

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 611

BY BUSINESS COMMITTEE

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-5504, IDAHO CODE, TO SPECIFY RE-
QUIREMENTS FOR CERTAIN REINSURANCE CLAIMS; AND DECLARING AN EMERGENCY
AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-5504, Idaho Code, be, and the same is hereby
amended to read as follows:

41-5504. POWERS AND AUTHORITY. (1) The pool shall have the general
powers and authority granted under the laws of this state to insurance com-
panies and managed care organizations licensed to transact business, except
the power to issue health benefit plans directly to individuals. In addition
thereto, the pool shall have the specific authority to:

(a) Enter into contracts as are necessary or proper to carry out the
provisions and purposes of this chapter, including the authority, with
the approval of the director, to enter into contracts with similar pro-
grams of other states for the joint performance of common functions or
with persons or other organizations for the performance of administra-
tive functions;

(b) Sue or be sued, including taking any legal actions necessary or
proper to recover any assessments and penalties for, on behalf of, or
against the pool or any carrier;

(c) Define the high risk medical conditions for which reinsurance will
be provided, and to issue reinsurance policies, in accordance with the
requirements of this chapter;

(d) Establish rules, conditions and procedures for reinsuring risks
under the pool;

(e) Establish actuarial functions as appropriate for the operation of
the pool;

(f) Assess carriers in accordance with the provisions of section
41-5508, Idaho Code, and make advance interim assessments of carriers
as may be reasonable and necessary for organizational and interim oper-
ating expenses. Any interim assessments shall be credited as offsets
against any regular assessments due following the close of the fiscal
year;

(g) Appoint appropriate legal, actuarial and other committees as nec-
essary to provide technical assistance in the operation of the pool,
policy and other contract design, and any other function within the au-
thority of the pool;

(h) Borrow money to effect the purposes of the pool. Any notes or other
evidence of indebtedness of the pool not in default shall be legal in-
vestments for carriers and may be carried as admitted assets;

1 (i) Establish rules, policies and procedures as may be necessary or
2 convenient for the implementation of this chapter and the operation of
3 the pool.

4 (2) Neither the board nor its employees shall be liable for any obliga-
5 tions of the pool. No member or employee of the board shall be liable, and
6 no cause of action of any nature may arise against them, for any act or omis-
7 sion related to the performance of their powers and duties under this chap-
8 ter, unless such act or omission constitutes willful or wanton misconduct.
9 The board may provide for indemnification of, and legal representation for,
10 its members and employees.

11 (3) No participation of a reinsuring carrier in the pool, no establish-
12 ment of rates, forms or procedures, and no other joint or collective action
13 required under the provisions of this chapter shall be grounds for any legal
14 action, criminal or civil liability, or penalty against the pool or any of
15 its reinsuring carriers either jointly or separately.

16 (4) The pool shall have no authority to provide reinsurance for any
17 claims incurred after December 31, 2022, unless the following conditions are
18 met:

19 (a) The state develops an application for a waiver for state innovation
20 pursuant to 42 U.S.C. 18052 of the federal patient protection and af-
21 fordable care act that facilitates the resumption of operations of the
22 pool in a manner that minimizes the loss of federal funding to support
23 the affordability of health insurance in the state;

24 (b) After proper public comment periods and consultation with inter-
25 ested parties, including the pool board, and the approval of the gover-
26 nor, the waiver application is submitted to the secretary of the United
27 States department of health and human services and to the secretary of
28 the United States department of the treasury; and

29 (c) The waiver application is approved.

30 (5) The director shall have the authority as necessary or proper to de-
31 velop, apply for, and upon approval implement an innovation waiver under 42
32 U.S.C. 18052 of the federal patient protection and affordable care act, in-
33 cluding authorizing the pool to perform activities necessary for its imple-
34 mentation.

35 SECTION 2. An emergency existing therefor, which emergency is hereby
36 declared to exist, this act shall be in full force and effect on and after
37 July 1, 2022.