LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session - 2018

IN THE SENATE

SENATE BILL NO. 1288

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT
RELATING TO AUTHORIZATION FOR OUT-OF-STATE INSURERS; AMENDING SECTION 41-306, IDAHO CODE, TO PROVIDE EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENTS FOR CERTAIN OUT-OF-STATE INSURERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-306A, IDAHO CODE, TO PROVIDE THAT CERTAIN FOREIGN INSURERS MAY OFFER AND SELL INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS INSURANCE POLICIES IN IDAHO, TO PROVIDE FOR CERTIFICATES OF AUTHORITY, TO PROVIDE REQUIREMENTS FOR FOREIGN INSURERS, TO PROVIDE FOR THE PAYMENT OF TAXES, TO PROVIDE FOR PARTICIPATION IN THE HIGH RISK REINSURANCE POOL, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR COMPACTS; AMENDING CHAPTER 5, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-516, IDAHO CODE, TO DEFINE A TERM; AND PROVIDING SEVERABILITY.

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

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

41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT. A certificate of authority and application therefor pursuant to section 41-319, Idaho Code, shall not be required of an insurer with respect to the following:

(1) Investigation, settlement, or litigation of claims under its policies lawfully written in this state, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in this state.

(2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this state at time of issuance, and lawfully solicited, written and delivered outside this state.

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

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

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disability insurance policies or annuity contracts remaining in force as to residents of this state if the insurer has withdrawn from the state and is not transacting new insurance therein.

(6) A foreign insurer licensed and authorized to sell individual or group accident and sickness insurance in another state as defined pursuant to section 41-306A, Idaho Code, and the insurer obtains a certificate of authority pursuant to that section.
SECTION 2. That Chapter 3, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-306A, Idaho Code, and to read as follows:

41-306A. INTERSTATE INSURANCE SALES. (1) A foreign insurer subject to the jurisdiction of another state's insurance department or insurance commissioner and licensed and authorized to transact health or disability insurance in its state of domicile may offer and sell an individual or group accident and sickness insurance policy as defined in section 41-516, Idaho Code, in Idaho as long as that individual or group accident and sickness policy provides the mandatory coverages this title requires for insurers.

(2) The director may issue a certificate of authority to a foreign insurer to sell individual or group accident and sickness insurance policies in this state as long as that insurer is licensed in good standing in another state to sell individual or group accident and sickness insurance, remains licensed in good standing in that state to sell individual or group accident and sickness insurance and complies with the provisions of subsection (3) of this section. If an insurer is no longer licensed in good standing to sell individual or group accident and sickness insurance by its domiciled state, it shall be ineligible to do business in this state and its certificate of authority shall terminate immediately unless it obtains an independent certificate of authority in this state pursuant to chapter 3, title 41, Idaho Code, and complies with the provisions of this title.

(3) In order for a foreign insurer to offer and sell individual or group accident and sickness insurance policies to residents of this state, the foreign insurer agrees that any dispute regarding its policies, benefits, contracts or coverages purchased by Idaho residents shall be governed by Idaho law, shall be either litigated in Idaho or have an alternative dispute resolution conducted in Idaho and shall appoint the director as its agent for service of process pursuant to section 41-333, Idaho Code. The foreign insurer submits to the jurisdiction of the department of insurance for all purposes under this title and is subject to all provisions of this title and rules promulgated thereunder applicable to insurers transacting accident and sickness insurance in Idaho. The foreign insurer must pay all fees and assessments provided by law under this title. The department of insurance may ensure that the forms used by a foreign insurer are appropriate and not misleading. Agents used by such foreign insurers are required to be licensed in Idaho.

(4) Insurers selling policies in Idaho pursuant to this section shall comply with the provisions of section 41-402, Idaho Code, and remit the tax as provided in that section. Insurers selling policies in Idaho pursuant to this section shall be required to participate in the high risk reinsurance pool pursuant to chapter 55, title 41, Idaho Code.

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

(6) The department of insurance is authorized to enter into compacts with other states for purposes of this section.
SECTION 3. That Chapter 5, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-516, Idaho Code, and to read as follows:

41-516. INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS INSURANCE DEFINED. "Individual or group accident and sickness insurance" means any policy insuring against loss resulting from sickness or from bodily injury or death by accident, or both. "Individual or group accident and sickness insurance" shall also include comprehensive major medical coverage for medical and surgical benefits and high deductible health plans sold or maintained under the applicable provisions of section 223 of the Internal Revenue Code.

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