

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 587, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO AUTHORIZATION FOR OUT-OF-STATE INSURERS; AMENDING SECTION  
2 41-306, IDAHO CODE, TO PROVIDE EXCEPTIONS TO CERTIFICATE OF AUTHORITY  
3 REQUIREMENTS FOR CERTAIN OUT-OF-STATE INSURERS AND TO MAKE A TECHNICAL  
4 CORRECTION; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION  
5 OF A NEW SECTION 41-306A, IDAHO CODE, TO PROVIDE FOR INTERSTATE INSUR-  
6 ANCE SALES, TO AUTHORIZE THE DIRECTOR TO DETERMINE IF PLANS SATISFY  
7 REQUIREMENTS, TO PROVIDE FOR LANGUAGE TO BE INCLUDED IN PLANS SOLD, TO  
8 PROVIDE FOR COMPLIANCE WITH IDAHO CODE ON PREMIUM TAX AND TO AUTHORIZE  
9 THE DEPARTMENT TO ADOPT AND PROMULGATE RULES; AMENDING CHAPTER 5, TITLE  
10 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-515, IDAHO CODE, TO  
11 DEFINE A TERM; AND PROVIDING SEVERABILITY.  
12

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

14 SECTION 1. That Section 41-306, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT. A cer-  
17 tificate of authority and application therefor pursuant to section 41-319,  
18 Idaho Code, shall not be required of an insurer with respect to the follow-  
19 ing:

20 (1) Investigation, settlement, or litigation of claims under its poli-  
21 cies lawfully written in this state, or liquidation of assets and liabili-  
22 ties of the insurer (other than collection of new premiums), all as resulting  
23 from its former authorized operations in this state.

24 (2) Transactions thereunder subsequent to issuance of a policy cover-  
25 ing only subjects of insurance not resident, located or expressly to be per-  
26 formed in this state at time of issuance, and lawfully solicited, written and  
27 delivered outside this state.

28 (3) Transactions pursuant to surplus lines coverages lawfully written  
29 under chapter 12 ~~of this code~~, title 41, Idaho Code.

30 (4) Reinsurance, when transacted by an insurer duly authorized by its  
31 state of domicile to transact the kind of insurance involved.

32 (5) The continuation and servicing of life insurance or disability in-  
33 surance policies or annuity contracts remaining in force as to residents of  
34 this state if the insurer has withdrawn from the state and is not transacting  
35 new insurance therein.

36 (6) A foreign insurer licensed and authorized to sell individual or  
37 group accident and sickness insurance in another state as defined pursuant  
38 to section 41-306A, Idaho Code, and the insurer obtains a certificate of  
39 authority pursuant to that section.

1 SECTION 2. That Chapter 3, Title 41, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 41-306A, Idaho Code, and to read as follows:

4 41-306A. INTERSTATE INSURANCE SALES. (1) A foreign insurer subject  
5 to the jurisdiction of another state's insurance department or insurance  
6 commissioner and licensed and authorized to transact health or disability  
7 insurance in its state of domicile may offer and sell an individual or group  
8 accident and sickness insurance policy, as defined in section 41-515, Idaho  
9 Code, in Idaho as long as that individual or group accident and sickness pol-  
10 icy provides the mandatory coverages this title 41, Idaho Code, requires for  
11 insurers.

12 (2) The director shall issue a certificate of authority to a foreign in-  
13 surer to sell individual or group accident and sickness insurance policies  
14 in this state as long as that insurer is licensed in another state to sell in-  
15 dividual or group accident and sickness insurance, remains licensed in that  
16 state to sell individual or group accident and sickness insurance and complies  
17 with the provisions of subsection (3) of this section. If an insurer  
18 is no longer licensed to sell individual or group accident and sickness in-  
19 surance by its domiciled state, it shall be ineligible to do business in this  
20 state and its certificate of authority shall terminate immediately unless  
21 it obtains an independent certificate of authority in this state pursuant to  
22 chapter 3, title 41, Idaho Code, and complies with the provisions of this ti-  
23 tle 41, Idaho Code.

24 (3) In order for a foreign insurer to offer and sell individual or group  
25 accident and sickness insurance policies to residents of this state, the  
26 foreign insurer agrees that any dispute regarding its policies, benefits,  
27 contracts or coverages purchased by Idaho residents shall be governed by  
28 Idaho law, shall be either litigated in Idaho or have an alternative dispute  
29 resolution conducted in Idaho and shall appoint the director as its agent  
30 for service of process pursuant to section 41-333, Idaho Code. The foreign  
31 insurer submits to the jurisdiction of the department of insurance for all  
32 purposes under title 41, Idaho Code, and is subject to all provisions of ti-  
33 tle 41, Idaho Code, and rules promulgated thereunder applicable to insurers  
34 transacting accident and sickness insurance in Idaho. The foreign insurer  
35 must pay all fees and assessments provided by law under title 41, Idaho Code.

36 (4) Insurers selling policies in Idaho pursuant to this section shall  
37 comply with the provisions of section 41-402, Idaho Code, and remit the tax  
38 as provided in that section. In addition to the premium tax, insurers sell-  
39 ing policies in Idaho pursuant to this section shall remit annually one per-  
40 cent (1%) of the amount of gross direct premiums written on policies covering  
41 persons in this state to the catastrophic health care fund created pursuant  
42 to chapter 35, title 31, Idaho Code.

43 (5) The department of insurance shall promulgate, adopt and enforce  
44 such rules and such methods of administration as may be necessary or proper  
45 to carry out the provisions of this section.

46 SECTION 3. That Chapter 5, Title 41, Idaho Code, be, and the same is  
47 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
48 ignated as Section 41-515, Idaho Code, and to read as follows:

1           41-515. INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS INSURANCE DE-  
2 FINED. "Individual or group accident and sickness insurance" means any  
3 policy insuring against loss resulting from sickness or from bodily injury  
4 or death by accident, or both. "Individual or group accident and sick-  
5 ness insurance" shall also include comprehensive major medical coverage  
6 for medical and surgical benefits and high deductible health plans sold or  
7 maintained under the applicable provisions of section 223 of the Internal  
8 Revenue Code.

9           SECTION 4. SEVERABILITY. The provisions of this act are hereby declared  
10 to be severable and if any provision of this act or the application of such  
11 provision to any person or circumstance is declared invalid for any reason,  
12 such declaration shall not affect the validity of the remaining portions of  
13 this act.