

Dear Senators COOK, Ward-Engelking, Lakey, and
Representatives CLOW, Crane, Berch:

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

IDAPA 18.06.06 - Surplus Line Rules (ZBR Chapter Rewrite) - Proposed Rule (Docket No.
18-0606-2401).

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 12/03/2024. 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 12/31/2024.

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: Legislative Drafter - Kyle Slominski

DATE: November 14, 2024

SUBJECT: Department of Insurance

IDAPA 18.06.06 - Surplus Line Rules (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0606-2401)

Summary and Stated Reasons for the Rule

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.06.06. The Department states that this rule provides procedures for the placement of surplus line insurance. This is a Zero-Based Regulation chapter rewrite designed to streamline and simplify existing rules previously submitted and reviewed by the Legislature.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The Department states that there will be no negative fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 41-1232, Idaho Code.

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.

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

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IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.06.06 – SURPLUS LINE RULES

DOCKET NO. 18-0606-2401 (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 41-1232, Idaho Code.

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

Monday, September 23, 2024 2:00 p.m. - 3:30 p.m.(MT)
In-person participation is available at: Idaho Department of Insurance 700 W. State St., 3rd Floor Boise, ID 83702
Web Meeting Link: Click here to join the meeting Meeting ID: 259 030 737 919 Passcode: PWSpjG Download Teams Join on the web

The hearing site(s) 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:

This rule provides procedures for the placement of surplus line insurance.

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

No fee or charge imposed or increased.

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 July 3, 2024 Idaho [Administrative Bulletin, Volume 24-7, pages 114-115](#) under docket number 18-ZBRR-2401.

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: None.

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 25, 2024.

DATED this 2nd day of August, 2024.

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. 18-0606-2401
(ZBR Chapter Rewrite)

18.06.06 – SURPLUS LINE RULES

000. LEGAL AUTHORITY.

~~Title 41, Chapter 12~~ Section 41-1232, Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ IDAPA 18.06.06, “~~Surplus Line Rules.~~” (3-31-22)

~~02. Scope.~~ Provide procedures for the placement of surplus line insurance. (3-31-22)()

002. – 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply: (3-31-22)

~~01. Open Lines for Export.~~ “~~Open Lines for Export~~” is defined as the class or classes of business which the Director has declared eligible for export in accordance with Section 41-1216, Idaho Code. (3-31-22)

~~02. Lines Other Than Open Lines for Export.~~ “~~Lines Other Than Open Lines for Export~~” is defined as the class or classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with Title 41, Chapter 12, Idaho Code. (3-31-22)

~~031. Diligent Search.~~ A Broker has exercised their obligations under Section 41-1214(2), Idaho Code, if the Broker or the referring insurance producer submits a risk to at least one (1) authorized company engaged in writing in Idaho the type of coverage sought, or if there are no companies engaged in writing such coverage, the risk is submitted to at least one (1) company that, in the Broker’s or producer’s professional judgment, is the most likely to accept the risk. (3-31-22)

~~042. Delegated Contractor.~~ Any contractor to whom activities have been delegated by the Director under Section 41-1232, Idaho Code. (3-31-22)

011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident Broker is to be renewed every two (2) years. ~~The original license fee and the renewal fee are prescribed in IDAPA 18.01.02.~~ A broker will not solicit surplus line business before being licensed as a Broker. A broker will notify the Licensing Division of the Department if not renewing the license prior

to the license renewal date to settle any taxes or filing requirements. ~~The Director may allow the continuation of a non-renewed license if, within one (1) year after the renewal date, the licensee submits a renewal request and a continuation fee twice the amount prescribed by Section 41-1008(3), Idaho Code.~~ (3-31-22)(____)

012. ANNUAL REPORT.

~~Each Broker will file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on an approved form.~~ The information required in each Broker's annual report is incorporated into and will be filed with the Annual Statement of Premium Taxes, both due March 1 of each year. (3-31-22)(____)

