

Dear Senators COOK, Lenney, Ward-Engelking, and
Representatives CLOW, Ehlers, Berch:

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

IDAPA 18.06.01 - Rules Pertaining to Bail Agents (ZBR Chapter Rewrite) - Proposed Rule (Docket
No. 18-0601-2301);

IDAPA 18.06.02 - Producers Handling of Fiduciary Funds (ZBR Chapter Rewrite) - Proposed Rule
(Docket No. 18-0602-2301);

IDAPA 18.06.03 - Rules Governing Disclosure Requirements for Insurance Producers When
Charging Fees (ZBR Chapter Repeal) - Proposed Rule (Docket No. 18-0603-2301).

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 10/19/2023. 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 11/16/2023.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
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 Drafting Attorney - Jill Randolph

DATE: October 2, 2023

SUBJECT: Department of Insurance

IDAPA 18.06.01 - Rules Pertaining to Bail Agents (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0601-2301)

IDAPA 18.06.02 - Producers Handling of Fiduciary Funds (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0602-2301)

IDAPA 18.06.03 - Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees (ZBR Chapter Repeal) - Proposed Rule (Docket No. 18-0603-2301)

Summary and Stated Reasons for the Rule

Docket No. 18-0601-2301: The Department of Insurance notes this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Department states this rulemaking is intended to streamline and simplify existing rules previously submitted and reviewed by the Legislature regarding requirements and procedures relating to bail agents.

Docket No. 18-0602-2301: The Department notes this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Department states this rulemaking is intended to streamline and simplify existing rules previously submitted and reviewed by the Legislature regarding allowable fiduciary accounts.

Docket No. 18-0603-2301: The Department notes this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. This proposed rule would repeal IDAPA 18.06.03 in its entirety, regarding governing disclosure requirements for insurance producers when charging fees.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was conducted for all three dockets. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 edition of the Idaho Administrative Bulletin for all three dockets. All three dockets have no anticipated negative fiscal impact to the General Fund.

Statutory Authority

This rulemaking appears to be authorized pursuant to Chapters 2 and 10, Title 41, Idaho Code.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

cc: Department of Insurance
Weston Trexler

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 18 – DEPARTMENT OF INSURANCE
18.06.01 – RULES PERTAINING TO BAIL AGENTS
DOCKET NO. 18-0601-2301 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1037 through 41-1045, Idaho Code.

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

Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)
<i>In-person participation is available at:</i> Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
<i>Web meeting link:</i> https://www.microsoft.com/microsoft-teams/join-a-meeting <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

The hearing sites 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule sets requirements and procedures relating to bail agents and is supplementary to other rules and laws in Title 41, Idaho Code, regulating insurance producers which also apply to bail agents. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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 as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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 proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

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 September 27, 2023.

DATED this 3rd day of August, 2023.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0601-2301
(ZBR Chapter Rewrite)

18.06.01 – RULES PERTAINING TO BAIL AGENTS

000. LEGAL AUTHORITY.

~~Title 41~~, Sections 41-211 and 41-1037 through 41-1045, Idaho Code.

~~(3-31-22)~~()

001. ~~TITLE AND SCOPE.~~

~~01. Title. IDAPA 18.06.01, “Rules Pertaining to Bail Agents.”~~

~~(3-31-22)~~

~~02. Scope.~~ The provisions of this rule apply to all bail agents, as defined by Section 41-1038, Idaho Code. This rule is supplementary to other rules and laws regulating insurance producers, and all other rules of the Department and provisions of Title 41, Idaho Code, applicable to insurance producers apply to bail agents. ()

002. -- 011. (RESERVED).

012. NOTIFICATION REQUIREMENTS.

01. Notice of Changes. A bail agent licensed pursuant to Section 41-1039, Idaho Code, will immediately notify the Department in writing of any the following: ()

a. Change of bail agent’s name, current business address, or current business phone number or business e-mail address, ~~if any~~; ~~(3-31-22)~~()

b. Change of name or address of any surety insurance company for which the bail agent has an active appointment; ()

c. Cancellation by a surety insurance company of a bail agent’s authority to write bonds for that company; ()

d. Any new affiliation with a bail bond agency; ()

- e. Cancellation of a bail agent's affiliation with a bail agency; ()
- 02. Notice of Legal Proceedings or Judgements. ()

a. A bail agent will provide immediate written notice to the Department of the filing of any criminal charges or judgements against the bail agent. ~~A bail agent will also provide immediate written notice to the Department, and~~ of any material change in circumstances that would require a different answer than previously provided by the bail agent on the background information section of the Uniform Application for Individual Insurance Producer License/Registration. (3-31-22)()

b. For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere is considered the same as a conviction or guilty plea. ()

013. ~~CRIMINAL HISTORY~~ BACKGROUND CHECKS.

