

PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
House Business Committee
67th Idaho Legislature
First Regular Session – 2023**



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2023

HOUSE BUSINESS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.02.02 – AUTOMOBILE INSURANCE POLICIES

DOCKET NO. 18-0202-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-2502(3), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule provides uniform interpretation and implementation of Section 41-2502, 41-2506, 41-2507, 41-2508, and 41-2509, Idaho Code, relating to insurance cancellation, non-renewal, and under/uninsured motorist coverages. This rulemaking clarifies language, removes duplicative language, and directs to the Department's website for certain information. It also improves transparency to consumers as to their underinsured motorist coverage.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 125 to 126](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-2502(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p>
<p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p>
<p><i>Join by phone at: 1-720-650-7664 (USA Toll Free)</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule provides implementation and uniform interpretation of Section 41-2502, 41-2506, 41-2507, 41-2508, and 41-2509, relating to insurance cancellation, non-renewal, and under/uninsured motorists. This rulemaking clarifies language, removes duplicative language, and moves information to the Department's website. It also improves transparency to consumers as to their underinsured motorist coverage.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, Vol. 22-04, pages 37-38, under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0202-2201

18.02.02 – AUTOMOBILE INSURANCE POLICIES

000. LEGAL AUTHORITY.

Title 41, Chapter 25, Idaho Code. ()

001. SCOPE.

Assists in implementing and interpreting Sections 41-2502, and 41-2506 through 41-2509, Idaho Code. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. “The Act” means Sections 41-2506 through 41-2512, Idaho Code. ()

02. Conviction. For purposes of Section 41-2507, Idaho Code, the term “conviction” means a final conviction by any court having competent jurisdiction over violations of laws regulating the operation of motor vehicles. An overtime parking violation is not considered a conviction. ()

03. Underinsured Motorist (UIM) Coverage Types. “Offset” or “Difference in Limits” UIM coverage has limits that decrease by any amounts recovered from another party’s insurance. “Excess” UIM coverage has limits that are added to what is paid by another party’s insurance. ()

011. MISREPRESENTATIONS IN THE APPLICATION.

After properly notifying the insured, an insurer may cancel or refuse to renew a policy if the insurer has evidence the named insured or their legal representative made fraudulent or material misrepresentations, omissions, concealment of facts or incorrect statements in obtaining the policy and if the insurer in good faith would not have issued the policy or covered a particular hazard if the true facts had been made known to the insurer. This is not to be construed to allow the insurer to void or rescind coverage to prevent a recovery in the event of a loss otherwise insured by the policy. ()

012. TERMINATION TIMING.

Unless otherwise agreed by the insured, insurer, and the lienholder, if any, the time and date of cancellation of a policy for nonpayment of premium will be no earlier than ten (10) days after the date such notice was mailed or delivered at the last known address of the named insured. The date of mailing is the first day, and the tenth day ends at midnight. Any existing policy will terminate on the effective date of another policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage. ()

013. NOTICE OF PREMIUM DUE AS INSURER’S WILLINGNESS TO RENEW.

An insurer’s mailing of the renewal premium notice constitutes the insurer’s willingness to renew. If the insured fails to pay the renewal premium when due, the policy will terminate per its terms. The insurer need not further notify the insured of the insurer’s intent not to renew for nonpayment. ()

014. ACCEPTABLE FORMS FOR CERTAIN NOTICES.

The insurer will prepare forms of notice to use and submit to the Director for approval. Examples of acceptable language are available on the Department's website. ()

015. UNINSURED AND UIM COVERAGE.

a. The form on the Department's website is the standard statement per Section 41-2502(3), Idaho Code. Carriers are to provide the form with all new policies and renewals. Carriers may make non-substantive changes to this form, for example, inserting company letterhead. Carriers need to file their standard statement form with the Director prior to use ()

b. The carrier's Declarations Page for "offset" UIM coverage is to indicate that the coverage decreases by any payments from another party's coverage. ()

c. To avoid illusory coverage, insurers may offer "offset" UIM coverage at the state financial responsibility limits defined in Section 49-117(20), Idaho Code, only if coverage is provided at no (\$0.00) premium. ()

016. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.02.03 – CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES
DOCKET NO. 18-0203-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 49-1229, 49-1231, and 49-1608A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule identifies requirements of Sections 49-1229, 49-1231, and 49-1608A, Idaho Code, relating to the certificate of liability insurance for motor vehicles. This rulemaking clarifies language and removes duplicative language.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 127 to 129](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 49-1129, 49-1231, and 49-1608A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p> <p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p> <p><i>Join by phone at: 1-720-650-7664 (USA Toll Free)</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule identifies requirements of Sections 49-1129, 49-1331, and 49-1608A, Idaho Code, relating to the certificate of liability insurance for motor vehicles. This rulemaking clarifies language and removes duplicative language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, Vol. 22-04, pages 37-38, under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0203-2201

18.02.03 – CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES

000. LEGAL AUTHORITY.

Title 49, Sections 49-1229, 49-1231, and 49-1608A, Idaho Code. ()

001. SCOPE.

To identify the form of a certificate of liability insurance for motor vehicles per Sections 49-1229, 49-1231 and 49-1608A, Idaho Code. ()

002. -- 010. (RESERVED)

011. CONTRACT OF INSURANCE -- CERTIFICATE OF LIABILITY INSURANCE.

A certificate of liability insurance can be the original liability insurance contract, or a copy thereof, or a written binder, showing active motor vehicle liability insurance in at least the applicable amounts prescribed by Sections 49-117(20), 49-1212, 49-1229, and 49-1608A, Idaho Code, and also any other coverage prescribed by Title 41, Idaho Code. ()

012. MINIMUM SPECIFICATIONS FOR A CERTIFICATE OF LIABILITY INSURANCE IN LIEU OF THE CONTRACT OF INSURANCE.

A document constitutes a certificate of liability insurance if it has these characteristics: ()

01. Individual-Owned Motor Vehicles. ()

a. Identifies the insurer or surety company authorized to do business in Idaho. ()

b. States the name and address of the owner of the insured motor vehicle. ()

c. Describes the motor vehicle including an identification number or the words “all owned vehicles” if more than one vehicle is insured. ()

d. Shows the date coverage begins. ()

e. Shows either that coverage ends after a fixed date or period, or when cancelled. ()

f. May show of the insurance policy or document number. ()

02. Dealer and Manufacturer Vehicles. ()

- a. Identifies the insurer or surety company authorized to do business in Idaho. ()
- b. States the name and address of the dealership or owner(s) of the insured motor vehicle. ()
- c. Shows the date coverage begins. ()
- d. Shows either that coverage ends after a fixed date or period, or when cancelled. ()
- e. May show the insurance policy or document number. ()

013. EXAMPLES OF A DOCUMENT FORMAT.

The Department's website includes examples of documents that would satisfy these specifications for a certificate of liability insurance. ()

014. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.07.01 – RULES FOR ACQUIRING CONTROL, INSURANCE HOLDING COMPANY SYSTEMS AND MUTUAL INSURANCE HOLDING COMPANIES

DOCKET NO. 18-0701-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-3817, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule sets forth rules and procedural requirements necessary to administer the Idaho Acquisitions of Control and Insurance Holding Company Systems Regulatory Act, including provisions relating to Section 41-3824, Idaho Code, on mutual holding companies. This rulemaking clarifies language and removes duplicative language.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 130 to 142](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-3817, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p> <p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p> <p><i>Join by phone at: 1-720-650-7664</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule sets forth rules and procedural requirements necessary to administer the Idaho Acquisitions of Control and Insurance Holding Company Systems Regulatory Act, including provisions relating to Section 41-3824 on mutual holding companies. This rulemaking clarifies language and removes duplicative language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-04, pages 37-38](#), under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0701-2201

18.07.01 – RULES FOR ACQUIRING CONTROL, INSURANCE HOLDING COMPANY SYSTEMS AND MUTUAL INSURANCE HOLDING COMPANIES

000. LEGAL AUTHORITY.

Title 41, Chapters 2 and 38, Sections 41-211 and 41-3817, Idaho Code. ()

001. SCOPE.

These rules administer the Idaho Acquisitions of Control and Insurance Holding Company Systems Regulatory Act including its MHC provisions. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

These definitions supplement those in Chapter 38, Title 41, Idaho Code: ()

01. Affiliated Person. ()

a. Any person directly or indirectly owning, controlling, or holding with power to vote, five percent (5%) or more of another person's outstanding voting securities; or ()

b. Any person, five percent (5%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by another person; or ()

c. Any person directly or indirectly controlling, controlled by, or under common control with, another person; or ()

d. Any officer, director, partner, copartner, or employee of another person. ()

02. Domestic Mutual Insurance Company. A mutual insurer as defined in Section 41-302, Idaho Code, that is incorporated under Idaho law. ()

