



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Senior Legislative Research Analyst - Ryan Bush

DATE: September 16, 2013

SUBJECT: Department of Insurance

IDAPA 18.01.04 - Rules Pertaining to Bail Agents (Docket No. 18-0104-1301)

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.04 - Rules Pertaining to Bail Agents. This rulemaking deletes Section 016, Allowable Bail Agent Charges and Fees, from Rule 18.01.04. The Department states that this is being done to conform the rule to the interpretation of Section 41-1042, Idaho Code, consistent with the Idaho Supreme Court's holding in *Two Jinn v. Idaho Department of Insurance* (2013). The Court held in *Two Jinn v. Idaho Department of Insurance* that Section 016 of the rule contravened the plain text of Section 41-1042, Idaho Code, by prejudicing a bail bond company's right to contract with a client to indemnify the company for the cost of apprehending a defendant who jumps bail.

The Department states that negotiated rulemaking was conducted and the Notice of Intent to Promulgate Rules was published in the July 3, 2013, Idaho Administrative Bulletin, Volume 13-7, page 64. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be consistent with Section 41-1042, Idaho Code, and *Two Jinn v. Idaho Department of Insurance* (2013) and within the statutory authority granted to the Department in Section 41-211, Idaho Code.

cc: Department of Insurance
Thomas A. Donovan
Dale Freeman