~~01. Criminal History Check Requisite.~~ All licensed bail agents will ~~obtain~~ be subject to a criminal ~~history records~~ background check in connection with the renewal of a bail agent's license and will bear all costs associated with the ~~records check~~ background check. (3-31-22)()

~~02. Grounds for Immediate Suspension.~~ ~~For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere is considered the same as a conviction or guilty plea.~~ (3-31-22)

014. STACKING OF BONDS.

A bail agent may submit only one (1) power of attorney with each bail bond submitted to any Idaho court. The face value or face amount of the power ~~is~~ of attorney will be equal to or greater than the amount of the ~~bail or bond set by the court in the case for which the bond and power are being submitted.~~ (3-31-22)()

015. NOTIFICATION TO SURETY OF FORFEITURE.

A bail agent will notify the surety insurance company of any forfeiture, as defined in Section 19-2905, Idaho Code, within ten (10) days of receiving the notice from the court. ()

016. (RESERVED)

017. BAIL AGENT FINANCING OF BAIL BOND PREMIUMS.

01. **Written Agreement.** No credit may be extended by any bail agent or surety insurance company for the payment of any bail bond premium without entering into a written agreement. The written agreement for the extension of credit to finance premium need to contain at a minimum the following: ()

- a. The name, signatures, and dates of signatures of all parties to the credit agreement; ()
- b. The amount of premium financed; ()
- c. The per annum rate of interest; and ()
- d. The scheduled premium payment dates. ()

~~02. Early Surrender for Failure to Pay.~~ ~~If failure to pay premiums due under a credit arrangement may result in the early surrender of the defendant, that fact needs to be clearly set forth in the written credit agreement. Early surrender for failure to make premium or interest payments when due is to be handled in accordance with Section 41-1044, Idaho Code, and neither the bail agent nor the surety is entitled to seek recovery of any amounts unpaid as of the date of surrender.~~ (3-31-22)

~~03.~~ **Collateral for Credit Agreement.** ~~If the credit agreement is to be collateralized, the collateral will not be excessive in relation to the amount of premium financed.~~ In any collateralized credit agreement the collateral

will be separate and apart from any collateral used in the bail bond transaction, will be described in the credit agreement or in an attachment to the agreement, and will be handled in accordance with Section 41-1043, Idaho Code. (3-31-22)(____)

018. PAYMENT OF FORFEITURE.

It is a Failure to pay a claim for forfeiture by a surety is a violation of Section 41-1329(6), Idaho Code, ~~for a bail surety to fail to pay a claim for forfeiture after liability for payment has become reasonably clear.~~ Liability for payment upon forfeiture is considered reasonably clear when ~~a defendant has not appeared or has not been brought before the court within one hundred eighty 180 days after the entry of the order of forfeiture, or a motion to set aside the forfeiture, in whole or in part, has not been filed with the court within five (5) business days after the expiration of the one hundred eighty (180) day period following the order of forfeiture~~ payment is due pursuant to ~~the Idaho Bail Act~~ Section 19-2918, Idaho Code. (3-31-22)(____)

019. -- 999. (RESERVED)

IDAPA 18 – DEPARTMENT OF INSURANCE
18.06.02 – PRODUCERS HANDLING OF FIDUCIARY FUNDS
DOCKET NO. 18-0602-2301 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 10, Idaho Code.

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

Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)
<i>In-person participation is available at:</i> Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
<i>Web meeting link:</i> https://www.microsoft.com/microsoft-teams/join-a-meeting <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

The hearing sites 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule sets allowable fiduciary fund accounts and types, deposits of other funds, account designation, interest, and disbursement of funds. This rulemaking is consistent with the Governor’s [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

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 as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

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 proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

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 September 27, 2023.