03. Executive Officer. Chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by those officers under whatever title. ()

04. Interested Person. Interested person means: ()

a. An affiliated person of another person or company; or ()

b. A member of the immediate family of any natural person who is an affiliated person of another company; or ()

c. Any person, partner or employee of any person who, at any time in a company's last two completed fiscal years, has acted as the company's lawyer; or ()

d. Any natural person whom the Director, by order, finds to be an interested person because the person had, at any time during a company's last two completed fiscal years, a material business or professional relationship with that company or its principal executive officer. ()

05. Intermediate Holding Company. A subsidiary of a MHC or part of a MHC-controlled holding company system. ()

06. Limited Application. A domestic mutual insurance company's application to reorganize as a MHC that will hold, at all times, all of the stock of its insurance subsidiaries. ()

07. Member of the Immediate Family. Any parent, or child, and their spouses, siblings, including step and adoptive relationships. ()

08. MHC. A mutual insurance holding company under Section 41-3824, Idaho Code. ()

09. Plan of Reorganization. A plan to reorganize a domestic mutual insurance company by forming a MHC. ()

10. Standard Application. A domestic mutual insurance company's application to reorganize as a MHC that may sell interests in its subsidiaries to third parties. ()

11. Stock. Any security showing an equity interest in the issuing entity. ()

12. Stock Offering. Any proposed sale, exchange, transfer or change of ownership of stock or of securities convertible into, or exchangeable or exercisable for, stock. "Stock offering" does not mean: ()

a. An offering of preferred stock without ordinary voting rights that is not convertible or exchangeable into common stock; or ()

b. A stock transfer between entities in a MHC system, including the MHC, intermediate holding company, and any insurance company subsidiaries. ()

13. Ultimate Controlling Person. A person not controlled by another person. ()

011. FORMS -- GENERAL REQUIREMENTS.

01. Forms As Guides. Forms A, B, C, D, E, and F included on the Department's website are guides for persons filing statements prescribed by Title 41, Chapter 38, Idaho Code, and not intended as fillable blank forms. Statements need to contain the numbers and captions for all items. ()

02. Filings. Each statement, including all exhibits, papers, and documents are to be electronically filed with the Director, and a hard copy personally delivered or mailed. Sign at least one (1) copy as stated on the form. If a signature is affixed pursuant to a power of attorney or similar authority, file a copy of the power of attorney or other authority with the statement. ()

03. Format. Prepare statements in English, using United States currency, and be easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories should be clearly distinguishable on photocopies. ()

04. Hearing. If an applicant requests a consolidated hearing under Section 41-3806(3), Idaho Code,

then besides filing Form A with the Director, the applicant will electronically file a copy of Form A with the National Association of Insurance Commissioners. ()

012. FORMS -- INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS.

01. Incorporation by Reference. Information prescribed by any item on a Form may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or other document may be incorporated by reference in answer or partial answer to any item if the document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits. Documents need not be attached as exhibits if filed with the Director within the previous three (3) years. References to information in exhibits or documents already on file need to clearly identify that information and indicate it is incorporated by reference. Information cannot be incorporated by reference if doing so would make the statement incomplete, unclear or confusing. ()

02. Summaries or Outlines. When any Form requires a summary or outline, briefly explain the document's pertinent provisions. The summary or outline may incorporate by reference parts of any exhibit or document filed with the Director within the three (3) prior years. If documents filed as exhibits are substantially identical except as to parties, dates of execution, or other details, one (1) document should be filed with a schedule identifying the omitted documents and any material details in which the omitted documents differ from the filed documents. ()

013. FORMS -- INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH.

For items that cannot be furnished at the time prescribed, the filer will: identify the information, document or report in question; state why its impractical to file it when prescribed; and request an extension to file it on a specified date. The extension request is deemed granted unless the Director issues an order denying the request within twenty-eight (28) days of receipt. ()

014. FORMS -- ADDITIONAL INFORMATION AND EXHIBITS.

In addition to expressly prescribed information, the Director may request additional information necessary for clarification. The filer may file exhibits besides those expressly necessary by the statement, clearly indicating the subject matters to which they refer. At the top of the cover page for changes to content in necessary Forms state "Change No. [insert number] to" and date of the change. ()

015. SUBSIDIARIES OF DOMESTIC INSURERS.

The authority to invest in subsidiaries under Section 41-3803, Idaho Code, is in addition to authority to invest in subsidiaries from any other provision of Title 41, Idaho Code. ()

016. ACQUISITION OF CONTROL -- STATEMENT FILING.

A person filing under Section 41-3804, Idaho Code, will furnish the prescribed information on Forms A and E. ()

017. AMENDING FORM A.

The applicant will promptly advise the Director of changes in Form A information arising after it was filed but before the Director's disposition of the application. ()

018. ACQUIRING SECTION 41-3804(1)(D) INSURERS.

01. Domestic Insurer's Name. If a "domestic insurer" under Section 41-3804(1)(d), Idaho Code, is being acquired, then include in the application's cover page the domestic insurer's name in this format: "ABC Insurance Company, a subsidiary of XYZ Holding Company." ()

02. References to Insurer. Where a Section 41-3804(1)(d) insurer is acquired, Form A's references to "the insurer" mean both the domestic subsidiary insurer and the acquired person. ()

019. PRE-ACQUISITION NOTIFICATION.

01. Pre-Acquisition Notification. If a domestic insurer, including any controlling person, proposes a merger or acquisition per Section 41-3808(1)(a), Idaho Code, they will file Form E. If a licensed non-domiciliary insurer proposes a merger or acquisition per Section 41-3808, Idaho Code, they will file Form E unless exempted by Section 41-3808(2), Idaho Code. ()

02. Experts. The director may request an expert opinion regarding the competitive impact of the proposed acquisition. ()

020. ANNUAL REGISTRATION OF INSURERS -- STATEMENT FILING.

An insurer filing under Section 41-3809, Idaho Code, will complete Form B. ()

021. SUMMARY OF REGISTRATION -- STATEMENT FILING.

An insurer filing an annual registration under section 41-3809, Idaho Code, will also complete Form C. ()

022. AMENDING FORM B.

01. Amending Form B. An insurer will file any amendments to Form B within fifteen (15) days after the end of any month in which there is a material change to the information in the annual registration. ()

02. Form B Format. Amendments are filed on Form B including only the amended items. The top of the cover page for each amendment will state "Amendment No. [insert number] to Form B for [insert year]" and the date of the change, not the date of the original filings. ()

023. ALTERNATIVE AND CONSOLIDATED REGISTRATIONS.

01. Filing on Behalf of Affiliated Insurers. An authorized insurer may file a registration statement for an affiliated insurer or insurers. The registration statement may include information about any insurer in the holding system, even if the insurer is not authorized to do business in Idaho. In lieu of Form B, an authorized insurer may file a copy of the registration statement or similar report on file with its state of domicile if: ()

a. The filing contains substantially similar information prescribed on Form B; and ()

b. The filer is the principal insurance company in the insurance holding company system. ()

02. Statement That Filing Insurer Is the Principal Insurer. An insurer filing in lieu of Form B for an affiliated insurer will state facts substantiating the filing insurer's claim that it is the principal insurer in the insurance holding system. ()

03. Unauthorized Insurer. With the Director's prior approval, an unauthorized insurer may follow any procedures under Subsection 023.01. ()

04. Consolidated Registration Statements. An insurer may follow Section 41-3809(8), or 41-3809(9), Idaho Code, without the Director's prior approval. The Director may request individual filings if necessary for clarity, ease of administration, or the public good. ()

024. DISCLAIMERS AND TERMINATION OF REGISTRATION.

01. Information Requisite. A disclaimer of affiliation or a request for termination of registration, on the basis that a person does not, or will not, upon the taking of some proposed action, control another person (the "subject"), will state: ()

a. The number of the subject's authorized, issued and outstanding voting securities; ()

b. For the person whose control is denied and all the person's affiliates, the number and percentage of shares of the subject's voting securities that are held of record or known to be beneficially owned, and the number of shares for which there is a direct or indirect right to acquire; ()

c. All material relationships and bases for affiliation between the subject and the person whose control is denied and all their affiliates: ()

d. Why such person should not be considered to control the subject. ()

02. Request Deemed Granted. A request to terminate registration is deemed granted unless the Director notifies the filer otherwise within thirty (30) days after the request is received. ()

025. TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING.

01. Form D. When an insurer notifies the Department of a proposed transaction under Section 41-3810, Idaho Code, the insurer will verify the information in Subsection 025.02 on Form D. ()

02. Agreements. Terms for cost sharing services and management services will at a minimum: ()

a. Identify the person providing services and the nature of such services; ()

b. Set forth the methods to allocate costs; ()

c. Prescribe timely settlement, at least on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual; ()

d. Bar advancement of funds by the insurer to the affiliate except to pay for services specified in the agreement; ()

e. State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance; ()

f. Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement; ()

g. Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer; ()

h. State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer; ()

i. Include standards for termination of the agreement with and without cause; ()

j. Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services; ()

k. Specify that, if the insurer is placed in receivership or seized by the Director under Title 41, Chapter 33, Idaho Code: ()

i. All of the rights of the insurer under the agreement extend to the Director; and ()

ii. All books and records will immediately be made available to the Director, and will be turned over to the Director immediately upon the Director's request; ()

l. Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Title 41, Chapter 33, Idaho Code; and ()

m. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Director under Title 41, Chapter 33, Idaho Code, and will make them available to the Director, for so long as the affiliate continues to receive timely payment for services rendered. ()

026. ENTERPRISE RISK REPORT.

The ultimate controlling person of an insurer will file an enterprise risk report per Section 41-3809(12), Idaho Code, on Form F. ()

027. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS.

