

Dear Senators PATRICK, Martin, Schmidt, and
Representatives BARBIERI, Clow, Smith:

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

IDAPA 18.01.48 - Rule to Implement the Privacy of Consumer Financial Information - Temporary
and Proposed (Docket No. 18-0148-1601).

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 10/26/2016. 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 11/23/2016.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 06, 2016

SUBJECT: Department of Insurance

IDAPA 18.01.48 - Rule to Implement the Privacy of Consumer Financial Information - Temporary and Proposed (Docket No. 18-0148-1601)

The Department of Insurance submits notice of temporary and proposed rulemaking at IDAPA 18.01.48. The rule provides that insurers and producers do not have to send an annual privacy notice to their customers if, since the last notice:

- The policies regarding disclosure have not changed; and
- The customer's practice has not changed.

Negotiated rulemaking was not conducted because the rule confers a benefit. The Governor found justification for the temporary rule also because it confers a benefit. There is no anticipated negative fiscal impact on the state general fund. This rulemaking appears to be within the authority granted by section 41-211, Idaho Code.

cc: Department of Insurance
Thomas A. Donovan

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.48 - RULE TO IMPLEMENT THE PRIVACY OF CONSUMER FINANCIAL INFORMATION

DOCKET NO. 18-0148-1601

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2016.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-1334, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

Friday, October 28, 2016 at 10:00 a.m.

**Idaho Department of Insurance
700 W. State Street – 3rd Floor
Boise, ID 83720**

The hearing site 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking provides language that relieves insurers and producers (licensees of the DOI) from having to send their customers an annual privacy notice where they comply with other requirements concerning any disclosure of personally identifiable financial information, and only in situations where the licensee's practices and policies regarding disclosure have not changed since the last notice sent to their customer. The rulemaking will also benefit consumers by relieving them from receiving duplicative annual notices, because only new or changed notices will be received.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 41-1334, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:
It will confer a benefit upon insurers, producers, and consumers.

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

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is brought based on a request from multiple industry groups establishing a consensus of support, is not viewed as controversial, and it confers the benefit for 2016 with a goal of a final rule in 2017 rather than waiting for an additional year in the rulemaking process.

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 temporary and proposed rule, contact Thomas A. Donovan, at tom.donovan@doi.idaho.gov or (208) 334-4214.

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 5:00PM (MST), Friday, October 28, 2016.

DATED this 25th day of August, 2016

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 18-0148-1601
(Only Those Sections With Amendments Are Shown.)**

150. ANNUAL PRIVACY NOTICE TO CUSTOMERS REQUIRED.

01. General Rule. (5-3-03)

a. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve (12) consecutive months during which that relationship exists. A licensee may define the twelve (12) consecutive-month period, but the licensee shall apply it to the customer on a consistent basis. (5-3-03)

b. Example. A licensee provides a notice annually if it defines the twelve (12) consecutive month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year one (1), the licensee shall provide an annual notice to that customer by December 31 of year two (2). (5-3-03)

02. Exceptions: Termination of Customer Relationship and Duplicate Notices. ~~(5-3-03)~~(9-1-16)T

a. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship. (5-3-03)

b. Examples: (5-3-03)

i. If the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee. (5-3-03)

ii. If the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive-months, other than to provide annual privacy notices, material required by law or rule, or promotional materials. (5-3-03)

iii. If the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful. (5-3-03)

iv. In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later. (5-3-03)

c. Notwithstanding Subsection 150.01.a, a licensee is not required to provide the annual privacy notice to a current customer if the licensee: (9-1-16)T

i. Provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 450, 451, and 452; and (9-1-16)T

ii. Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with Section 100 or Section 150. (9-1-16)T

03. Delivery. When a licensee is required by Section 150 to deliver an annual privacy notice, the licensee shall deliver it according to Section 350. (5-3-03)