DATED this 3rd day of August, 2023.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0602-2301
(ZBR Chapter Rewrite)**

18.06.02 – PRODUCERS HANDLING OF FIDUCIARY FUNDS

000. LEGAL AUTHORITY.

~~Title 41, Chapter 2 and 10,~~ Sections 41-211, 41-1024, ~~and~~ 41-1025, 41-1042, and 41-1043, Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ IDAPA 18.06.02, ~~“Producers Handling of Fiduciary Funds.”~~ (3-31-22)

~~02. Scope.~~ This rule ~~will affect~~ applies to “producers,” including bail agents, who handle fiduciary funds ~~held in a fiduciary capacity.~~ (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Cash Collateral.~~ All funds received as collateral by a producer in connection with a bail bond transaction in the form of cash, check, money order, other negotiable instrument, debit or credit card payment, or other electronic funds transfer, given as security to obtain a bail bond, as referenced in Section 41-1043, Idaho Code. (3-31-22)

~~021.~~ **Fiduciary Fund Account.** A financial account established to hold fiduciary funds as provided in Section 016. ()

~~032.~~ **Fiduciary Funds.** All premiums, return premiums, premium taxes, funds as collateral, and fees received by a producer. Fiduciary funds include: ()

a. All funds paid to a producer for selling, soliciting or negotiating policies of insurance except for those fees recognized by statute as earned by the producer upon receipt which are payable to the producer and not the insurance company, pursuant to Section 41-1030, Idaho Code. ()

b. All funds received by a producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or to the producer's employer. ()

c. All funds provided to a producer by an insurance company or its agents that are to be paid to a policyholder or claimant pursuant to a contract of insurance. ()

d. All checks or other negotiable instruments collected by the producer and made payable to the insurer. ()

e. Cash collateral pursuant to Section 41-1043, Idaho Code. (3-31-22)()

043. Receive. To collect or take actual or constructive possession of fiduciary funds. Receiving, includes but is not limited to, taking possession of money, checks, or other negotiable instruments. If fiduciary funds are in the form of a credit or offset on an account or other liability for the benefit of the consumer, without the producer actually taking possession of the funds, then constructive receipt is presumed to have occurred on the due date to the insurer. (3-31-22)()

011. -- 013. (RESERVED)

014. **FIDUCIARY FUND ACCOUNT DEPOSIT AND REMITTANCE TIMING.**

01. Payable to an Insurer. Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to an insurer, as described in Subsection 010.03 are to be remitted to the insurer within the time period set forth specified in the insurer's terms and conditions producers contract, or if not specified, then within twenty-one fourteen (21/14) days of receipt. (3-31-22)

02. Payable to a Policyholder. Fiduciary funds that are in the form of a check or another negotiable instrument made payable to a policyholder or claimant as described in Subsection 010.02.e are to be remitted to the policyholder or claimant that person within fourteen (14) days of receipt or as specified by the terms of the policy of insurance policy language, the insurer, or applicable law. (3-31-22)()

03. All Other Fiduciary Funds. All other fiduciary funds received by the producer, except as described under Subsections 014.01 and 014.02 are to be deposited into a fiduciary fund account according to the following schedule as follows: (3-31-22)()

a. If in the form of cash, Cash: within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that the amount exceeds two thousand dollars (\$2,000), then such funds will be deposited within three (3) business days. (3-31-22)()

b. If in the form of eChecks, money orders, other negotiable instruments, debit or credit card payments, or other electronic funds transfer; received or collected by the producer, within seven (7) days of receipt, except that the producer may remit such funds to the following: (3-31-22)

i. Another licensed producer or licensed business entity, subject to Subsection 014.03.b.; or (3-31-22)

ii. A person designated by the insurer who has the obligation to remit the fiduciary funds to the insurer subject to Subsection 014.03.b. (3-31-22)

04. Documentation the Receipt of Fiduciary Funds. A producer who receives fiduciary funds will document the receipt of those funds in sufficient detail to determine, at a minimum, the by recording date received, the name of the payee, and the amount received. If the producer receives For cash, including cash collateral, the producer will give the payee or a detailed receipt at the time of payment. The receipt needs to indicate ing that cash was received, the date received, the amount received, the payee's name, the payee's name, the purpose of payment, and any other information important to the transaction. The producer will maintain the receipt for a period of at least five (5) years. (3-31-22)()