01. Request for Approval. Requests to approve extraordinary dividends or other extraordinary distribution to shareholders will include the following: ()

- a. The amount of the proposed dividend; ()
- b. The date established for payment; ()
- c. Whether the dividend is in cash or other property. If property, a description thereof, its cost, its fair market value, and an explanation of the valuation basis; ()
- d. Calculations showing the proposed dividend is extraordinary, which includes: ()
 - i. The amounts, dates, and form of payment of all distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought; ()
 - ii. Surplus as regards policyholders (total capital and surplus) as of the preceding December 31st; ()
 - iii. If the insurer is a life insurer, the net gain from operations for the twelve (12) months ending the preceding December 31st; and ()
 - iv. If the insurer is not a life insurer, the net income less net realized capital gains for the twelve (12) months ending the preceding December 31st. ()
- e. A balance sheet and income statement for the period since the last annual statement filed with the Director and the end of the month before the month in which the request for dividend approval is submitted; and ()
- f. The proposed distribution's effect on the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs. ()

02. Other Distributions. Subject to Section 41-3812, Idaho Code, registered insurers report to the Director all dividends and other shareholder distributions within fifteen (15) business days after the declaration thereof, including the information from Paragraph 027.01.d. ()

028. ADEQUACY OF SURPLUS.

Besides the factors in Section 41-3811, Idaho Code, the Director may consider other factors bearing on the insurer's financial condition. No one (1) factor is controlling. Comparing other insurers' surplus, the Director will consider the extent to which each factor varies among companies. When determining the quality and liquidity of an insurer's investments in subsidiaries the Director will include a consideration of the individual subsidiary and may discount or disallow its valuation as individual investments warrant. ()

029. -- 050. (RESERVED)

051. MHC APPLICATION - CONTENT - PROCESS.

01. Designating Application as Limited or Standard. Applications are designated as limited or standard. Filing a limited application does not preclude later filing a standard application. ()

- 02. Application Information.** Applications are filed in duplicate and will include: ()
- a.** Designation as limited or standard; ()
 - b.** A Plan of Reorganization; ()
 - c.** A plan for policyholder approval in accordance with the applicant's articles of incorporation and bylaws, with at least twenty (20) day notice to the policyholders; ()
 - d.** A copy of the MHC's proposed articles of incorporation and bylaws specifying all membership rights; ()
 - e.** The names, addresses and occupations of all corporate officers and members of the MHC's board of directors; ()
 - f.** Information sufficient to demonstrate that reorganization will not diminish the applicant's financial condition; ()
 - g.** A copy of the proposed articles of incorporation and bylaws for any insurance company subsidiary or intermediate holding company subsidiary; ()
 - h.** Form A; ()
 - i.** An application index; and ()
 - j.** Any other information requested by the Director. ()

052. HEARING NOTICE.

- 01. Scheduling.** A hearing will be held after the Director has received and reviewed the application. ()
- 02. Evidence Presented at Hearing.** The applicant will provide evidence that the application is complete, complies with Idaho law, and the requirements for reorganization have been fulfilled. ()
- 03. Notice of Hearing.** The Department will notify known interested parties about the hearing at least twenty (20) days before it occurs. ()

053. PLAN OF REORGANIZATION.

- 01. Plan of Reorganization.** The plan of reorganization or "Plan" needs to preserve the applicant's property, be fair and equitable to policyholders and protect their interests, and not diminish the applicant's financial condition. ()
- 02. Limited Application.** A limited application Plan will include: ()
- a.** Establishing a MHC with at least one (1) stock insurance company subsidiary or one (1) intermediary stock holding company with a stock insurance company subsidiary, the share of which is held exclusively by the mutual insurance holding company; ()
 - b.** Protection of existing policyholders' interests; ()
 - c.** Providing existing and future policyholder membership in the MHC; ()
 - d.** The number of policyholder members of the board of directors of the MHC; ()

e. Demonstrating that, if there are proceedings under Title 41, Chapter 33, Idaho Code, involving a stock insurance company subsidiary of the MHC, the assets of the MHC will be available to satisfy the policyholder obligations of the stock insurance company; ()

f. How any accumulation or prospective accumulation of earnings by the MHC in excess of that determined by the board of directors to be necessary will inure to the exclusive benefit of the MHC's member policyholders; ()

g. The nature and content of the annual report and financial statement sent to each member; and ()

h. Other matters the applicant deems appropriate. ()

03. Standard Application. A standard application Plan includes: ()

a. Establishing a MHC with at least one (1) stock insurance company subsidiary or one (1) wholly-owned intermediate stock holding company with a stock insurance company subsidiary, the shares of which are held exclusively by the wholly- owned intermediate holding company; ()

b. Protecting existing policyholders' interests; ()

c. Providing existing and future policyholder membership in the MHC; ()

d. The number of policyholder members on the MHC's board of directors; ()

e. Demonstrating that, if there are proceedings under Title 41, Chapter 33, Idaho Code, involving a stock insurance company subsidiary of the MHC, the assets of the MHC will be available to satisfy the policyholder obligations of the stock insurance company; ()

f. How any accumulation or prospective accumulation of earnings by the MHC excess of that determined by the MHC's board of directors to be necessary will inure to the exclusive benefit of the MHC's member policyholders; ()

g. The nature and content of the annual report and financial statement sent to each member; and ()

h. The plan for a stock offering per this rule; and ()

i. Other matters the applicant deems appropriate. ()

054. DUTIES OF THE DIRECTOR.

01. Jurisdiction. The Director retains jurisdiction over the MHC and any intermediate holding company subsidiaries with stock insurance company subsidiaries. ()

02. Approval or Denial of Application. The Director will, by order, approve, conditionally approve, or deny an application. ()

a. **Modifications.** The Director may prescribe modifications to the proposed Plan. Prescribed modifications are accepted by filing amendments to the proposed Plan with the Director within thirty (30) days after the Director's order is issued. The Application will be denied if the prescribed amendments are not filed. ()

b. **Expiration.** An approval or conditional approval of a Plan expires if the reorganization is not completed within one hundred eighty (180) days unless extended by the Director for good cause. ()

c. **Revoking approval.** The Director may revoke a Plan's approval or conditional approval if the Director finds the applicant has not complied with the Plan. The Director may compel the applicant to complete a

Plan unless the applicant has wholly abandoned the Plan consistent with the applicant's governance provisions. The Director retains jurisdiction over the applicant until the Plan is completed. ()

d. Completion notice. Upon completing the Plan, the applicant files a notice of completion with the Director. ()

055. REGULATION - COMPLIANCE.

01. Waiver of Compliance. No regulatory standards are waived during the pendency of a Plan application. ()

02. Merger or Acquisition. MHC mergers and acquisitions are subject to Director approval. If a MHC is to acquire more than fifty percent (50%) of a stock insurance company, then the applicant files a plan describing the insurer's policyholders' membership interests in the MHC. ()

03. Annual Financial Statement. A MHC will annually file a financial statement by June 1 including: ()

a. An income statement; ()

b. A balance sheet; ()

c. A cash flow statement; ()

d. The status of any closed block formed because of the Plan; ()

e. An asset investment plan; and ()

f. A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or otherwise encumber MHC assets. ()

04. Subsidiary Investment Obligations. At least fifty percent (50%) of the MHC's generally accepted accounting practices (GAAP) basis net worth will be invested in insurance company subsidiaries. ()

05. Distributions to Policyholders. Policy credits, dividends or other distributions to a MHC's policyholder members will be fair and equitable and are subject to Director approval and the public hearing process in Chapter 38, Title 41, Idaho Code. ()

056. REORGANIZATION OF MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY.

Domestic mutual insurance companies may merge their policyholders' interests into a MHC by filing a compliant joint application with the MHC. This also applies to foreign mutual insurance companies or a foreign health service corporation, which, if a domestic corporation, would be organized under Title 41, Chapter 28, Idaho Code. ()

057. MERGERS OF MUTUAL INSURANCE HOLDING COMPANIES.

Two (2) or more MHCs may merge by filing a compliant merger plan. ()

