

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### Company Activities

#### 18.06.06 – Surplus Line Rules

##### **Who does this rule apply to?**

*This rule applies to resident and non-resident licensees, producers, purchasing groups, and brokers of surplus lines.*

##### **What is the purpose of this rule?**

*This rule provides procedures for the placement of surplus line insurance.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Insurance -

- [Title 41, Chapter 12, et seq., Idaho Code](#) – Unauthorized Insurers and Surplus Lines

##### **Who do I contact for more information on this rule?**

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## 18.06.06 – SURPLUS LINE RULES

### 000. LEGAL AUTHORITY.

Title 41, Chapter 12, Idaho Code.

(3-31-22)

### 001. TITLE AND SCOPE.

01. Title. IDAPA 18.06.06, “Surplus Line Rules.”

(3-31-22)

02. Scope. Provide procedures for the placement of surplus line insurance.

(3-31-22)

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply:

(3-31-22)

01. **Open Lines for Export.** “Open Lines for Export” is defined as the class or classes of business which the Director has declared eligible for export in accordance with Section 41-1216, Idaho Code.

(3-31-22)

02. **Lines Other Than Open Lines for Export.** “Lines Other Than Open Lines for Export” is defined as the class or classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with Title 41, Chapter 12, Idaho Code.

(3-31-22)

03. **Diligent Search.** A Broker has exercised their obligations under Section 41-1214(2), Idaho Code, if the Broker or the referring insurance producer submits a risk to at least one (1) authorized company engaged in writing in Idaho the type of coverage sought, or if there are no companies engaged in writing such coverage, the risk is submitted to at least one (1) company that, in the Broker’s or producer’s professional judgment, is the most likely to accept the risk.

(3-31-22)

04. **Delegated Contractor.** Any contractor to whom activities have been delegated by the Director under Section 41-1232, Idaho Code.

(3-31-22)

### 011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident Broker is to be renewed every two (2) years. The original license fee and the renewal fee are prescribed in IDAPA 18.01.02. A broker will not solicit surplus line business before being licensed as a Broker. A broker will notify the Licensing Division of the Department if not renewing the license prior to the license renewal date. The Director may allow the continuation of a non-renewed license if, within one (1) year after the renewal date, the licensee submits a renewal request and a continuation fee twice the amount prescribed by Section 41-1008(3), Idaho Code.

(3-31-22)

### 012. ANNUAL REPORT.

Each Broker will file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on an approved form.

(3-31-22)

### 013. PAYMENT OF STATE TAX.

01. **Tax Due March 1.** On or before March 1st of each year, each licensed Broker will pay premium tax to the Department on business written during the preceding calendar year, which tax will be collected from the insured, in addition to the stamping fee.

(3-31-22)

02. **Tax Summary.** By February 1st of each year the delegated contractor will provide to each Broker a summary of records showing the state tax due the Department for the preceding year and this amount will be paid to the Department by the Broker. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount will be paid to the Department.

(3-31-22)

### 014. PAYMENT OF STAMPING FEES.

01. **Application.** A stamping fee is charged on all premiums and policy fees written on Idaho business at a rate established by the delegated contractor and approved by the Department. This rate may be adjusted to obtain the objectives of the delegated contractor. The stamping fee cannot be refunded except in the case of extenuating circumstances approved by the delegated contractor.

(3-31-22)

**02. Summary.** Within ten (10) days following the month during which the surplus line insurance was handled through the delegated contractor, the delegated contractor will submit an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed to each Broker. (3-31-22)

**03. Payable on Receipt.** The Stamping Fee is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (3-31-22)

**015. COLLECTION OF TAXES.**

**01. Idaho Premium Taxes.** Idaho Premium Tax will be collected from the insured. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes will be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (3-31-22)

**02. Purchasing Groups.** Purchasing groups that obtain insurance from an unauthorized or authorized surplus lines insurer will use an Idaho-licensed Broker. The Broker is responsible to collect and submit all taxes and fees as prescribed by this chapter. (3-31-22)

**016. REPORTING TAXES AND STAMPING FEES.**

Brokers are to report premium taxes and stamping fees in increments of not less than one year. A Broker who collects quarterly or monthly payments of premiums from the insured will provide reports of the premium tax and stamping fee in the initial submission or renewal for a full year. (3-31-22)

**017. PLACEMENT AND COMMISSIONS.**

**01. Basic Requirement.** All surplus line business is to be placed through a licensed Broker. Each producer of surplus line business will hold an Idaho resident or non-resident producer license. (3-31-22)

**02. Idaho Producer.** When a producer requests placement by a licensed Broker, the commission received and paid will be based on the mutual written agreement of the parties. (3-31-22)

**018. SUBMISSION TIME PERIODS.**

All affidavits, submissions, certificates, endorsements and other documents for insurance written for Open Lines for Export and Other Than Open Lines for Export are to be received by the delegated contractor within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, the information with submission form and affidavit, if applicable, will be forwarded. The Broker is responsible for meeting this requirement. (3-31-22)

**019. OPEN LINES FOR EXPORT.**

Pursuant to Section 41-1216, the Director will publish a list of approved classes of insurance coverage or risks. If a risk does not appear on this list, then the Broker will file the normal submission forms and documents and execute the broker's affidavit. (3-31-22)

**020. BROKER RECORDS.**

A full and true record of each surplus line coverage procured by each Broker is to be maintained by the Broker. Reports of all documents processed by the delegated contractor will be provided on a monthly basis to the Broker. These reports, in addition to the broker's copy of policies and endorsements, are to be kept for a period of five (5) years and are subject to examination by the Director. (3-31-22)

**021. APPROVED LIST OF INSURERS.**

Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves a list of unauthorized insurers, whether foreign or alien, eligible to write surplus line business in Idaho. Brokers may only place surplus line business with companies on the current list. The delegated contractor will inform Brokers of additions and changes to the list. (3-31-22)

**022. -- 999. (RESERVED)**