

TITLE 41
INSURANCE

CHAPTER 16
WORKER'S COMPENSATION RATES

41-1601. SCOPE OF CHAPTER. (1) This chapter applies as to worker's compensation insurance as defined in section [41-506](#)(1)(d), Idaho Code, and to insurance or guaranty by surety insurers of the obligations of employers under worker's compensation laws.

(2) This chapter shall not apply as to any domestic reciprocal insurer transacting worker's compensation insurance only and insuring solely the hazards or perils of its subscribers exclusively associated with a single industry. However, if such a domestic reciprocal insurer transacting worker's compensation insurance wishes to insure hazards or perils outside a single industry, insurance written on such different hazards shall be subject to the provisions of this chapter.

[41-1601, added 1961, ch. 330, sec. 362, p. 645; am. 1999, ch. 286, sec. 1, p. 711.]

41-1602. DECLARATION OF POLICY -- PURPOSE. (1) It is declared that the public welfare is served by the making of premium rates for workmen's compensation insurance coverages in concert, and that the review by the state of the rates so made is necessary and desirable in the public interest.

(2) It is the purpose of this chapter:

(a) To authorize such rate-making in concert, and the operation of rating organizations relative thereto;

(b) To establish the general bases and standards for the making of such rates;

(c) To provide for review by the state of such rate-making and the results thereof.

[41-1602, added 1961, ch. 330, sec. 363, p. 645.]

41-1603. RATE-MAKING FACTORS. All rates shall be made in accordance with the following provisions:

(1) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state;

(2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(3) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates on individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions,

or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

[41-1603, added 1961, ch. 330, sec. 364, p. 645.]

41-1604. RATE STANDARD. Rates shall not be excessive, inadequate or unfairly discriminatory.

[41-1604, added 1961, ch. 330, sec. 365, p. 645.]

41-1605. UNIFORMITY. Except to the extent necessary to meet the provisions of section [41-1604](#), uniformity among insurers in any matter within the scope of sections [41-1603](#) and [41-1604](#) is neither required nor prohibited.

[41-1605, added 1961, ch. 330, sec. 366, p. 645.]

41-1606. RATE FILINGS REQUIRED. (1) There shall be filed with the director on behalf of every insurer writing workmen's compensation coverages in this state, every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the filing is supported, and the director does not have sufficient information to determine whether such filing meets the requirements of this chapter, he shall require the insurer's rating organization or the insurer to furnish the information upon which it supports the filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include (a) the experience or judgment of the insurer, (b) the insurer's or rating organization's interpretation of any statistical data relied upon, (c) the experience of other insurers or rating organizations, or (d) any other relevant factors.

(2) A filing and any supporting information shall be open to public inspection after the filing becomes effective.

[41-1606, added 1961, ch. 330, sec. 367, p. 645.]

41-1607. EXEMPTION FROM FILING. Under such rules and regulations as he shall adopt the director may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes or risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The director may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in section [41-1604](#).

[41-1607, added 1961, ch. 330, sec. 368, p. 645.]

41-1608. EFFECTIVE DATE OF FILING. (1) The director shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

(2) Subject to the exception specified in subsection (3) below, each filing shall be on file for a waiting period of sixty (60) days before it becomes effective. Upon the written application by the insurer or rating or-

ganization, the director may authorize a filing which he has reviewed to become effective before expiration of the waiting period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the director within the waiting period or any extension thereof.

(3) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the director reviews the filing and so long thereafter as the filing remains in effect.

[41-1608, added 1961, ch. 330, sec. 369, p. 645; am. 1979, ch. 186, sec. 1, p. 544.]

41-1609. DISAPPROVAL OF FILING WITHIN THE WAITING PERIOD. If within the waiting period or any extension thereof as provided in section [41-1608](#)(2), the director finds that a filing does not meet the requirements of this chapter, he shall send to the rating organization which made the filing written notice of disapproval of the filing specifying therein in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective.

