and in violation of Section 41-1843, Idaho Code, and permits insurers to use a neutral credit factor or score against which to measure compliance with Section 41-1843, Idaho Code, both at initial rating and upon renewal.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 101](#). A public meeting was held on July 20, 2012 as provided for in the notice.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208)334-4214, or [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 26th day of July, 2012.

William Deal  
Department of Insurance  
700 West State Street, 3rd Floor  
Boise ID 83720-0043  
Phone: (208)334-4250  
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0119-1201

100. USE OF CREDIT FACTORS.

**01. Prohibited Acts.** An insurer shall not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless: (3-20-04)

a. The decision is also based on a noncredit factor or factors; and (3-20-04)

b. The aggregate weight given to the noncredit factors considered in making the decision is at least as great as the aggregate weight given to the credit factors considered in making the decision. (3-20-04)

**02. Application of Rule.** To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is not improperly based primarily upon a credit factor or factors and in violation of Section 41-1843, Idaho Code, the Department will apply the following criteria: (3-20-04)( )

a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, the insurer must be able to show that it also relied upon a noncredit factor or combination of noncredit factors in making the decision and that the noncredit factor(s) played at least as great a role in the decision as did the credit factor. Nothing in this rule is intended to modify or alter any provisions contained in Title 41, Chapter 25, Idaho Code. (3-20-04)( )

b. If an insurer relies in any part upon a credit factor in establishing an initial rate for new business or to impose an increase in premium rate for a customer, the insurer must be able to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half (1/2) of the initial or renewal premium rate is attributable to the credit factor. To satisfy this requirement, an insurer shall do one (1) of the following: (3-20-04)( )

i. Compare the premium rate using the highest credit factor to the premium rate using the lowest credit factor. The difference in the premium rate between the highest and lowest shall be not more than one-half (1/2) the highest premium rate; or ( )

ii. Compare a premium rate calculated using the highest credit factor to a premium rate calculated without using credit. The premium rate calculated without using credit shall be equal to or greater than one-half (1/2) of the premium rate calculated using the highest credit factor. To calculate the premium rate without using credit, an insurer shall demonstrate that it has applied all the noncredit factors and replaced the actual credit factor with the average credit factor. The average credit factor must be calculated from the actual distribution of Idaho business by credit factor at the time the credit factor rating system was implemented or last revised. For purposes of this Subparagraph, 100.02.b.ii., "last revised" means any subsequent changes to the credit factor system utilized by the insurer as part of its overall rate filing. Under this approach, as long as the highest rate charged using a credit factor is not more than double the rate using the average credit factor, the rate will be treated as meeting the requirements of Section 41-1843, Idaho Code. ( )

e. If an insurer relies in any part upon a credit factor to impose an increase in premium rate for a customer, the insurer must be able to show that the increase was also based upon a change in at least one noncredit factor and that not more than one-half (1/2) of the increase is attributable to the credit factor. (3-20-04)

**03. Information Used in Reviewing Insurer's Decision.** To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. (3-20-04)



## PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Department of Insurance

Agency Contact: Tom Donovan

Phone: (208)334-4214

Date: July 26, 2012

IDAPA, Chapter and Title Number and Chapter Name:

18.01.44 – SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

Fee Rule Status: xx Proposed      \_\_\_ Temporary

Rulemaking Docket Number: 18-0144-1201

### STATEMENT OF ECONOMIC IMPACT:

#### Vendor of portable electronics insurance

The proposed rule provides for the original license application of a vendor of portable electronics insurance (a type of limited lines producer), the fee is \$1000. Where a vendor is engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100. For license renewal, a vendor of portable electronics insurance – the fee is \$500. Where the vendor is engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100. These fees track the amounts set forth in Idaho Code 41-1089(6) enacted in 2012, which is effective July 1, 2013. The fees are expected to cover the costs of licensure and monitoring by Department of Insurance staff for these new licensees.

#### Fingerprints

Fingerprint processing fees are proposed to increase from \$60 to an amount not to exceed \$80. The ISP recently increased its maximum fingerprint check fees by rule effective March 21, 2012, from \$10 to \$25. The Department of Insurance contracts with a testing service to administer digital capture and transmission of the resident applicant's fingerprints in connection with insurance license application requirements. The Department of Insurance intends to administer and increase its fingerprint fee in a revenue neutral manner to cover increased costs to ISP, with some room to increase to cover additional component costs such as FBI costs or .

## IDAPA 18-DEPARTMENT OF INSURANCE

### 18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

#### DOCKET NO. 18-0144-1201 (FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-401, 41-1007(1)(b), and 41-1089(6), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Adds vendor of portable electronic insurance as a new type of limited lines insurance producer license and the requisite fees to the DOI's general fee rule, pursuant to House Bill 649 (effective 7/1/2013). Increases fees for fingerprints as a result of increased costs from the Idaho State Police.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

For the original license application, a vendor of portable electronics insurance, a type of limited lines producer, engaged in portable electronics transactions at more than ten locations in the state of Idaho, the fee is \$1,000. For a vendor engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100.

For license renewal, a vendor of portable electronics insurance engaged in portable electronics transactions at more than ten locations in the state of Idaho, the fee is \$500. For a vendor engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100.

Fingerprint processing fees are increased up to, but may not exceed, \$80.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The rulemaking is expected to be revenue neutral.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012 Idaho Administrative Bulletin, [Volume 12-7, page 102](#). A public meeting was held on July 19, 2012, as provided in the notice.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, @ (208)334-4214, or [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2012.

DATED this 26th day of July, 2012.

