

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 430

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE ADMINISTRATORS; REPEALING CHAPTER 9, TITLE 41, IDAHO
2 CODE, RELATING TO INSURANCE ADMINISTRATORS; AMENDING TITLE 41, IDAHO
3 CODE, BY THE ADDITION OF A NEW CHAPTER 9, TITLE 41, IDAHO CODE, TO DEFINE
4 TERMS, TO REQUIRE THE USE OF WRITTEN AGREEMENTS BY ADMINISTRATORS,
5 TO PROVIDE THAT PAYMENTS RECEIVED BY AN ADMINISTRATOR ARE DEEMED
6 PAYMENTS RECEIVED BY THE INSURER, TO REQUIRE THE MAINTENANCE OF CERTAIN
7 BOOKS AND RECORDS BY ADMINISTRATORS, TO REQUIRE INSURER APPROVAL
8 OF ADVERTISING USED BY ADMINISTRATORS AND FILING OF ADVERTISING
9 MATERIALS WITH THE DIRECTOR, TO REQUIRE THAT FUNDS RECEIVED BY AN
10 ADMINISTRATOR BE HELD IN A FIDUCIARY CAPACITY AND REMITTED TIMELY
11 TO THE APPROPRIATE PERSON, TO REQUIRE THAT ADMINISTRATORS DELIVER
12 CERTAIN MATERIALS TO COVERED PERSONS, TO PROVIDE REQUIREMENTS FOR THE
13 COMPENSATION OF ADMINISTRATORS, TO REQUIRE CERTAIN NOTICE BE GIVEN
14 TO COVERED INDIVIDUALS, TO REQUIRE REGISTRATION BY PERSONS ACTING AS
15 ADMINISTRATORS FOR SELF-FUNDED PLANS, TO PROVIDE REQUIREMENTS FOR
16 HOME STATE LICENSING AS AN ADMINISTRATOR, TO PROVIDE FOR A NONRESIDENT
17 ADMINISTRATOR LICENSE, TO PROVIDE FOR THE EXPIRATION AND RENEWAL
18 OF AN ADMINISTRATOR LICENSE AND PAYMENT OF RENEWAL FEES, TO REQUIRE
19 THAT ADMINISTRATORS FILE AN ANNUAL REPORT, TO PROVIDE GROUNDS FOR THE
20 DENIAL, SUSPENSION OR REVOCATION OF AN ADMINISTRATOR'S LICENSE, TO
21 REQUIRE REPORTING OF ACTIONS TAKEN AGAINST AN ADMINISTRATOR BY ANOTHER
22 JURISDICTION AND TO PROVIDE THAT THE PROVISIONS OF THE CHAPTER ARE
23 NOT LIMITING; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE
24 APPLICATION.
25

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

27 SECTION 1. That Chapter 9, Title 41, Idaho Code, be, and the same is
28 hereby repealed.

29 SECTION 2. That Title 41, Idaho Code, be, and the same is hereby amended
30 by the addition thereto of a NEW CHAPTER, to be known and designated as
31 Chapter 9, Title 41, Idaho Code, and to read as follows:

32 CHAPTER 9
33 INSURANCE ADMINISTRATORS

34 41-901. DEFINITIONS. For the purposes of this chapter:
35 (1) "Administrator" or "third party administrator" or "TPA" means any
36 person who directly or indirectly underwrites, collects charges or premiums
37 from or adjusts or settles claims on residents of this state in connection
38 with life, annuity or health insurance coverage offered or provided by an
39 insurer, except any of the following:

1 (a) An employer, or a wholly owned direct or indirect subsidiary of an
2 employer, on behalf of its employees or the employees of one (1) or more
3 subsidiaries or affiliated corporations of such employer.

4 (b) A union on behalf of its members.

5 (c) An insurance company that is either authorized to transact
6 insurance in this state or acting as an insurer with respect to a
7 policy lawfully issued and delivered by such company in and pursuant
8 to the laws of a state in which the insurer was authorized to transact
9 an insurance business, or a hospital, medical, dental or optometric
10 service corporation or a health care service organization, including
11 their sales representatives, possessing a valid certificate of
12 authority in this state when engaged in the performance of their duties.

13 (d) An insurance producer licensed to sell life, annuities or health
14 coverage in this state whose activities are limited exclusively to the
15 sale, solicitation and negotiation of insurance.

16 (e) A creditor on behalf of its debtors with respect to insurance
17 covering a debt between the creditor and its debtors.

18 (f) A trust, its trustees, agents and employees acting pursuant to such
19 trust established in conformity with 29 U.S.C. 186.

20 (g) A trust exempt from taxation under section 501(a) of the Internal
21 Revenue Code, its trustees and employees acting pursuant to such trust
22 or a custodian and the custodian's agents or employees acting pursuant
23 to a custodian account that meets the requirements of section 401(f) of
24 the Internal Revenue Code.

25 (h) A credit union or a financial institution that is subject to
26 supervision or examination by federal or state banking authorities,
27 or a mortgage lender, to the extent they collect and remit premiums
28 to licensed insurance producers or to limited lines producers or
29 authorized insurers in connection with loan payments.

30 (i) A credit card issuing company that advances for and collects
31 premiums or charges from its credit cardholders who have authorized
32 such collection.

33 (j) A person who adjusts or settles claims in the normal course of that
34 person's practice or employment as an attorney at law and who does not
35 collect charges or premiums in connection with life, annuity or health
36 insurance coverage.

37 (k) A person licensed as a managing general agent in this state whose
38 activities are limited exclusively to the scope of activities conveyed
39 under such license.

