

IN THE SENATE

SENATE BILL NO. 1288

BY COMMERCE AND HUMAN RESOURCES 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 THAT CERTAIN FOREIGN
6 INSURERS MAY OFFER AND SELL INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS
7 INSURANCE POLICIES IN IDAHO, TO PROVIDE FOR CERTIFICATES OF AUTHORITY,
8 TO PROVIDE REQUIREMENTS FOR FOREIGN INSURERS, TO PROVIDE FOR THE PAY-
9 MENT OF TAXES, TO PROVIDE FOR PARTICIPATION IN THE HIGH RISK REINSURANCE
10 POOL, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR COMPACTS; AMENDING
11 CHAPTER 5, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-516,
12 IDAHO CODE, TO DEFINE A TERM; AND PROVIDING SEVERABILITY.
13

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

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

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

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

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

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

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

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35 this state if the insurer has withdrawn from the state and is not transacting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

37 (6) A foreign insurer licensed and authorized to sell individual or
38 group accident and sickness insurance in another state as defined pursuant
39 to section 41-306A, Idaho Code, and the insurer obtains a certificate of
40 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 to
5 the jurisdiction of another state's insurance department or insurance com-
6 missioner and licensed and authorized to transact health or disability in-
7 surance in its state of domicile may offer and sell an individual or group
8 accident and sickness insurance policy as defined in section 41-516, Idaho
9 Code, in Idaho as long as that individual or group accident and sickness pol-
10 icy provides the mandatory coverages this title requires for insurers.

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

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

38 (4) Insurers selling policies in Idaho pursuant to this section shall
39 comply with the provisions of section 41-402, Idaho Code, and remit the tax
40 as provided in that section. Insurers selling policies in Idaho pursuant to
41 this section shall be required to participate in the high risk reinsurance
42 pool pursuant to chapter 55, title 41, 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 (6) The department of insurance is authorized to enter into compacts
47 with other states for purposes of this section.

1 SECTION 3. That Chapter 5, 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 41-516, Idaho Code, and to read as follows:

4 41-516. INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS INSURANCE DE-
5 FINED. "Individual or group accident and sickness insurance" means any
6 policy insuring against loss resulting from sickness or from bodily injury
7 or death by accident, or both. "Individual or group accident and sick-
8 ness insurance" shall also include comprehensive major medical coverage
9 for medical and surgical benefits and high deductible health plans sold or
10 maintained under the applicable provisions of section 223 of the Internal
11 Revenue Code.

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