058. STOCK OFFERINGS.

01. Prior Approval. A stock offering by a MHC, or by any of its direct or indirect insurance company or intermediate holding company subsidiaries, is subject to the Director's prior approval through this section's application and hearing process. ()

02. Application for Stock Offering Contents. ()

a. A description of the stock the applicant would offer, and of all shareholder rights; ()

b. The total number of shares authorized to be issued, the estimated number requested to offer, and the intended date or range of dates for the offer; ()

c. A justification for a uniform planned offering price, or of the method by which the offering price will be determined; ()

d. The name or names of any underwriter, syndicate member or placement agent involved and the known names of each entity, person, or group of persons to whom the stock offering is to be made who will control at least five percent (5%) of the total outstanding class of shares, and the manner in which the offer is to be tendered. If the entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management will be provided with the name. Copies of Securities and Exchange Commission filings disclosing intended stock acquisitions will be included; ()

e. A description of stock subscription rights afforded to MHC members in conjunction with the stock offering; ()

f. A detailed description of all expenses to be incurred in the stock offering; ()

g. How funds raised by the stock offering will be used; and ()

h. Any other information the Director requests. ()

03. Prescribed Provisions. The stock offering plan will state: ()

a. Officers, directors, and insiders of the MHC and its direct or indirect subsidiaries and affiliates are restricted from purchasing or owning shares of the stock offering, or issuance of stock options to or for the benefit of such officers, directors and insiders, for at least six (6) months following the first public offering date and regularly trading of the stock. Officers, directors and insiders are not barred from exercising subscription rights accorded to members of the MHC, except that, pursuant to those rights, the officers, directors, and insiders of the MHC and its direct or indirect subsidiaries and affiliates cannot purchase or own, in the aggregate, more than five percent (5%) of the stock offering for at least six (6) months following the first date of the public offering and regular trading of the stock; ()

b. A majority of the members of the MHC's board of directors cannot be an interested person of the MHC or of an affiliated person of the MHC. The Director may waive this requirement for good cause; ()

c. The MHC will adopt articles of incorporation barring any waiver of dividends from stock subsidiaries except under conditions specified in the articles and after approval of the waiver by the MHC's board of directors and the Director; ()

d. After the initial stock offering by a direct or indirect insurance company or intermediate insurance company subsidiary of a MHC, the boards of directors of each such insurance company or intermediate holding company will include at least three (3) directors who are not interested persons of the MHC; and ()

e. The board of directors of the corporation offering stock need to establish, a pricing committee consisting exclusively of directors who are interested persons. The committee's responsibility is to evaluate and approve the price of any stock offering. ()

04. More Than One Class of Stock. An insurance company or intermediate insurance holding company subsidiary of a MHC may issue more than one (1) class of stock. At all times a majority of the voting stock will be held by the MHC or its subsidiary and, no class of common stock may have greater dividend or other rights than the class held by the MHC or its subsidiary. ()

05. Experts. The Director may hire experts to help review the application, at the applicant's expense. ()

06. Public Hearing. A public hearing may be held on any stock offering application. A stock offering

including an initial offering of stock is expressly subject to a public hearing. The applicant will provide a Director-approved hearing notice to MHC members at least twenty (20) days before the hearing. ()

07. Approval. The Director may approve the stock offering plan if: ()

a. The method for establishing the stock offering price is consistent with generally accepted market or industry practices for establishing stock offering prices; and ()

b. The offering will not unfairly impact the interests of MHC members. ()

08. Concurrent Filing with SEC. Filing a registration statement with the Securities and Exchange Commission before, or concurrently with, notice to the MHC members is permitted. ()

09. Subsequent Offerings of Publicly Traded Stock. ()

a. Notwithstanding Section 013, stock offerings, besides an initial stock offering, through which stock offered is regularly traded on the New York Stock Exchange, the American Stock Exchange, or another Director-approved exchange, or designated on the national association of securities dealers automated quotations - national market system (NASDAQ), is subject to this procedure: If a MHC or direct or indirect insurance company or intermediate insurance company subsidiary thereof intends to make a stock offering governed by this section, the entity will notify the Director, at least thirty (30) days before the offering, regarding: ()

i. The total number of shares intended to be offered; ()

ii. The intended date of sale; ()

iii. Evidence the stock is regularly traded on one of the public exchanges noted above; and ()

iv. A record of the stock's trading pace and volume during the prior fifty-two (52) weeks. ()

b. The Director may object to the offering within thirty (30) days after receiving the notice. Upon an objection, the procedures in Subsection 059.02 will be followed to determine approval. ()

10. Approval Expiration. A stock-offering approval under Subsections 059.06, 059.07, or 059.08 expires ninety (90) days after the approval date, except as provided by the Director's order. ()

11. Representation of Director's Approval. A prospectus, information, sales material or sales presentation by the applicant, or a representative, agent or affiliate of the applicant, will not represent that the Director's approval constitutes an endorsement of the price, price range, or any other information relating to the stock. ()

059. BANNED MHC - PRACTICES.

01. Borrowing Funds. Borrowing funds from the MHC, or its subsidiaries and affiliates, to finance the purchase of any part of a stock offering. ()

02. Paying Commissions. Paying commissions, "special fees" or other special payments or extraordinary compensation to officers, directors, or interested persons and affiliates, for arranging, promoting, aiding or assisting in reorganization or for arranging promoting, aiding assisting or participating in the structuring and placement of a stock offering. ()

03. Avoiding This Chapter. Transferring legal or beneficial ownership of stock to another person in avoidance of this chapter. ()

060. REGULATING HOLDING COMPANY SYSTEM.

All material transactions between subsidiaries and affiliates of the MHC need to be approved by a majority of the directors of the MHC as fair and reasonable, on terms and conditions not less favorable than those available from

unaffiliated third parties. ()

061. REPORTING STOCK OWNERSHIP AND TRANSACTIONS.

01. Acquiring Ownership Interest. Any director or officer of an MHC or its direct or indirect subsidiaries or affiliates, who directly or indirectly acquires the beneficial ownership of any security issued by any member of the MHC system will, within fifteen (15) days following the transaction, file a statement of the transaction in a format prescribed by the Director. ()

02. Filing SEC Forms. A MHC and its direct or indirect subsidiaries and affiliates, will file with the Director copies of Form 3, Form 4 and Schedule 13D, or any equivalent filings, made under the Securities and Exchange Act of 1934, as amended, within fifteen (15) days of receipt thereof. ()

062. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.07.02 – RESERVE LIABILITIES AND MINIMUM VALUATIONS FOR ANNUITIES AND PURE ENDOWMENT CONTRACTS

DOCKET NO. 18-0702-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule recognizes mortality table for use in determining minimum standard valuations for annuity and pure endowment contracts. This rulemaking clarifies language, removes duplicative language, and directs to the Department website for certain information.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 143 to 146](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p> <p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p> <p><i>Join by phone at: 1-720-650-7664</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule recognizes mortality table for use in determining minimum standard valuations for annuity and pure endowment contracts. This rulemaking clarifies language, removes duplicative language, and moves information to the Department website.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-04, pages 37-38](#), under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0702-2201

18.07.02 – RESERVE LIABILITIES AND MINIMUM VALUATIONS FOR ANNUITIES AND PURE ENDOWMENT CONTRACTS

000. LEGAL AUTHORITY.

Title 41, Chapters 2 and 6, Sections 41-211 and 41-612, Idaho Code. ()

001. SCOPE.

To determine minimum standard valuation for annuity and pure endowment contracts. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. 1983 Table ‘a’. The mortality table developed by the Society of Actuaries (SOA) Committee for Individual Annuity Valuation in 1981 and in June 1982 by the National Association of Insurance Commissioners (NAIC). ()

02. 1983 GAM Table. The mortality table developed by the SOA Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the NAIC. ()

03. 1994 GAR Table. The mortality table developed by the (SOA) Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume 47 of the Transactions of Society of Actuaries 1995. ()

04. 2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table. The Period Table loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012} , developed by the (SOA) Committee on Life Insurance Research. ()

05. 2012 Individual Annuity Reserving (2012 IAR) Table. The generational mortality table developed by the (SOA) Committee on Life Insurance Research and containing rates, q_x^{2012+n} derived from a combination of the 2012 IAM Period Table and Scale G2, using the method Section 014. ()

06. Annuity 2000 Mortality Table. The mortality table developed by the (SOA) Committee on Life Insurance Research. ()

07. Generational Mortality Table. A mortality table with mortality rates that decrease for a given age from one year to the next based on a combination of a Period Table and a projection scale containing mortality-improvement rates. ()

08. Period Table. A table of mortality rates applying to a given calendar year (the Period). ()

09. Projection Scale G2 (Scale G2). A table of annual rates, $G2_x$, of mortality improvement by age for

projecting future mortality rates beyond calendar year 2012. This table was developed by the (SOA) Committee on Life Insurance Research. ()

011. INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS.

01. Individual Annuity Mortality Table. Except as stated in Subsections 011.02, the 1983 Table ‘a’ is approved as an individual annuity mortality table for valuation, and, a company may use it to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1982. ()

02. Minimum Standard of Valuation. Except as stated in Subsection 011.03, either the 1983 Table ‘a’ or the Annuity 2000 Mortality Table is used to determine the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1987. ()

03. The Annuity 2000 Mortality Table. Except as stated in Subsection 011.04, the Annuity 2000 Mortality Table is used to determine the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after March 29, 2012. ()

04. The 2012 IAR Mortality Table. Except as stated in Subsection 011.05, the 2012 IAR Mortality Table is used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. ()

05. The 1983 Table ‘a.’ The 1983 Table ‘a’ without projection is used to determine the minimum standard of valuation for an individual annuity or pure endowment contract issued on or after March 29, 2012, solely when the contract is based on life contingencies and issued to fund periodic benefits arising from: ()

- a. Settlements of claims pertaining to court settlements or out of court settlements from tort actions; ()
- b. Settlements involving similar actions like workers’ compensation claims; or ()
- c. Settlements of long-term disability claims where a temporary or life annuity is used in lieu of continuing disability payments. ()

012. GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS.

01. Group Annuity Mortality Tables. Except as stated in Subsections 012.02, the 1983 GAM Table, the 1983 Table ‘a’ and the 1994 GAR Table are approved as group annuity mortality tables for valuation and, at the option of the company, any one (1) of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after July 1, 1982, under a group annuity or pure endowment contract. ()

02. Minimum Standard of Valuation. Except as stated in Subsection 012.03, either the 1983 GAM Table or the 1994 GAR Table is used to determine the minimum standard of valuation for an annuity or pure endowment purchased on or after January 1, 1987, under a group annuity or pure endowment contract. ()

03 1994 GAR Table. The 1994 GAR Table is used to determine the minimum standard of valuation for an annuity or pure endowment purchased on or after March 29, 2012, under a group annuity or pure endowment contract. ()

013. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.07.03 – VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE USE OF SELECT MORTALITY FACTORS

DOCKET NO. 18-0703-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule provides tables of select mortality factors and rules for their use; and minimum standard rules for valuations of plans with nonlevel premiums or benefits and for valuation of plans with secondary guarantees. This rulemaking clarifies language and removes duplicative language.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 147 to 157](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p>
<p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p>
<p><i>Join by phone at: 1-720-650-7664</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule is to provide: tables of select mortality factors and rules for their use; and minimum standard rules for valuations of plans with nonlevel premiums or benefits and for valuation of plans with secondary guarantees. This rulemaking clarifies language and removes duplicative language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-04, pages 37-38](#), under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Insurance companies must calculate the value of the benefits they sell under specific conditions, in order to regulate their solvency. The incorporation of the tables is necessary to set those solvency standards and for Idaho to retain its accreditation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0703-2201

18.07.03 – VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE USE OF SELECT MORTALITY FACTORS

000. LEGAL AUTHORITY.

Title 41, Chapters 2 and 6, Sections 41-211 and 612, Idaho Code. ()

001. SCOPE.

01. Scope. Provides Tables of select mortality factors and minimum standards for plan valuations with: ()

a. Nonlevel premiums or benefits; or ()

b. Secondary guarantees. ()

02. Method. The method for calculating basic reserves defined herein will constitute the commissioners' reserve valuation method for applicable policies. ()

03. Applicability. This chapter applies to all life insurance policies, with or without nonforfeiture values, issued on or after March 30, 2001, subject to these exceptions and conditions. ()

a. Exceptions. This chapter does not apply to: ()

i. An individual life insurance policy issued on or after March 30, 2001, if the policy is issued under, and because of, the exercise of a reentry provision in the original life insurance policy of the same or greater face amount, issued before March 30, 2001, that guarantees the new policy's premium rates. This chapter also does not apply to later policies issued because of the exercise of such a provision, or a derivation of the provision, in the new policy. ()

ii. A universal life policy that meets all the following requirements: ()

(1) Secondary guarantee period, if any, is five (5) years or less; ()

(2) Specified premium for the secondary guarantee period is at least the net level reserve premium for the secondary guarantee period based on the CSO valuation tables, as defined, and the applicable valuation interest rate; and ()

(3) The initial surrender charge is at least one hundred percent (100%) of the first year annualized

specified premium for the secondary guarantee period. ()

iii. A variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. ()

iv. A variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. ()

v. A group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums needed to continue coverage in force for a period beyond one (1) year. ()

b. Conditions: ()

i. The minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, will be calculated per Section 012. ()

ii. The minimum valuation standard for flexible premium and fixed premium universal life insurance policies, which contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period, will be calculated per Section 013. ()

002. INCORPORATION BY REFERENCE.

The tables of select mortality factors are incorporated by reference the Appendix to NAIC Model 830, published October 2009 and available on the Department's website, and are the bases to which the respective percentage of Paragraphs 011.01.b., 011.02.b., and 011.02.c. are applied. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Basic Reserves. Reserves calculated per Section 41-612(5), Idaho Code. ()

02. Contract Segmentation Method. Method of dividing the period from issue to mandatory expiration of a policy into successive segments, where each segment's length is the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO Valuation Tables, and, if elected, the optional minimum mortality standard for deficiency reserves set forth in Subsection 011.02. ()

03. Deficiency Reserves. Excess, if greater than zero (0), of ()

a. Minimum reserves calculated per Section 41-612(10), Idaho Code, over ()

b. Basic reserves. ()

04. Guaranteed Gross Premiums. Life insurance policy premiums that are guaranteed and determined at issue. ()

05. Maximum Valuation Interest Rates. Interest rates defined in Section 41-612(4b), Idaho Code (Computation of Minimum Standard by Calendar Year of Issue), used to determine the minimum standard for valuating life insurance policies. ()

06. 1980 CSO Valuation Tables. Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without "ten year select factors," and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983. ()

07. Scheduled Gross Premium. Smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in Paragraph 013.01.c., if any, or else the minimum premium described in Paragraph 013.01.d.

- ()
- 08. Segmented Reserves.** ()
- a.** Reserves calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the policy's mandatory expiration, where the net premiums in each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the start of the segment, the present value of the net premiums within the segment equals: ()
- i. The present value of the death benefits within the segment, plus ()
- ii. The present value of any unusual, guaranteed cash value (see Subsection 012.04) occurring at the end of the segment, less ()
- iii. Any unusual guaranteed cash value occurring at the start of the segment, plus ()
- iv. For the first segment only, the excess of the Item one (1) over Item two (2), as follows: ()
- (1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. But the net level annual premium will not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. ()
- (2) A net one (1) year term premium for the benefits provided for in the first policy year. ()
- b.** Each segment's length is determined by the "contract segmentation method." ()
- c.** The interest rates in a policy's present value calculations cannot exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of the policy's segments. ()
- d.** For both basic reserves and deficiency reserves computed by the contract segmentation method, present values will include future benefits and net premiums in the current segment and in all subsequent segments. ()
- 09. Tabular Cost of Insurance.** The net single premium at the start of a policy year for one (1) year term insurance in the amount of the guaranteed death benefit in that policy year. ()
- 10. Ten Year Select Factors.** The factors adopted with the 1980 amendments to the NAIC Standard Valuation Law. ()
- 11. Unitary Reserves.** ()
- a.** The present value of all future guaranteed benefits less the present value of all future modified net premiums, where: ()
- i. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and ()
- ii. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item one (1) over Item two (2), as follows: ()
- (1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year

payable on the first and each subsequent anniversary of the policy on which a premium falls due. But the net level annual premium will not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. ()

(2) A net one (1) year term premium for the benefits provided for in the first policy year. ()

b. The interest rates used in the present value calculations for any policy will not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy. ()

12. Universal Life Insurance Policy. Any individual life insurance policy for which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy. ()

011. GENERAL CALCULATION REQUIREMENTS FOR BASIC RESERVES AND PREMIUM DEFICIENCY RESERVES.

01. Basic Reserves. At the company's election for any one (1) or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors. If select mortality factors are elected, they may be: ()

a. The "ten year select factors"; ()

b. The select mortality factors in the tables referenced in Section 002. ()

02. Deficiency Reserves. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero (0), of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the company's election, for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used to determine quantity A may be based on the 1980 CSO valuation tables with select mortality factors. If select mortality factors are elected, they may be one (1) of: ()

a. The "ten year select factors"; ()

b. The select mortality factors in the tables as referenced in Section 002; ()

c. For durations in the first segment, X percent of the select mortality factors in the tables as referenced in Section 002, subject to: ()

i. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience; ()

ii. X is such that, when using the valuation interest rate used for basic reserves, Item one (1) at least equals Item two (2); ()

(1) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X; ()