[41-1609, added 1961, ch. 330, sec. 370, p. 645.]

41-1610. SUBSEQUENT DISAPPROVAL OF FILING. If any time subsequent to the applicable review period provided for in section [41-1608](#)(2), Idaho Code, the director finds that a filing does not meet the requirements of this chapter, he shall after a hearing held in accordance with [chapter 2, title 41](#), Idaho Code, to every rating organization which made the filing, issue an order specifying in what respects he finds that the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. Copies of the order shall be sent to every such rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

[41-1610, added 1961, ch. 330, sec. 371, p. 645; am. 2005, ch. 77, sec. 16, p. 265.]

41-1611. SCOPE OF DISAPPROVAL POWER. No manual of classifications, rules, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section [41-1606](#) shall be disapproved if the rates thereby produced meet the requirements of this chapter.

[41-1611, added 1961, ch. 330, sec. 372, p. 645.]

41-1612. ADHERENCE TO FILINGS. (1) No insurer shall issue, renew, or continue in force in this state any worker's compensation insurance at premium rates which are less than the rates applicable under the filings in effect for the insurer, or in effect in accordance with section [41-1607](#) (exemption from filing) or [41-1613](#) (excess rates), Idaho Code.

(2) No filing shall contain a minimum premium that is less than one hundred fifty dollars (\$150) or greater than three hundred dollars (\$300).

(3) With respect to determination of premiums for partnerships and sole proprietorships, filings shall include a premium calculated on an annual salary of thirteen thousand dollars (\$13,000).

[41-1612, added 1961, ch. 330, sec. 373, p. 645; am. 1996, ch. 194, sec. 1, p. 604.]

41-1613. EXCESS RATES. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the director, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

[41-1613, added 1961, ch. 330, sec. 374, p. 645.]

41-1614. DEVIATIONS. (1) Every member of a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the director for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance or for a class of insurance which is found by the director to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance (a) comprised of a group of manual classifications which is treated as a separate unit for rate-making purposes, or (b) for which separate expense provisions are included in the filings of the rating organization. Such applications shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization.

(2) The director shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them notice thereof in accordance with [chapter 2, title 41](#), Idaho Code. In the event the director is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In permitting or denying such modification with respect to worker's compensation insurance the director shall give consideration to the operating methods and expense provisions of the insurer as compared with the expense provisions included in the rating system filed by such rating organization.

(3) The director shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory.

(4) Each deviation permitted to be filed shall be effective for a period of one (1) year from the date of such permission unless terminated sooner with the approval of the director.

[41-1614, added 1961, ch. 330, sec. 375, p. 645; am. 2005, ch. 77, sec. 17, p. 266.]

41-1615. RATING ORGANIZATION MEMBERSHIP REQUIRED. Every insurer, including the Idaho state insurance fund, writing workmen's compensation insurance in this state shall be a member of a workmen's compensation rating

organization. No insurer may at the same time belong to more than one rating organization with respect to such insurance.

[41-1615, added 1961, ch. 330, sec. 376, p. 645.]

41-1616. RATING ORGANIZATION MINIMUM MEMBERSHIP. Such a rating organization shall have as members not less than five (5) insurers authorized to write and writing workmen's compensation insurance in this state, and whose combined experience is determined by the director to be reasonably adequate for rate-making purposes.

[41-1616, added 1961, ch. 330, sec. 377, p. 645.]

41-1617. RATING ORGANIZATION COMMITTEES. In a rating organization of which the Idaho state insurance fund is a member, the Idaho state insurance fund shall be entitled, without election, to membership on any committee thereof established in connection with the operation of the rating organization in this state. One-half (1/2) of the members of each such committee shall be chosen by the stock insurers and one-half (1/2) by the nonstock insurers.

[41-1617, added 1961, ch. 330, sec. 378, p. 645.]

