

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 440

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-342, IDAHO CODE, TO SPECIFY  
2 COMPLIANCE WITH A CERTAIN CODE SECTION; AND AMENDING SECTION 41-2839,  
3 IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT THAT EVERY DOMES-  
4 TIC INSURER MUST HAVE AND MAINTAIN ITS PRINCIPAL PLACE OF BUSINESS AND  
5 HOME OFFICE IN THIS STATE AND TO MAKE TECHNICAL CORRECTIONS.  
6

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

8 SECTION 1. That Section 41-342, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 41-342. REDOMESTICATION AS A DOMESTIC INSURER -- CONVERSION TO FOR-  
11 EIGN INSURER. (1) Any insurer which is organized under the laws of any other  
12 state and is admitted to do business in this state for the purpose of writing  
13 insurance may become a domestic insurer by complying with all of the require-  
14 ments of law relative to the organization and licensing of a domestic insurer  
15 of the same type and by designating its principal place of business at a place  
16 in Idaho in compliance with section 41-2839, Idaho Code. Such a domestic in-  
17 surer shall be entitled to a certificate of redomestication and a certifi-  
18 cate of authority to transact business in this state, and shall have the same  
19 rights and obligations as other domestic insurers of this state.

20 (2) Any domestic insurer may, upon the approval of the director, trans-  
21 fer its domicile to any other state in which it is admitted to transact the  
22 business of insurance. Upon such a transfer, the insurer shall cease to be a  
23 domestic insurer. If the insurer is otherwise qualified, the director shall  
24 admit the insurer to this state as a foreign insurer. The director shall ap-  
25 prove any such proposed transfer unless he determines that such a transfer is  
26 not in the interest of the policyholders of the insurer in this state. After  
27 the director has approved the transfer, the director shall provide written  
28 notice to the secretary of state that the insurer has transferred its domi-  
29 cile to another state, stating the effective date of the transfer and the  
30 state to which the insurer has transferred its domicile. Upon receipt of the  
31 written notice from the director and the payment of the fee required in sec-  
32 tion 30-1-122, Idaho Code, the secretary of state shall file the notice and,  
33 on the effective date of the transfer, terminate the existence of the insur-  
34 ance company as a domestic corporation.

35 (3) The certificate of authority, appointment of statutory agent and  
36 licenses, policy forms, rates, authorizations and other filings and ap-  
37 provals in existence at the time an insurer admitted to transact insurance  
38 in this state transfers its corporate domicile to this or any other state,  
39 continue in effect upon the transfer of corporate domicile. All rates and  
40 outstanding policies of any transferring insurer shall remain in full force  
41 and effect and policies need not be endorsed as to the new domicile unless  
42 so ordered by the director. Every transferring insurer shall either file

1 new policy forms for use in this state with the director on or before the  
 2 effective date of the transfer, or use existing policy forms in this state  
 3 with appropriate endorsements as allowed by, and under such conditions as  
 4 may be approved by the director. Every transferring insurer shall notify  
 5 the director of the proposed transfer, and shall promptly file any resulting  
 6 amendments to its corporate documents required to be filed with the direc-  
 7 tor.

8 SECTION 2. That Section 41-2839, Idaho Code, be, and the same is hereby  
 9 amended to read as follows:

10 41-2839. HOME OFFICE -- RECORDS -- ASSETS -- PENALTY FOR UNLAWFUL RE-  
 11 MOVAL. (1) Except as provided in subsection (5) of this section, eEvery do-  
 12 mestic insurer shall have and maintain its principal place of business and  
 13 home office in this state, and shall keep therein accurate and complete ac-  
 14 counts and records of its assets, transactions, and affairs in accordance  
 15 with the usual and accepted principles and practices of insurance account-  
 16 ing and ~~record-keeping~~ recordkeeping as applicable to the kinds of insurance  
 17 transacted by the insurer.