William W. Deal, Director  
Idaho Department of Insurance  
700 W. State St, 3rd Floor  
Boise ID 83720-0043  
Phone: (208)334-4250  
Fax: (208)334-4398

---

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 18-0144-1201**

**030. PRODUCER AND MISCELLANEOUS LICENSING FEES.**

**01. Original License Application.** The following fees are due and must be paid with the filing application for original license, which fees include the issuance of a license, if issued: (3-13-02)

- a. Administrators -- three hundred dollars (\$300). (7-1-00)
- b. Producers -- eighty dollars (\$80). (3-13-02)
- c. Designation as a managing general agent -- eighty dollars (\$80). (3-13-02)
- d. Adjusters -- eighty dollars (\$80). (3-13-02)
- e. Reinsurance intermediary -- eighty dollars (\$80). (3-13-02)
- f. Surplus line brokers -- eighty dollars (\$80). (3-13-02)
- g. Life settlement providers -- five hundred dollars (\$500). (3-29-10)
- h. Life settlement brokers -- three hundred dollars (\$300). (3-29-10)
- i. Independent review organization -- five hundred dollars (\$500). (3-29-10)

**j. Vendor of portable electronics insurance, a type of limited lines producer:** ( )

**i. A vendor of portable electronic insurance who is engaged in portable electronics transactions at more than ten (10) locations in the state of Idaho -- one thousand dollars (\$1,000).** ( )

**ii. A vendor of portable electronic insurance who is engaged in portable electronics transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100).** ( )

**02. Examination Fees.** The following fees are due and must be paid in order to take examinations for the following licenses: (3-13-02)

- a. Producers and adjusters -- application for examination and each time taken -- sixty dollars (\$60). (3-13-02)

**03. Fingerprint Processing.** Processing fingerprints (when required) -- ~~sixty~~ not to exceed eighty dollars (\$~~60~~80). (~~7-1-00~~)( )

**04. License Renewal.** The following fees are due and must be paid for each license in order to renew or continue each and every license: (3-13-02)

- a.** Adjusters, producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-16-04)
- i.** A vendor of portable electronic insurance who is engaged in portable electronics transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars (\$500). ( )
- ii.** A vendor of portable electronic insurance who is engaged in portable electronics transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). ( )
- b.** Redesignation as managing general agent (annual) -- eighty dollars (\$80). (3-13-02)
- c.** Administrators (biennial) -- eighty dollars (\$80). (3-19-07)
- i.** Renewal form shall be filed on or before December 31. (3-19-07)
- ii.** Any renewal form postmarked after December 31 shall include a penalty in an amount equal to the renewal fee. (3-19-07)
- iii.** A renewal form postmarked after January 31 must be submitted as a new application with supporting documents and the full application fee. (3-19-07)
- d.** Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-16-04)
- e.** Life settlement providers (biennial) -- three hundred dollars (\$300). (3-29-10)
- f.** Life settlement brokers (biennial) -- eighty dollars (\$80). (3-29-10)
- g.** Independent review organization (biennial) -- three hundred dollars (\$300). (3-29-10)

## IDAPA 18 - DEPARTMENT OF INSURANCE

### 18.01.56 - REBATES AND ILLEGAL INDUCEMENTS TO OBTAINING TITLE INSURANCE BUSINESS

DOCKET NO. 18-0156-1201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1314, and 14-2708(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Language will be added to permit title agents to provide attorneys and appraisers plat maps and copies of CCRs without charge.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 4, 2012, Idaho Administrative Bulletin, [Vol. 12-7, page 103](#). A public meeting was held on July 18, 2012, pursuant to the notice.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Donovan, (208)334-4214 or [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2012.

DATED this 26th day of July, 2012.

William Deal, Director  
Department of Insurance  
700 West State Street – 3rd Floor  
Boise ID 83720-0043  
Phone: (208)334-4250  
Fax: (208) 334-4398

---

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0156-1201

**012. PERMITTED CONSUMER INFORMATION.**

**01. Information That May Be Provided.** To facilitate the listing and sale of Idaho property, certain consumer information may be provided without charge to licensed real estate agents and brokers or to a person who owns the property for which the request is made, but is limited to the following information: (3-15-02)

**02. Listing Package.** A single copy of a “listing package,” “property profile,” or similarly named packet of information. (7-1-93)

**a.** A “listing package” shall consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following six (6) items: (3-15-02)

- i. The last deed appearing of record; (7-1-93)
- ii. Deeds of trust or mortgages which appear to be in full force and effect; (7-1-93)
- iii. A plat map reproduction and/or a locator map; (3-15-02)
- iv. A copy of applicable restrictive covenants; (3-15-02)
- v. Tax information; and (3-15-02)
- vi. Property characteristics such as number of rooms, square footage and year built. (3-15-02)

**b.** A “listing package” may include no more than the six (6) above described items of information and shall not include market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances. A generic cover letter with the printed standard letterhead of the title entity may be attached to the “listing package.” The cover letter may include a brief statement identifying by name only, which of the six (6) permitted items of information are attached thereto. The cover letter may also contain a disclaimer as to conclusions of marketable ownership or encumbrances. The content of the cover letter or “listing package” is strictly limited to the foregoing and shall specifically not include any advertising or marketing for the benefit of the recipient. (3-15-02)

**c.** Market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished (See Exhibit 1, #1). (3-15-02)

**03. Additional Information That May Be Provided.** A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge: ( )

- a.** A plat map reproduction: ( )
- b.** A copy of applicable restrictive covenants: ( )
- c.** A cover letter as described in Paragraph 012.02.b. ( )