015. DEPOSITING ~~OF~~ OTHER FUNDS IN FIDUCIARY ACCOUNT-VOLUNTARY DEPOSITS.

A producer may deposit other additional funds for the sole purpose of: (3-31-22)

01. ~~Reserves for Return Premiums.~~ Establishing reserves for payment of return premiums. (3-31-22)()

02. ~~Funds to Pay Bank Charges.~~ Advancing funds sufficient to pay bank charges. (3-31-22)()

03. ~~Contingencies.~~ For any contingencies that may arise in the business of receiving ~~and~~ transmitting premium or return ing premium funds or cash collateral ~~(any such deposit is hereinafter referred to as "voluntary deposit").~~ (3-31-22)()

016. TYPES OF PERMITTED ACCOUNTS ~~PERMITTED.~~

01. ~~Accounts in Federally Insured Financial Institutions~~ Federally Insured. A producer will maintain ~~the~~ fiduciary funds only in ~~checking accounts, demand accounts, savings accounts or other~~ federally insured accounts ~~in a federally insured financial institution.~~ (3-31-22)()

02. ~~Exceed the Federally Insured Limits~~ Investments. If ~~such~~ funds held exceed the federally insured limits, then ~~in addition to Subsection 016.01, only those~~ the excess funds ~~that exceed the federally insured limits~~ may be deposited into ~~the following:~~ (3-31-22)()

a. An investment account that invests ~~monies~~ only in United States government bonds, United States Treasury certificates or in federally guaranteed obligations; or (3-31-22)()

b. Money market mutual funds registered with the SEC which are rated AAA by Moody's ~~or AAA by~~ S&P. (3-31-22)()

~~03. Separate Fiduciary Funds Account.~~ Nothing in this rule ~~obligates a producer to maintain and hold fiduciary funds in his, her, or its, own separate fiduciary funds account. Each producer is responsible for compliance with the provisions of this rule even if fiduciary funds are maintained in a fiduciary funds account established by another affiliated producer.~~ (3-31-22)

017. ACCOUNT DESIGNATION.

~~013. Designation of a Fiduciary Fund.~~ A fiduciary fund account is so designated on the records of the financial institution. The account has a separate account number, a separate check register and its own checks displaying "Trust Fund Account" or similar designation on the face of each check. (3-31-22)()

~~02. Trust Fund Account.~~ The phrase, "Trust Fund Account" ~~is displayed on the face of each check drawn on a fiduciary fund account or other similar designation as permitted by the financial institution to identify the checks as being from a fiduciary fund account.~~ (3-31-22)

018. INTEREST EARNINGS.

~~A fiduciary fund account may be interest bearing or an investment account in accordance with Section 016.~~

04. Interest. The producer will maintain records ~~establishing the existence and amount~~ of any interest accrued. (3-31-22)()

05. Affiliated Fiduciary Fund Account. A producer ~~may maintain fiduciary funds in the fiduciary fund account of an affiliated producer. Each producer retains responsibility for compliance.~~ ()

017. -- 018. (RESERVED)

019. PERMISSIBLE DISTRIBUTION ~~OF FIDUCIARY FUNDS.~~

Distributions from a fiduciary fund account are to only be made for the following purposes, and ~~in the manner stated:~~ (3-31-22)()