18 (2) Every domestic insurer shall have and maintain its assets in this  
 19 state, except as to:

20 (a) Real property and personal property appurtenant thereto lawfully  
 21 owned by the insurer and located outside this state, ~~and;~~

22 (b) Such property of the insurer as may be customary, necessary, and  
 23 convenient to enable and facilitate the operation of its branch offices  
 24 and "regional home offices" located outside this state as referred to in  
 25 subsection (4) below; and

26 (c) Such assets of any insurer that has redomesticated to this state  
 27 pursuant to section 41-342, Idaho Code, and satisfies the conditions of  
 28 subsection (5) of this section.

29 (3) Removal of all or a material part of the records or assets of a  
 30 domestic insurer from this state except pursuant to a plan of merger or con-  
 31 solidation approved by the director under this code, or for such reasonable  
 32 purposes and periods of time as may be approved by the director in writing  
 33 in advance of such removal, or concealment of such records or assets or such  
 34 material part thereof from the director, is prohibited. Any person who  
 35 removes or attempts to remove such records or assets or such material part  
 36 thereof from the home office or other place of business or of safekeeping of  
 37 the insurer in this state with the intent to remove the same from this state,  
 38 or who conceals or attempts to conceal the same from the director, in viola-  
 39 tion of this section, shall upon conviction thereof be guilty of a felony,  
 40 punishable by a fine of not more than ten thousand dollars (\$10,000), or by  
 41 imprisonment in the penitentiary for not more than five (5) years, or by both  
 42 such fine and imprisonment in the discretion of the court. Upon any removal  
 43 or attempted removal of such records or assets or upon retention of such  
 44 records or assets or material part thereof outside this state, beyond the  
 45 period therefor specified in the director's consent under which the records  
 46 were so removed thereat, or upon concealment of or attempt to conceal records  
 47 or assets in violation of this section, the director may institute delin-  
 48 quency proceedings against the insurer pursuant to the provisions of chapter  
 49 ~~33 of this code,~~ title 41, Idaho Code.

1 (4) This section shall not be deemed to prohibit or prevent an insurer  
2 from:

3 (a) Establishing and maintaining branch offices or "regional home of-  
4 fices" in other states where necessary or convenient to the transaction  
5 of its business and keeping therein the detailed records and assets cus-  
6 tomary and necessary for the servicing of its insurance in force and af-  
7 fairs in the territory served by such an office, as long as such records  
8 and assets are made readily available at such office for examination by  
9 the director at his request.

10 (b) Having, depositing or transmitting funds and assets of the insurer  
11 in or to jurisdictions outside of this state required by the law of such  
12 jurisdiction or as reasonably and customarily required in the regular  
13 course of its business.

14 (c) Using custodial arrangements for the holding of book-entry securi-  
15 ties owned by the insurer, either in or outside of this state, and either  
16 segregated from or commingled with securities owned by others, if the  
17 arrangements conform to rules adopted by the director for safeguarding  
18 the assets and facilitating the director's examination of insurers us-  
19 ing such custodial arrangements.

20 (5) A stock insurer that has redomesticated to this state pursuant to  
21 section 41-342, Idaho Code, is not required to maintain its home office and  
22 principal place of business in this state and is not required to maintain its  
23 assets in this state so long as:

24 (a) The majority of the stock of the insurer is owned directly or indi-  
25 rectly by a mutual insurance holding company that maintains its home of-  
26 vice and principal place of business in this state;

27 (b) The insurer can and shall produce the accounts and records of the  
28 insurer in their entirety in this state upon request from the director  
29 in a form satisfactory to the director;

30 (c) Material administrative and financial activities of the insurer  
31 are conducted in this state, initial evidence of which is submitted by  
32 the insurer under oath to the director as part of the insurer's applica-  
33 tion for a certificate of authority or certificate of redomestication  
34 under section 41-342, Idaho Code;

35 (d) At least one (1) officer and one (1) director of the insurer are  
36 residents of this state. The officer and director contemplated in this  
37 paragraph shall not be the same person; and

38 (e) In addition to those examination expenses payable by the insurer  
39 under section 41-228, Idaho Code, the insurer pays all examination ex-  
40 penditures that exceed the costs and fees necessary to examine an insurer  
41 with its principal place of business and home office in this state in-  
42 cluding, without limitation, actual travel expenses, reasonable living  
43 expense allowance, and compensation of employees, agents and contrac-  
44 tors of the department, as determined and approved by the director.