(2) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date; ()

iii. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five (5) years after the valuation date; ()

iv. The appointed actuary will increase X at any valuation date where it is necessary to continue to meet all the requirements of Paragraph 011.02.c.; ()

v. The appointed actuary may decrease X at any valuation date if X continues to meet all requirements of Paragraph 011.02.c.; and ()

vi. The appointed actuary will specifically consider the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums. ()

vii. If X is less than one hundred percent (100%) at any duration for any policy, the following requirements are to be met: ()

(1) The appointed actuary will annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of IDAPA 18.07.09, Section 022; ()

(2) The appointed actuary will disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one (1) or more interim periods; and ()

(3) The appointed actuary will annually opine, for all policies subject to this chapter, on whether the mortality rates resulting from applying X meet the requirements of Paragraph 011.02.c. This opinion will be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors will reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience. ()

03. Applicability. Subsection 011.03 applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. But if the first segment is less than ten (10) years, the appropriate “ten year select factors” may be used thereafter through the tenth policy year from the date of issue. ()

04. Gross Premiums. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if excluded from the actual calculation of basic reserves. ()

05. Changes in Guarantees. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one (1) year after the date of the change will be the greatest of the following: ()

a. Reserves calculated ignoring the guarantee; ()

b. Reserves assuming the guarantee was made at issue; and ()

c. Reserves assuming that the policy was issued on the date of the guarantee. ()

06. Reserve Adequacy. The Director may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this chapter. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied on in forming the appointed actuary opinion pursuant to and consistent with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.07.09, Section 022. ()

012. CALCULATING MINIMUM VALUATION STANDARD FOR POLICIES WITH GUARANTEED NONLEVEL GROSS PREMIUMS OR GUARANTEED NONLEVEL BENEFITS (BESIDES UNIVERSAL LIFE POLICIES).

01. Basic Reserves. Basic reserves are calculated as the greater of the segmented reserves and the

unitary reserves. Both the segmented reserves and the unitary reserves for any policy will use the same valuation mortality table and selection factors. An insurer may make either of these adjustments when calculating segmented reserves and net premiums: ()

a. Treat the unitary reserve, if greater than zero (0), applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero (0), applicable at the start of each segment from the present value of guaranteed life insurance and endowment benefits for each segment; or ()

b. Treat the guaranteed cash surrender value, if greater than zero (0), applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero (0), applicable at the start of each segment from the present value of guaranteed life insurance and endowment benefits for each segment. ()

02. Deficiency Reserves. ()

a. The deficiency reserve at any duration will be calculated: ()

i. On a unitary basis if the corresponding basic reserve determined by Subsection 012.01 is unitary; ()

ii. On a segmented basis if the corresponding basic reserve determined by Subsection 012.01 is segmented; or ()

iii. On the segmented basis if the corresponding basic reserve determined by Subsection 012.01 is equal to both the segmented reserve and the unitary reserve. ()

b. Subsection 012.02 applies to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in Subsection 011.02 and rate of interest). ()

c. Deficiency reserves, if any, are calculated for each policy as the excess if more than zero (0), for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in Subsection 011.02. ()

d. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves. ()

03. Minimum Value. Basic reserves will at least equal the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves will at least equal the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance will use the same valuation mortality table and interest rates as that used to calculate the segmented reserves. But if select mortality factors are used, they will be the “ten year select factors”. Total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire at contract termination) never may be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, when the policy terminates. ()

04. Unusual Pattern of Guaranteed Cash Surrender Values. ()

a. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves held before the first unusual guaranteed cash surrender value will at least equal the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled. ()

b. The reserves held after any unusual guaranteed cash surrender value will at least equal the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next

unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where: ()

i. n is the number of years from the date of the last unusual guaranteed cash surrender value before the valuation date to the earlier of: ()

(1) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or ()

(2) The mandatory expiration date of the policy; and ()

ii. The net premium for a given year during the n year period equals the product of the net to gross ratio and the respective gross premium; and ()

iii. The net to gross ratio equals Item One (1) divided by Item Two (2) as follows: ()

(1) The present value, at the start of the n year period, of death benefits payable during the n year period plus the present value, at the start of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the start of the n year period. ()

(2) The present value, at the start of the n year period, of the scheduled gross premiums payable during the n year period. ()

c. For Subsection 012.04, a policy has an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of: ()

i. One hundred ten percent (110%) of the scheduled gross premium for that year; ()

ii. One hundred ten percent (110%) of one (1) year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and ()

iii. Five percent (5%) of the first policy year surrender charge, if any. ()

05. Optional Exemption for Yearly Renewable Term (YRT) Reinsurance. A company may opt to use this approach for reserves on YRT reinsurance: ()

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year; ()

b. Basic reserves will at least equal the tabular cost of insurance for the appropriate period, as defined in Subsection 012.03; ()

c. Deficiency reserves. ()

i. For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. ()

ii. Deficiency reserves will at least equal the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph 012.05.c.i.; ()

d. For Subsection 012.05, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without "ten year select factors"; ()

e. A reinsurance agreement is YRT reinsurance under Subsection 012.05 if only the mortality risk is

reinsured; and ()

f. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit will be limited to the amount of reserve the assuming company holds for the affected policies. ()

06. Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. A company may opt to use this approach for reserves for attained-age-based YRT life insurance policies: ()

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year. ()

b. Basic reserves will at least equal to the tabular cost of insurance for the appropriate period, as defined in Subsection 012.03. ()

c. Deficiency reserves: ()

i. For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. ()

ii. Deficiency reserves at least equal to the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph 012.06.c.i. ()

d. For Subsection 012.06, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without "ten year select factors." ()

e. A policy is an attained-age-based YRT life insurance policy, under Subsection 012.06, if: ()

i. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based on the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and ()

ii. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age. ()

f. For policies that become attained-age-based YRT policies after an initial coverage period, the approach of Subsection 012.06 may be used after the initial period if: ()

i. The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or ()

ii. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and ()

iii. After the initial period, the policy meets the conditions of Paragraph 012.06.e.; and ()

g. If this election is made, this approach will be applied to determine reserves for all attained-age-based YRT life insurance policies issued on or after this chapter's effective date. ()

07. Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met: ()

a. The policy consists of a series of n -year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten (10) years and less than twice the size of the earlier n -year periods, and for each period, the premium rates on both the initial current premium scale and the

guaranteed maximum premium scale are level; ()

b. The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based on the 1980 CSO Table with or without the “ten year select factors;” and ()

c. There are no cash surrender values in any policy year. ()

08. Exemption From Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if these conditions are met, based on the initial current premium scale at issue: ()

a. At issue, the insured is age twenty-four (24) or younger; ()

b. Until the insured reaches the end of the juvenile period, which will occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and ()

c. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy. ()

013. CALCULATING MINIMUM VALUATION STANDARD FOR FLEXIBLE PREMIUM AND FIXED PREMIUM UNIVERSAL LIFE INSURANCE POLICIES THAT CONTAIN PROVISIONS RESULTING IN THE ABILITY OF A POLICY OWNER TO KEEP A POLICY IN FORCE OVER A SECONDARY GUARANTEE PERIOD.

01. General. ()

a. Policies with a secondary guarantee include: ()

i. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to paying specified premiums; ()

ii. A policy in which the minimum premium at any duration is less than the corresponding one (1) year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without “ten year select factors;” or ()

iii. A policy with any combination of Subparagraphs 013.01.a.i. and 013.01.a.ii. ()

b. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve will be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that the insurer unilaterally changes after issue will be considered to have been made at issue. Reserves described in Subsections 013.02 and 013.03 below will be recalculated from issue to reflect these changes. ()

c. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed. ()

d. For Section 013, the minimum premium for any policy year is the premium that, when paid into a policy with a zero (0) account value at the start of the policy year, produces a zero (0) account value at the end of the policy year. The minimum premium calculation will use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue. ()

e. The one (1) year valuation premium means the net one (1) year premium based on the original schedule of benefits for a given policy year. The one (1) year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in Paragraphs 011.02.b., 011.02.c., and 011.02.d. cannot be used to

calculate the one (1) year valuation premiums. ()

f. The one (1) year valuation premium should reflect the frequency of fund processing, and the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund. ()

02. Basic Reserves for Secondary Guarantees. Basic reserves for secondary guarantees will be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums will be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the “contract segmentation method.” ()

03. Deficiency Reserves for Secondary Guarantees. Any deficiency reserves for secondary guarantees will be calculated for the secondary guarantee period as described in Subsection 012.02 with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force. ()

04. Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of: ()

a. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or ()

b. The minimum reserves prescribed by other rules or rules governing universal life plans. ()

014. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.07.08 – PROPERTY AND CASUALTY ACTUARIAL OPINION RULE
DOCKET NO. 18-0708-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule provides the Director with additional means to monitor insurer's loss reserves in accordance with Section 41-610, Idaho Code. This rulemaking clarifies language and removes duplicative language.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 158 to 160](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
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P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p> <p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p> <p><i>Join by phone at: 1-720-650-7664</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule provides the Director with additional means to monitor insurer's loss reserves in accordance with Section 41-610, Idaho code. This rulemaking clarifies language and removes duplicative language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-04, pages 37-38](#), under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0708-2201

18.07.08 – PROPERTY AND CASUALTY ACTUARIAL OPINION RULE

000. LEGAL AUTHORITY.

Title 41, Chapter 2, Idaho Code. ()

001. SCOPE.

This rule applies to annual statements filed by property and casualty companies doing business in Idaho, and provides the Director the means to monitor an insurer's loss reserves per Section 41-610, Idaho Code. ()

002. -- 020. (RESERVED)

021. ACTUARIAL OPINION OF RESERVES AND SUPPORTING DOCUMENTATION.

01. Statement of Actuarial Opinion, Opinion Summary and Actuarial Report and Work Papers. ()

a. A property and casualty insurance company doing business in Idaho, unless exempted by the domiciliary commissioner, will annually file an Appointed Actuary's "Statement of Actuarial Opinion," per NAIC Property and Casualty Annual Statement Instructions. ()

b. Every property and casualty insurance company domiciled in Idaho filing a Statement of Actuarial Opinion will, it must also file an Actuarial Opinion Summary, written by the company's Appointed Actuary, per the NAIC Property and Casualty Annual Statement Instructions. ()

c. A company licensed, but not domiciled, in Idaho will file the Actuarial Opinion Summary upon request. ()

d. An Actuarial Report and work papers as prescribed by the NAIC Property and Casualty Annual Statement Instructions will support each Actuarial Opinion. ()

e. If the company fails to file a supporting Actuarial Report or work papers at the Director's request, or the Director determines the Actuarial Report or work papers do not comply with the NAIC Property and Casualty Annual Statement Instructions or are otherwise unacceptable, the Director may hire a qualified actuary, at company expense, to review the Actuarial Opinion, and prepare the supporting Actuarial Report or work papers. ()

022. CONFIDENTIALITY.

01. The Statement of Actuarial Opinion. Will be filed with the Annual Statement per NAIC Property and Casualty Annual Statement Instructions and be a public record. ()

02. Actuarial Report. ()

a. The Actuarial Report, work papers or Actuarial Opinion Summary in support of the Actuarial Opinion, and any other records the company provides to the Director in connection thereto, are exempt from public disclosure under Section 74-107(5), Idaho Code. ()

b. This provision does not limit the Director's authority to release these records to the Actuarial Board for Counseling and Discipline (ABCD) so long as they are needed for professional disciplinary proceedings and the ABCD establishes procedures satisfactory to the Director regarding disclosing the records; nor the Director's authority to use the records to further the Director's regulatory or legal actions. ()

03. Waiver. Disclosing records to the Director waives no privilege or claim of confidentiality in the records. ()

023. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.07.09 – LIFE AND HEALTH ACTUARIAL OPINION AND MEMORANDUM RULE
DOCKET NO. 18-0709-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule allows the appointed actuary to use professional judgement and opinion in asset analysis and supporting communication. Also, the rule provides the Director with authority to specify methods and assumptions of actuarial analysis in order to render adequacy of reserves and related items. This rulemaking clarifies language and removes duplicative language.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 161 to 169](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wes Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

DATED this October 6, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

<p>Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702</p>
<p><i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3</p>
<p><i>Join by phone at: 1-720-650-7664</i></p>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule allows the appointed actuary to use professional judgement and opinion in asset analysis and supporting communication. Also, the rule provides the Director with authority to specify methods and assumptions of actuarial analysis in order to render adequacy of reserves and related items. This rulemaking clarifies language and removes duplicative language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, Vol. 22-04, pages 37-38, under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 18-0709-2201

18.07.09 – LIFE AND HEALTH ACTUARIAL OPINION AND MEMORANDUM RULE

000. LEGAL AUTHORITY.

Title 41, Chapter 2, Idaho Code. ()

001. SCOPE.

01. Application of Rule. This rule applies to all life insurance companies and fraternal benefit societies doing business in Idaho and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in Idaho. This regulation will be applied to allow the appointed actuary to use their professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with actuarial standards of practice. But the Director may specify methods of actuarial analysis and actuarial assumptions that the Director deems necessary for an acceptable opinion to be rendered on the adequacy of reserves and related items. ()

02. Application to All Annual Statements. This rule applies to all annual statements filed with the Director. A statement of opinion on the adequacy of reserves and related actuarial items based on an asset adequacy analysis per Section 022, and a supporting memorandum per Section 023, will be needed each year. ()

03. Purpose. This rule prescribes: ()

a. Guidelines and standards for statements of actuarial opinion which are to be submitted per Section 41-612(12), Idaho Code, and for supporting memoranda; ()

b. Rules for appointing an appointed actuary; and ()

c. Guidelines on the meaning of adequacy of reserves. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Actuarial Opinion. An Appointed Actuary's opinion on reserve adequacy and related actuarial items based on an asset adequacy test per Section 022 and presently accepted actuarial standards. ()

02. Actuarial Standards Board. The board established by the American Academy of Actuaries to develop standards of actuarial practice. ()

03. Asset Adequacy Analysis. An analysis that meets the standards and requirements in Subsection 021.04. ()

04. Company. A life insurance company, fraternal benefit society or reinsurer subject to this rule. ()

011. -- 020. (RESERVED)

021. GENERAL REQUIREMENTS.

01. Submitting Statement of Actuarial Opinion. ()

a. For each year, starting with the year in which this rule takes effect, the annual statement's first page will include or attach the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion on reserves and related actuarial items held in support of policies and contracts, per Section 022. ()

b. Upon written request by the company, the Director may grant an extension to submit the statement of actuarial opinion. ()

02. Qualified Actuary. An individual who: ()

a. Is a member in good standing of the American Academy of Actuaries; and ()

b. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements per the American Academy of Actuaries qualification standards; and ()

c. Is familiar with the valuation requirements applicable to life and health insurance companies; and ()

d. Has not been found by the Director (or if so found has later been reinstated as a qualified actuary), after appropriate notice and hearing, to have; ()

i. Violated any provision of, or any obligation imposed by any law in the course of their dealings as a qualified actuary; or ()

ii. Been found guilty of fraudulent or dishonest practices; or ()

iii. Demonstrated incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or ()

iv. Filed with the Director during the past five (5) years, pursuant to this rule, an actuarial opinion or memorandum that the Director rejected because it violated this rule, including standards set by the Actuarial Standards Board; or ()

v. Resigned, or been removed as an actuary, within the past five (5) years because of acts or omissions indicated in any adverse report on examination or as a result not adhering to generally accepted actuarial standards; and ()

e. Has not failed to notify the Director of any action taken by any Director of any other state similar to that under Paragraph 021.02.d. ()

03. Appointed Actuary. A qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion prescribed by this rule; either directly by or by the authority of the board of directors through an executive officer of the company. The company will timely notify the Director in writing of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary. The notice will state that the person meets the requirements of Subsection 021.02. The company will timely notify the Director if the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements of Subsection 021.02. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice will so state and give the reasons for replacement. ()

04. Standards for Asset Adequacy Analysis. The asset adequacy analysis prescribed by this rule: ()

a. Will conform to the standards of practice promulgated by the Actuarial Standards Board and to any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion per Section 021; and ()

b. Will be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board. ()

05. Liabilities to Be Covered. ()

a. Under authority of Section 41-612(12), Idaho Code, the statement of actuarial opinion will apply to all in force business on the statement date regardless of when or where issued, e.g., Aggregate Reserve for Life Contracts, Aggregate Reserve for Accident and Health Contracts, reserves for Deposit Type Contracts, and Claims for Life and Health Contracts as reported in Exhibits of the annual statement, and equivalent items in the separate account statement or statements of the annual statement. ()

b. If the appointed actuary determines from asset adequacy analysis that the company should hold a reserve in addition to the company's aggregate reserve and calculated as described in Section 41-612(12), Idaho Code, the company will establish such additional reserve. ()

c. Additional reserves established under this Subsection and deemed unnecessary in later years may be released. Released amounts need to be disclosed in the actuarial opinion for the applicable year. The Director will not deem the release of such reserves to reflect a lower standard of valuation. ()

022. STATEMENT OF ACTUARIAL OPINION BASED ON AN ASSET ADEQUACY ANALYSIS.

01. General Description. The statement of actuarial opinion submitted under this section will consist of; ()

a. A paragraph identifying the appointed actuary and qualifications; ()

b. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the analysis method, and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed; ()

c. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios. Supported by a statement of each such expert in the form prescribed by Subsection 022.05; and ()

d. An opinion paragraph expressing the appointed actuary's opinion on the adequacy of the supporting assets to mature the liabilities. ()

e. One (1) or more additional paragraphs will be needed in these cases; ()

i. If the appointed actuary considers it necessary to state a qualification of his opinion; ()

ii. If the appointed actuary needs to disclose an inconsistency between the analysis method or basis of asset allocation used on the prior opinion date and those used for this opinion; ()

iii. If the appointed actuary needs to disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or ()

iv. If the appointed actuary chooses to add a paragraph briefly describing the assumptions forming the basis for the actuarial opinion. ()