013. PAYMENT OF STATE TAX.

~~01. Tax Due March 1. On or before March 1st of each year, each licensed Broker will pay premium tax to the Department on business written during the preceding calendar year, which tax will be collected from the insured, in addition to the stamping fee.~~ (3-31-22)

~~02. Tax Summary. By February 1st of each year, the delegated contractor will provide to each Broker a summary of records showing the state tax due to the Department for the preceding year and this amount will be paid to the Department owed by the Broker. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount will be paid to the Department.~~ (3-31-22)(____)

014. PAYMENT OF STAMPING FEES.

01. Application. A stamping fee is charged on all premiums and policy fees written on Idaho business at a rate established by the delegated contractor and approved by the Department. This rate may be adjusted to obtain the objectives of the delegated contractor. The stamping fee cannot be refunded except in the case of extenuating circumstances approved by the delegated contractor. (3-31-22)

02. Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the delegated contractor, the delegated contractor will submit an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed to each Broker. (3-31-22)

03. Payable on Receipt. The Stamping Fee is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (3-31-22)

015. COLLECTION OF TAXES.

01. Idaho Premium Taxes. Idaho Premium Tax will be collected from the insured. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes will be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (3-31-22)

02. Purchasing Groups. Purchasing groups that obtain insurance from any ~~unauthorized or authorized~~ surplus lines insurer will use an Idaho-licensed Broker. The Broker is responsible to collect and submit all taxes and fees as prescribed by this chapter. (3-31-22)(____)

016. REPORTING TAXES AND STAMPING FEES.

Brokers are to report premium taxes and stamping fees in increments of not less than one year. A Broker who collects quarterly or monthly payments of premiums from the insured will provide reports of the premium tax and stamping fee in the initial submission or renewal for a full year. (3-31-22)

017. PLACEMENT AND COMMISSIONS.

~~01. Basic Requirement. All surplus line business is to be placed through a licensed Broker. Each producer of surplus line business will hold an Idaho resident or non-resident producer license.~~ (3-31-22)

~~02. Idaho Producer.~~ When a producer requests placement by a licensed Broker, the commission

received and paid will be based on the mutual written agreement of the parties.

(3-31-22)(____)

018. SUBMISSION TIME PERIODS.

All ~~affidavits, submissions, certificates, endorsements and other documents~~ filings for insurance written ~~for Open Lines for Export and Other Than Open Lines for Export~~ pursuant to Chapter 12, Title 41, Idaho Code, are to be received by the delegated contractor within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, the information with submission form and affidavit, if applicable, will be forwarded. The Broker is responsible for meeting this requirement.

(3-31-22)(____)

019. COMPLIANCE FOR RISKS NOT ON OPEN LINES FOR EXPORT.

Pursuant to Section 41-1216, the Director will publish a list of approved classes of insurance coverage or risks. If a risk does not appear on the ~~is Open Lines for Export~~ list, then the Broker will file all the ~~normal submission forms and documents and execute the broker's affidavit~~ same filings for insurance written to Chapter 12, Title 41, Idaho Code.

(3-31-22)(____)

020. BROKER RECORDS.

A ~~full and true record of each surplus line coverage procured by each Broker is to be maintained by the Broker.~~ Reports of all documents processed by the delegated contractor will be provided on a monthly basis to the Broker. These reports, in addition to the broker's ~~copy of policies and endorsements,~~ full and true records are to be kept for a period of five (5) years and are subject to examination by the Director.

(3-31-22)(____)

021. APPROVED LIST OF INSURERS.

Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves a list of unauthorized insurers, whether foreign or alien, ~~eligible to write surplus line business in Idaho. Brokers may only place surplus line business with companies on the current list.~~ The delegated contractor will inform Brokers of ~~additions and~~ any changes to the list of eligible surplus lines insurers.

(3-31-22)(____)

022. -- 999. (RESERVED)