41-1619. OTHER PROVISIONS APPLICABLE. Subject to the express provisions of this chapter, the following sections of [chapter 14, title 41](#), Idaho Code, shall, to the extent so applicable, also apply as to this chapter:

- (1) Section [41-1421](#) (technical services).
- (2) Section [41-1425](#) (advisory organizations).
- (3) Section [41-1426](#) (joint underwriting or joint reinsurance).
- (4) Section [41-1427](#) (examination of rating, advisory, and joint reinsurance organizations).
- (5) Section [41-1428](#) (recording, reporting of loss and expense experience).
- (6) Section [41-1429](#) (interchange of data, consultation).
- (7) Section [41-1431](#) (false, misleading information).
- (8) Section [41-1432](#) (penalties for violations, noncompliance).
- (9) Section [41-1433](#) (rules and regulations).
- (10) Section [41-1434](#) (hearing procedure).

[41-1619, added 1961, ch. 330, sec. 380, p. 645; am. 1969, ch. 306, sec. 19, p. 917; am. 2005, ch. 77, sec. 18, p. 266.]

41-1620. RATING ORGANIZATIONS. (1) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the director for license as a rating organization for such kinds of insurance or subdivisions thereof which are subject to this chapter as are specified in its application, and shall file therewith: (a) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business; (b) a list of its members and subscribers; (c) the name and address of a resident of this state upon whom notices or orders of the director or process affecting such rating organization may be served; and (d) a statement of its qualifications as a rating organization. If the director finds that the applicant is competent,

trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the director within sixty (60) days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for one (1) year unless sooner suspended or revoked by the director. The fee for the license shall be as provided by rule pursuant to section [41-401](#), Idaho Code. Licenses issued pursuant to this section may be suspended or revoked by the director, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the director promptly of every change in: (a) its constitution, its articles of agreement or association or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business; (b) its list of members and subscribers; and (c) the name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting such rating organization may be served.

(2) Subject to rules and regulations which have been approved by the director as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance or subdivision thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the director at a hearing held upon notice to such rating organization and to such subscriber or insurer in accordance with [chapter 2, title 41](#), Idaho Code. If the director finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty (30) days after it was made, the insurer may request a review by the director as if the application had been rejected. If the director finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(3) Every member of or subscriber to a rating organization shall adhere to the rating organization's manuals of classifications, rules, rates, rating plans and any modifications of any of the foregoing, except to the extent that the rules of such rating organizations permit departures therefrom.

(4) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

[41-1620, as added by 1969, ch. 306, sec. 20, p. 917; am. 2001, ch. 85, sec. 6, p. 215; am. 2005, ch. 77, sec. 19, p. 267.]

41-1621. APPEAL BY MINORITY. (1) Any member of or subscriber to a rating organization may appeal to the director from the action or decision of the rating organization in approving or rejecting any proposed change in or addition to the filings of the rating organization and the director shall, after a hearing held upon notice to the appellant and to the rating organization in accordance with [chapter 2, title 41](#), Idaho Code, issue an order approving the action or decision of the rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

(2) If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in section [41-1603\(2\)](#), Idaho Code, from the system of expense provisions included in a filing made by the rating organization, the director shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the director shall apply the standards set forth in sections [41-1603](#) and [41-1604](#), Idaho Code.

[41-1621, added 1969, ch. 306, sec. 21, p. 917; am. 2005, ch. 77, sec. 20, p. 268.]

41-1622. INFORMATION TO INSUREDS -- REVIEW OF INSURED'S COMPLAINT. (1) Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charges as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty (30) days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty (30) days after written notice of such action, appeal to the director, who, after a hearing held upon notice to the appellant and to such rating organization or insurer in accordance with [chapter 2, title 41](#), Idaho Code, may affirm or reverse such action.

[41-1622, added 1969, ch. 306, sec. 22, p. 917; am. 2005, ch. 77, sec. 21, p. 268.]

