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**IDAPA 18
TITLE 01
Chapter 65**

18.01.65 - RULES FOR THE SURPLUS LINE BROKERS OF IDAHO

000. LEGAL AUTHORITY.

The statutory authority of this Rule is Title 67, Chapter 52, Idaho Code and Title 41, Chapters 2 and 12, Idaho Code. (1-1-94)

001. TITLE AND SCOPE.

The purpose of this Rule is to provide procedures for the placement of surplus line insurance. (1-1-94)

002. WRITTEN INTERPRETATIONS.

The Department of Insurance has or relies upon written interpretive statements of the rule chapter in accordance with Idaho Code Section 67-5201(16)(b)(iv). (1-1-94)

003. ADMINISTRATIVE APPEALS.

There is no appeal to the Attorney General from application of this rule. All such appeals must be instituted by written demand for a hearing before the Director of Insurance, per Idaho Code Section 41-232. Further appeal from the Director's decision can be taken to district court, pursuant to Idaho Code Section 67-5270. (1-1-94)

004. -- 010. (RESERVED).

011. BIENNIAL LICENSE.

The Idaho license of a Surplus Line Broker must be renewed every two (2) years. Both the original license fee and the renewal fee are prescribed in Rule No. 44 of the Idaho Department of Insurance ("Department"), plus a ten thousand dollar (\$10,000) bond shall be posted with the Director of the Idaho Department of Insurance ("Director") as provided for in Section 41-1225 of the Idaho Insurance Code. Agents are in violation of the Insurance Code if they solicit surplus line business before they are licensed as a Surplus Line Broker. If a broker decides not to renew his license in any particular year, he should notify the Licensing Division of the Department of his intention prior to his license renewal date. The Director may, in his discretion, allow the continuation of a license which is not timely renewed, if, within thirty (30) days after the renewal date, the licensee submits the appropriate renewal request and a continuation fee which is twice the amount otherwise required as provided by Section 41-1046(3), Idaho Code. (7-1-98)

012. ANNUAL REPORT.

Each Surplus Line Broker shall file an annual statement with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year. The Director will mail forms to each broker. (1-1-94)

013. PAYMENT OF STATE TAX.

01. Tax Due March 1. On or before March 1st of each year, all Idaho Surplus Line Brokers shall pay to the Department the premium tax on business written by him during the preceding calendar year. The Idaho Surplus Line Broker must collect this tax from the assured, in addition to the stamping fee. (1-1-94)

02. Tax Summary. By February 1st of each year the Stamping Office will mail to each Idaho Surplus Line Broker a summary of records showing the state tax due the Department for the preceding year. The broker must pay to the Department the exact amount of tax indicated on the Stamping Office summary. 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 must be paid to the Department. (1-1-94)

014. PAYMENT OF STAMPING FEES.

01. Application. The stamping fee shall be charged on all premiums and policy fees written on Idaho business at a rate established by the Board of Directors of the Surplus Line Association and approved by the Department. This rate will be adjusted from time to time in order to obtain the objectives of the Association. The stamping fee cannot be refunded except where there are extenuating circumstances, reported to, and approved by the Stamping Office. (7-1-98)

02. Association Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the Association office, the Manager will submit to each Idaho Surplus Line Broker an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission approved. (1-1-94)

03. Payable on Receipt. The Stamping Fee of the Surplus Line Association 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. (1-1-94)

015. COLLECTION OF TAXES.

01. Excise Taxes. The federal excise tax is no longer payable by Underwriters at Lloyds or by any company domiciled within the United States. Federal excise taxes imposed on other companies shall be absorbed by the company and cannot be charged to the insured as a separate item. (1-1-94)

02. State Premium Taxes. State Premium Tax must be collected from the insured. This tax is charged on the premium paid. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes must be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (1-1-94)

016. REPORTING TAXES AND STAMPING FEES.

Brokers must report premium taxes and stamping fees in increments of not less than one year. If a broker elects to collect quarterly or monthly payments of premiums from the insured, he may do so, providing he reports the premium tax and stamping fee in the initial submission or renewal for a full year. (1-1-94)

017. PLACEMENT AND COMMISSIONS.

01. Basic Requirement. All surplus line business whether produced from within the state of Idaho or outside, must be placed through a licensed Idaho Surplus Line Broker. Each producer of surplus line business must hold a resident or non-resident license for Idaho. (1-1-94)

02. Out-of-State Producer. When an out-of-state producer requests an Idaho Surplus Line Broker to place the surplus line business, the Idaho broker may receive non-commission compensation in the form of a service or policy fee. Such fee shall be based upon the mutual agreement of the parties concerned, shall be fully disclosed and shall not exceed two hundred fifty dollars (\$250). Such fee shall not be in addition to commission compensation. (1-1-94)

03. Idaho Producer. When an Idaho producer requests placement by a Surplus Line Broker the commission received and paid shall be based on the mutual agreement of the parties concerned. (1-1-94)

018. SUBMISSION TIME PERIODS.

All certificates, endorsements and other documents must be received at the Stamping Office within thirty (30) days of receipt by the Idaho broker of the certificate, endorsement or other document. If the complete submission cannot be made within this time period, then the binder with submission form and affidavit, if applicable, will be forwarded. The Idaho broker is responsible for meeting this requirement and the burden of compliance is upon him. Out-of-state brokers or insurers must be informed of this requirement by the Idaho broker. (1-1-94)

019. OPEN LINES FOR EXPORT.

A list of approved classes of insurance coverage or risks appears in the manual maintained by the Surplus Line Association. See also Section 018 of this Rule. These classes are recognized by the Department and the Association as eligible for export since it has been previously determined through a hearing that an adequate market among authorized insurers does not exist in Idaho. Under this provision, brokers are not required to comply with sections 41-1214(2), (3) and 41-1215 of the Idaho Insurance Code. If a risk does not appear on this list, then the broker must file the normal submission forms and documents and he must execute the broker's affidavit. (1-1-94)

020. BROKERS RECORDS.

Each broker shall keep in his office within Idaho a full and true record of each surplus line coverage procured by him as outlined in section 41-1227 of the Idaho Insurance Code. Normally, that portion of the broker's submission, which is returned to him from the Stamping Office, will include the necessary supporting documents to comply with the requirement. Additional and future submissions, such as change endorsements, should be filed with the papers received from the Stamping Office. These records must be kept for a period of five (5) years and are subject to examination by the Director. (1-1-94)

021. APPROVED LIST OF INSURERS.

A list, commonly known as the "white" list, containing the only non-admitted companies authorized to write surplus line business in this state will be issued from time to time by the Director. While this list is in effect, a broker may place surplus line business with those companies only. After receiving the updates from the Director, the association will keep brokers informed of additions and changes through timely notice. (7-1-98)

022. -- 999. (RESERVED).