

IN THE SENATE

SENATE BILL NO. 1221

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO INSURANCE PRODUCER LICENSING; AMENDING SECTION 41-1016, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING SUSPENSION OR REVOCATION OF NON-
3 RESIDENT LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
4 41-1026, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSURE AFTER
5 REVOCATION OF OR REFUSAL TO CONTINUE A LICENSE AND TO PROVIDE THAT A
6 LICENSE SHALL NOT BE ISSUED WITHIN A CERTAIN PERIOD OF TIME TO A PERSON
7 WHOSE APPLICATION FOR A LICENSE WAS PREVIOUSLY DENIED; AND AMENDING
8 SECTION 41-1108, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO
9 MAKE TECHNICAL CORRECTIONS.
10

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

12 SECTION 1. That Section 41-1016, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 41-1016. ADMINISTRATIVE PENALTY -- SUSPENSION, REVOCATION, REFUSAL
15 OF LICENSE. (1) The director may impose an administrative penalty not to
16 exceed one thousand dollars (\$1,000), for deposit in the general fund of the
17 state of Idaho, and may suspend for not more than twelve (12) months or may
18 revoke or refuse to issue or continue any license issued under this chapter,
19 chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41,
20 Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines
21 brokers), if the director finds that as to the licensee or applicant any one
22 (1) or more of the following causes or violations exist:

23 (a) Providing incorrect, misleading, incomplete or materially untrue
24 information in the license application;

25 (b) Violating any provision of title 41, Idaho Code, department rule,
26 subpoena or order of the director or of another state's insurance direc-
27 tor;

28 (c) Obtaining or attempting to obtain a license through misrepresenta-
29 tion or fraud;

30 (d) Improperly withholding, misappropriating or converting any moneys
31 or properties received in the course of doing insurance business;

32 (e) Misrepresenting the terms of an actual or proposed insurance con-
33 tract or application for insurance or misrepresenting any fact material
34 to any insurance transaction or proposed transaction;

35 (f) Being convicted of or pleading guilty to any felony, or to a mis-
36 demeanor which evidences bad moral character, dishonesty, a lack of in-
37 tegrity and financial responsibility, or an unfitness and inability to
38 provide acceptable service to the consuming public;

39 (g) Admitting or being found to have committed any insurance unfair
40 trade practice or fraud;

41 (h) Using fraudulent, coercive or dishonest practices, or demonstrat-
42 ing incompetence, untrustworthiness or financial irresponsibility, or

1 being a source of injury and loss to the public or others, in the conduct
2 of business in this state or elsewhere;

3 (i) Having an insurance license denied, suspended or revoked in any
4 other state, province, district or territory;

5 (j) Forging another's name on an application for insurance or on any
6 document related to an insurance transaction;

7 (k) Improperly using notes or any other reference material to complete
8 an examination for an insurance license;

9 (l) Knowingly accepting insurance business from an individual who is
10 not licensed;

11 (m) Failing to comply with an administrative or court order imposing a
12 child support obligation, provided however, that nothing in this pro-
13 vision shall be deemed to abrogate or modify chapter 14, title 7, Idaho
14 Code; or

15 (n) Failing to pay state income tax or to comply with any administrative
16 or court order directing payment of state income tax.

17 (2) The director shall, without hearing, suspend for not more than
18 twelve (12) months, or shall revoke or refuse to continue any license issued
19 under this chapter to a nonresident where:

20 (a) The director has received a final order of suspension, revocation
21 or refusal to continue from the insurance regulatory official or court
22 of jurisdiction of the licensee's home state; or

23 (b) A nonresident no longer has a license in the licensee's home state
24 because the home state license was:

25 (i) Voluntarily surrendered for any reason except relicensing as
26 a resident in another state; or

27 (ii) Otherwise nonrenewed by the nonresident and remains nonre-
28 newed for a period greater than ninety (90) days beyond its expira-
29 tion date, and without notice to the director of relicensing as a
30 resident in another state.

31 If cause under this provision exists after the expiration of the twelve
32 (12) months, successive suspensions may be imposed by the director without
33 hearing.

34 (3) The license of a business entity may be suspended, revoked or re-
35 fused if the director finds that the violation of an individual licensee,
36 who is registered to or acting on behalf of the business entity, was known
37 or should have been known by one (1) or more of the owners, officers or man-
38 agers acting on behalf of the business entity and that the violation was not
39 reported to the director and no corrective action was taken.

40 (4) In addition to or in lieu of any applicable denial, suspension or
41 revocation of a license, a person may, after hearing, be subject to a civil
42 fine or administrative penalty pursuant to subsection (1) of this section or
43 any other applicable section.

44 (5) The director shall retain the authority to enforce the provisions
45 of and impose any penalty or remedy authorized by title 41, Idaho Code,
46 against any person who is under investigation for or charged with a violation
47 of title 41, Idaho Code, or department rule, even if the person's license or
48 registration has been surrendered, or has lapsed by operation of law, or if
49 the person has never been licensed.

1 SECTION 2. That Section 41-1026, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 41-1026. PROCEDURE FOLLOWING SUSPENSION, REVOCATION, DENIAL -- RE-
4 INSTATEMENT. (1) Upon suspension, revocation, or refusal to continue any
5 license, the director shall notify the licensee as provided in section
6 41-212(3), Idaho Code, and, in the case of a producer who holds appointments
7 from insurers, shall give like notice to the insurers represented.

8 (2) Suspension, revocation, or refusal of any one (1) license held by
9 the licensee under title 41, Idaho Code, shall automatically suspend, revoke
10 or refuse continuation of all other licenses held by the licensee under title
11 41, Idaho Code.

12 (3) The director shall not issue a license under title 41, Idaho Code,
13 to or as to any person whose license has been revoked or continuance refused
14 until after the expiration of not less than one (1) year, to a maximum of five
15 (5) years, from the date of such revocation or refusal, which time period
16 shall be set forth in the final order, or, if judicial review of such revo-
17 cation or refusal is sought, within not less than one (1) year, to a maximum
18 of five (5) years, from the date of a final court order or decree affirming
19 the revocation or refusal. If no time period is specified in the final or-
20 der or final court order or decree, the time period shall be one (1) year. In
21 the event the former licensee again files an application for a license un-
22 der title 41, Idaho Code, the director may require the applicant to show good
23 cause why the prior revocation or refusal to continue his license shall not
24 be deemed a bar to the issuance of a new license.

25 (4) The director shall not issue a license under title 41, Idaho Code,
26 to any person whose application for a license was previously denied until af-
27 ter the expiration of one (1) year from the date of such license denial or, if
28 judicial review of such license denial is sought, one (1) year from the date
29 of a final court order or decree affirming the license denial.

30 SECTION 3. That Section 41-1108, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 41-1108. OTHER PROVISIONS APPLICABLE. The following sections of chap-
33 ter 10, title 41, Idaho Code, shall, to the extent so applicable, also apply
34 as to adjuster licenses:

- 35 (1) 41-1007(1), Idaho Code (application for producer license).
36 (2) 41-1008, Idaho Code (producer license).
37 (3) 41-1011, Idaho Code (issuance, refusal of license).
38 (4) 41-1013, Idaho Code (continuation, expiration of license, continu-
39 ing education statement).
40 (5) 41-1016, Idaho Code (administrative penalty -- suspension, revoca-
41 tion, refusal of license).
42 (6) 41-1026, Idaho Code (procedure following suspension, revocation,
43 denial -- reinstatement).
44 (7) 41-1027, Idaho Code (return of license).