41-1623. APPEAL FROM FILING. (1) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon, provided, however, that the insurer or rating organization that made the filing shall not be authorized to proceed

under this section. Such application shall specify the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall hold a hearing upon notice to the applicant and to every insurer and rating organization which made the filing in accordance with [chapter 2, title 41](#), Idaho Code.

(2) If, after such hearing, the director finds that the filing does not meet the requirements of the law he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of law, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

[41-1623, added 1969, ch. 306, sec. 23, p. 917; am. 2005, ch. 77, sec. 22, p. 269.]

41-1624. COOPERATION AMONG RATING ORGANIZATIONS AND INSURERS. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is hereby authorized, providing the filings resulting from such cooperation are subject to all the provisions of this chapter which are applicable to filings generally. The director may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of law, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of law, and requiring the discontinuance of such activity or practice.

[I.C., sec. 41-1624, as added by 1969, ch. 306, sec. 24, p. 917.]

41-1626. COMPENSATION REIMBURSEMENT OPTION. Notwithstanding any other provision of this code, an insurer issuing a worker's compensation insurance contract may include as part of the contract an option allowing a policyholder at the policyholder's sole discretion, to reimburse the insurer for compensation in amounts not to exceed one thousand dollars (\$1,000) per claim, subject to the following conditions:

(1) Claimant's rights shall be properly protected, and claimant's benefits have been paid by the insurer.

(2) The insurer shall pay all benefits of a compensable claim to the person or provider entitled to benefits regardless of the policyholder's option to reimburse the insurer for the claim. Payment of benefits shall not be delayed due to the decision of a policyholder to reimburse the insurer for the claim.

(3) The making of such reimbursement does not constitute a waiver or transfer of the insurer's duty to determine entitlement to benefits.

(4) In the event the insurer recovers any medical costs on a claim reimbursed pursuant to this section, the insurer shall repay the policyholder within thirty (30) days an amount equal to recovered medical costs.

(5) The claim to which a reimbursement by the policyholder applies may not exceed one thousand dollars (\$1,000) over the life of the claim. Should a claim exceed the one thousand dollar (\$1,000) limit after a portion has been

reimbursed by the policyholder, the insurer shall within thirty (30) days notify the policyholder and return the reimbursement and adjust all reports accordingly.

(6) The policyholder shall make all reports of accidents, injuries and losses to the insurer as required under the provisions of [title 72](#), Idaho Code, regardless of the policyholder's intent to reimburse the insurer.

(7) The insurer shall record and report all losses for the purpose of setting industry rates.

(8) Claims reimbursed pursuant to this section shall not be reported to a rating organization for the purpose of determining the policyholder's experience rating, nor shall the insurer otherwise increase a policyholder's experience rating or otherwise make charges against the policyholder for any compensation reimbursed by the policyholder pursuant to this section.

(9) No reduction in current premium may be granted as a result of a reimbursed claim.

(10) Nothing in this section shall apply to worker's compensation insurance contracts offering the policyholder a deductible pursuant to the provisions of [title 72](#), Idaho Code.

(11) If the insurer offers the reimbursement option and the policyholder elects to exercise such option, the procedure for reimbursement shall be as follows:

(a) Within thirty (30) days following each three (3) month period after policy inception or a period mutually agreed upon by the policyholder and the insurer, the insurer shall provide the policyholder with a list of all accepted nondisabling claims for which payments were made during that period and the respective cost of each claim.

(b) No later than thirty (30) days after receipt of the list, the policyholder shall identify the claims and the dollar amount the policyholder elects to reimburse for that period, and the policyholder shall reimburse the insurer accordingly.

(c) Failure by the policyholder to reimburse the insurer within the thirty (30) days allowed shall be deemed notice to the insurer that the policyholder has not elected to make any reimbursement for that period.

[41-1626, added 1999, ch. 278, sec. 1, p. 692.]