01. **Remit Premiums.** ~~To~~Remit premiums to an insurer or an insurer's designee pursuant to a contract of insurance; (3-31-22)()
02. **Return Premiums.** ~~To~~Return premiums to an insured or other person or entity entitled to the premiums; (3-31-22)()
03. **Remit Surplus Lines Taxes and Stamping Fees.** ~~To~~Remit surplus lines taxes and stamping fees collected to the appropriate state; (3-31-22)()
04. **Reimburse Voluntary Deposits.** ~~To~~Reimburse voluntary deposits made by the producer to the extent that the funds in the fiduciary account exceed the amount necessary to meet all fiduciary obligations; ~~only if t~~The reimbursement ~~can will~~ be matched ~~and identified with the to a~~ previous voluntary deposit. (3-31-22)()
05. **Transfer or Withdraw Accrued Interest.** ~~To~~Transfer or withdraw accrued interest to the extent that fiduciary fund account funds exceed the amount necessary to meet all fiduciary obligations; ~~only if t~~The reimbursement ~~can will~~ be matched ~~and identified with the to a~~ previous interest deposit by the financial institution. (3-31-22)()
06. **Transfer or Withdraw Actual Commissions.** ~~To~~Transfer or withdraw ~~actual~~ commissions and those earned fees ~~recognized as~~ earned by the producer, upon receipt, which are payable to the producer, only if the commissions and fees can be matched ~~and identified~~ with funds previously deposited in the fiduciary account. (3-31-22)()
07. **Pay Charges Imposed.** ~~To~~Pay charges imposed by the financial institution that directly relate to the operation and maintenance of the fiduciary funds account. (3-31-22)()
08. **Transfer Funds.** ~~To~~Transfer funds from one (1) fiduciary fund account to another fiduciary fund account. (3-31-22)()
09. **Return Cash Collateral.** ~~To~~Return cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, has been discharged. (3-31-22)()
10. **Convert Cash Collateral.** ~~To~~Convert cash collateral where the defendant or other responsible party fails to satisfy the obligation of the bail bond and the bail or obligation was not exonerated by the court but instead executed by the court, provided such conversion is compliant with the contract between the producer and the person who deposited the cash collateral. (3-31-22)()

020. -- 021. (RESERVED)

022. TIMELY DISBURSEMENT OF FIDUCIARY FUNDS.

In addition to the requirements of Section 014, after receiving fiduciary funds, a producer: ()

01. **Remits Premiums.** Remits premiums directly to an insurer or an insurer's designee within the time period set forth in the ~~insurer's terms and conditions~~ producer's contract, or if not specified, within fourteen (14) days of receipt; (3-31-22)()
02. **Returns Money Received.** Returns to the payer the money received as a premium deposit which is retained by the producer or returned to the producer by the insurer to the payer by the earlier of: ()
- a. Fourteen (14) days from the date the premium is received by the producer ~~from the insurer~~; or (3-31-22)()
- b. Fourteen (14) days from the date the insurer notifies the insurance applicant that coverage has been denied if the producer retained the premium deposit. ()

03. Refund Received from the Insurer. Issues a refund received from the insurer within fourteen (14) days by disbursing money to the insured or other party entitled thereto ~~by notifying the insured that the refund is being applied to an outstanding amount owed or to be owed by the insured.~~ If the producer is applying the refund to an outstanding amount owed by the insured, the producer obtains the insured's permission and provides the insured a detailed description of the amount owed to which the refund is being applied. (3-31-22)()

04. Dispute of Entitlement of Funds. If there is a dispute as to entitlement of funds under Subsections 022.01 or 022.03, a producer notifies the parties of the dispute, seeks to resolve it, and documents the steps taken to resolve it. ()

05. Funds Held for More Than Ninety Days. If ~~fiduciary~~ funds within the scope of Subsections 022.01 or 022.03 are held for more than ninety (90) days, the producer investigates to determine the entitlement to fiduciary funds and pays those fiduciary funds when due to the appropriate person in accordance with this section. (3-31-22)()

06. Return Cash Collateral. Returns cash collateral ~~to the person who deposited the cash collateral with the producer~~ to the depositor within fourteen (14) ~~days of the date notice is received that the~~ after the obligation, ~~the satisfaction of which was secured by the cash collateral,~~ is discharged. (3-31-22)()

023. - 999. (RESERVED)

IDAPA 18 – DEPARTMENT OF INSURANCE

**18.06.03 – RULES GOVERNING DISCLOSURE REQUIREMENTS FOR
INSURANCE PRODUCERS WHEN CHARGING FEES**

DOCKET NO. 18-0603-2301 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1030, Idaho Code.

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

<p>Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702</p> <p><i>Web meeting link:</i> https://www.microsoft.com/microsoft-teams/join-a-meeting <i>Meeting ID: 297 636 144 490 Meeting Password: 345BQf or by phone: +1 208-985-2810,,826046050#</i></p>

The hearing sites 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule provides disclosure requirements when charging a fee to consumers. The Department is proposing to revoke this rule in its entirety.

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 as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, Vol. 23-06, pages 56-57, under Docket No. 18-ZBRR-2301.

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 proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

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 September 27, 2023.

DATED this 3rd day of August, 2023.

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

IDAPA 18.06.03 IS BEING REPEALED IN ITS ENTIRETY