02. Recommended Language. The Department has adopted recommended language, available on the Department's website, which in typical circumstances should be in the statement of actuarial opinion. The language may be modified to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses their professional judgment. The opinion will, in any event, retain all pertinent aspects of the language provided. ()

03. Assumptions for New Issues. Changing an actuarial assumption for new issues, claims, or other liabilities that used for prior new issues, claims, or other liabilities is not a change in actuarial assumptions within the meaning of this Section. ()

04. Adverse Opinions. If the appointed actuary cannot form an opinion, then they will refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then they will issue an adverse or qualified actuarial opinion expressing the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph. ()

05. Reliance on Data Furnished by Other Persons. If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, then the actuarial opinion should identify the persons the actuary relies upon and precisely identify the items subject to reliance. The persons on whom the appointed actuary relies will also certify precisely what items the person provided information on and the extent to which those items are accurate, complete, or reasonable. The certification will include the person's signature, title, company, address and telephone number and the date on which it is signed. ()

023. ALTERNATE OPTION.

01. Standard Valuation Law. The Standard Valuation Law broadly authorizes the Director to accept a foreign insurer's valuation that meets the requirements for an Idaho-domiciled company. As an alternative to meeting the minimum aggregate amounts for Idaho, the Director may make one (1) or more of these approaches available to the opining actuary: ()

a. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the Director chooses to allow this alternative, a formal written list of standards and conditions will be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year will apply to statements for that calendar year, and they will remain in effect until they are revised or revoked. If no list is available, this alternative is not available. ()

b. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions prescribed by the Director for approval of that request have been met." If the Director chooses to allow this alternative, a formal written statement of such allowance will be issued no later than March 31 of the year it is first effective. It will remain valid until rescinded or modified by the Director. The rescission or modifications will be issued no later than March 31 of the year they are first effective. After that statement has issued, if a company chooses to use this alternative, the company will file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request is deemed approved on October 1 of that year if the Director has not denied it. ()

c. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the prescribed comparison as specified by this state." ()

i. If the Director chooses to allow this alternative, a formal written list of products (to be added to the table in Item (ii) below) for which the prescribed comparison will be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year will apply to statements for that calendar

year, and it will remain in effect until revised or revoked. If no list is available, this alternative is not available. ()

ii. If a company desires to use this alternative, the appointed actuary will provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided will be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

()

iii. The information listed will include all products identified by either the state of filing or any other states subscribing to this alternative. ()

iv. If there is no codification standard for the type of product or risk in force, or if the codification standard does not directly address the type of product or risk in force, the appointed actuary will detail the specific method and assumptions used to determine the reserves held. ()

v. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum. ()

d. Notwithstanding the above, the Director may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on Idaho law. If a company does not provide the opinion within sixty (60) days of the request or such other time period set by the Director after consulting with the company, the Director may hire an independent actuary at the company’s expense to prepare and file the opinion. ()

024. DESCRIPTION OF ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS AND REGULATORY ASSET ADEQUACY ISSUES SUMMARY.

01. General. ()

a. Per Section 41-612(12), Idaho Code, the appointed actuary will prepare a memorandum to the company describing the analysis done to support their opinion on the reserves. The memorandum will be made available for the Director’s examination upon request, but it will be returned to the company after the examination and cannot be considered a record of the insurance Department or subject to automatic filing with the Director. ()

b. In preparing the memorandum, the appointed actuary may rely on, and include as a part of their own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Subsection 021.02, with respect to the areas covered in such memoranda, and so state in their memorandum. ()

c. If the Director requests a memorandum that does not exist, or if the Director finds the memorandum’s analysis violates the standards of the Actuarial Standards Board or the standards and requirements of this rule, the Director may designate a qualified actuary to review the opinion and prepare supporting memorandum. The company will pay, subject to the Director’s direction and control, the reasonable and necessary expense of the independent review. ()

d. The reviewing actuary will have the same status as an examiner for purposes of obtaining data from

the company, and the Director will retain the reviewing actuary's work papers and documentation. But any information provided by the company to the reviewing actuary and included in the work papers will be considered as examination workpapers and will be kept confidential to the same extent as prescribed by Section 41-227, Idaho Code. The reviewing actuary cannot be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer under this rule for the current year or any of the preceding three (3) years. ()

e. Per Section 41-612(12), Idaho Code, the appointed actuary will prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection 024.03. This summary will be submitted by March 15 of the year after the year for which a statement of actuarial opinion based on asset adequacy is mandatory. The summary is confidential and exempt from public disclosure under Sections 41-612(12) and 74-107(5), Idaho Code. ()

f. Per Section 41-612(12)(d)(iv), the Director will accept a foreign or alien company's regulatory asset adequacy issues summary, on file with the insurance supervisory official of another state, if the Director determines the summary reasonably meets the requirements for a company domiciled in Idaho. Thus, foreign or alien insurers that had to file the regulatory asset adequacy issues summary in their home state are exempt from filing in Idaho, except upon Director request, if the other state has substantially similar reporting requirements and the summary is timely filed with the other state's commissioner. ()

02. Details of the Memorandum Section Documenting Asset Adequacy Analysis (Section 022).
When an actuarial opinion under Section 022 is provided, the memorandum will show the analysis has been done per the asset-adequacy standards in Subsection 021.04 and any additional standards under this rule. It will specify; ()

- a. For reserves; ()
 - i. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant; ()
 - ii. Source of liability in force; ()
 - iii. Reserve method and basis; ()
 - iv. Investment reserves; ()
 - v. Reinsurance arrangements; and ()
 - vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis. ()

- b. Documentation of assumptions to test reserves, such that an actuary reviewing the actuarial memorandum could form a conclusion as to their reasonableness, for: ()
 - i. Lapse rates (both base and excess); ()
 - ii. Interest crediting rate strategy; ()
 - iii. Mortality; ()
 - iv. Policyholder dividend strategy; ()
 - v. Competitor or market interest rate; ()
 - vi. Annuitization rates; ()

- vii. Commissions and expenses; and ()
- viii. Morbidity. ()
- c. For assets: ()
 - i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets; ()
 - ii. Investment and disinvestment assumptions; ()
 - iii. Asset data source; ()
 - iv. Asset valuation bases. ()
- d. Documentation of assumptions, such that an actuary reviewing the actuarial memorandum could form a conclusion as to their reasonableness, for: ()
 - i. Default costs; ()
 - ii. Bond call function; ()
 - iii. Mortgage prepayment function; ()
 - iv. Determining market value for assets sold due to disinvestment strategy; and ()
 - v. Determining yield on assets acquired through the investment strategy. ()
- e. For the analysis basis: ()
 - i. Methodology; ()
 - ii. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed; ()
 - iii. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business); ()
 - iv. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice); ()
 - v. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis. ()
- f. Summary of material changes in methods, procedures, or assumptions from prior year’s asset adequacy analysis; ()
- g. Summary of Results; ()
- h. Conclusion(s). ()
- i. The regulatory asset adequacy issues summary will include: ()
 - i. Descriptions of the tested scenarios (including whether they are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative-ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which,

if held, would eliminate the negative aggregate surplus values. Ending surplus values will be determined by extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial, or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force; ()

ii. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that materially differ from assumptions in the previous asset adequacy analysis; ()

iii. The amount of reserves and the identity of the product lines that were subjected to asset adequacy analysis in the prior opinion but that were not analyzed for the current opinion; ()

iv. Comments on any interim results that significantly concern the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; ()

v. The actuary's methods for recognizing how reinsurance impacts the company's cash flows, including both assets and liabilities, under each tested scenario; and ()

vi. Whether the actuary is satisfied that the asset adequacy analysis appropriately considered all options explicit or embedded in any asset or liability (including those affecting cash flows embedded in fixed income securities) and equity-like features in any investments. ()

j. The regulatory asset adequacy issues summary will name the company for which the regulatory asset adequacy issues summary is being supplied and be signed and dated by the appointed actuary rendering the actuarial opinion. ()

04. Conformity to Standards of Practice. The memorandum will state:
"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum." ()

05. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve. An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, needs to be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets cannot be applied for other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The Table of Reserves and Liabilities of the opinion and in the memorandum will disclose the amount of the assets used for the AVR. The memorandum will also disclose the method for selecting particular assets or allocated portions of assets. ()

06. Documentation. The appointed actuary will retain, for at least seven (7) years, sufficient documentation from which to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained. ()

025. -- 999. (RESERVED)