40 (l) A person who is affiliated with an insurer and who acts solely
41 as an administrator for the direct and assumed insurance business
42 of an affiliated insurer. The insurer is responsible for the acts
43 of the administrator and is responsible for providing all of the
44 administrator's books and records to the insurance director upon a
45 request from the insurance director. For purposes of this paragraph,
46 "insurer" means a licensed insurance company, hospital or professional
47 service corporation or a managed care organization.

48 (2) "Affiliate" or "affiliated" means an entity or person who directly
49 or indirectly through one (1) or more intermediaries controls or is
50 controlled by, or is under common control with, a specified entity or person.

1 (3) "Control," including the terms "controlling," "controlled by" and
2 "under common control with," means the possession, direct or indirect, of
3 the power to direct or cause the direction of the management and policies
4 of a person whether through the ownership of voting securities, by contract
5 other than a commercial contract for goods or nonmanagement services, or
6 otherwise, unless the power is the result of an official position with or
7 corporate office held by the person. Control shall be presumed to exist if
8 any person, directly or indirectly, owns, controls, holds with the power
9 to vote, or holds proxies representing ten percent (10%) or more of the
10 voting securities of any other person. This presumption may be rebutted by a
11 showing made in the manner provided in section 41-3806(11), Idaho Code, that
12 control does not exist in fact. The director may determine, after furnishing
13 all persons in interest notice and an opportunity to be heard and making
14 specific findings of fact to support the determination, that control exists
15 in fact, notwithstanding the absence of a presumption to that effect.

16 (4) "Director" means the director of the Idaho department of insurance.

17 (5) "GAAP" means United States "Generally Accepted Accounting
18 Principles" consistently applied.

19 (6) "Home state" means the District of Columbia and any state or
20 territory of the United States in which an administrator is incorporated or
21 maintains its principal place of business. If neither the state in which
22 the administrator is incorporated nor the state in which it maintains its
23 principal place of business has adopted the provisions of this chapter, or a
24 substantially similar law governing administrators, the administrator may
25 declare another state in which it conducts business to be its "home state."

26 (7) "Insurer" means a person undertaking to provide life, annuity or
27 health coverage or self-funded coverage who is subject to regulation under
28 title 41, Idaho Code.

29 (8) "NAIC" means the "National Association of Insurance
30 Commissioners."

31 (9) "Nonresident administrator" means an administrator with a home
32 state other than Idaho.

33 (10) "Underwrites" or "underwriting" means, but is not limited
34 to, the acceptance of employer or individual applications for coverage
35 of individuals in accordance with the written rules of the insurer or
36 self-funded plan, or the overall planning and coordinating of a benefits
37 program.

38 (11) "Uniform application" means the current version of the NAIC
39 uniform application for third party administrators.

40 41-902. WRITTEN AGREEMENT NECESSARY. (1) No administrator shall
41 act as such without a written agreement between the administrator and
42 the insurer, and the written agreement shall be retained as part of the
43 official records of both the insurer and the administrator for the duration
44 of the agreement and for five (5) years thereafter. The agreement shall
45 be consistent with the provisions of this chapter and shall contain all
46 provisions required in this chapter, except insofar as those requirements do
47 not apply to the functions performed by the administrator.

48 (2) The written agreement shall include a statement of duties that
49 the administrator is expected to perform on behalf of the insurer and the

1 lines, classes or types of insurance for which the administrator is to be
2 authorized to administer. The agreement shall make provision with respect
3 to underwriting or other standards pertaining to the business underwritten
4 by the insurer.

5 (3) The insurer or administrator may, with written notice to the other
6 party and the director, terminate the written agreement as provided in
7 the agreement. The insurer may suspend the underwriting authority of the
8 administrator during the pendency of any dispute regarding the termination
9 of the written agreement. The insurer shall fulfill any lawful obligations
10 with respect to policies affected by the written agreement regardless of any
11 dispute between the insurer and the administrator.

12 41-903. PAYMENT TO ADMINISTRATOR. If an insurer utilizes the services
13 of an administrator, the payment to the administrator of any premiums or
14 charges for insurance by or on behalf of the insured shall be deemed to have
15 been received by the insurer and the payment of return premiums or claims
16 forwarded by the insurer to the administrator shall not be deemed payment
17 to the insured or claimant until the payments are received by the insured or
18 claimant. Nothing in this chapter limits any right of the insurer against
19 the administrator resulting from the failure of the administrator to make
20 payments to the insurer, insured parties or claimants.

21 41-904. MAINTENANCE OF INFORMATION. (1) Every administrator shall
22 maintain and make available to the insurer complete books and records of
23 all transactions performed on behalf of the insurer. The books and records
24 shall be maintained in accordance with prudent standards of insurance
25 recordkeeping and shall be maintained for a period of not less than five (5)
26 years from the date of their creation.

27 (2) The director shall have access to books and records maintained by an
28 administrator for the purposes of examination, audit and inspection.

29 (3) The insurer shall own the records generated by the administrator
30 pertaining to the insurer; however, the administrator shall retain the right
31 to continuing access to books and records to permit the administrator to
32 fulfill all of its contractual obligations to insured parties, claimants
33 and the insurer, and its obligations to maintain records available to the
34 director.

35 (4) In the event the insurer and the administrator cancel their
36 agreement, notwithstanding the provisions of subsection (1) of this
37 section, the administrator may, by written agreement with the insurer,
38 transfer all records to a new administrator rather than retain them for
39 five (5) years. In such cases, the new administrator shall acknowledge,
40 in writing, that it is responsible for retaining the records of the prior
41 administrator as required in subsection (1) of this section.

42 41-905. ADVERTISING -- APPROVAL. An administrator may use only
43 advertising pertaining to the business underwritten by an insurer that
44 has been approved in writing by the insurer in advance of its use. Prior
45 to approving the use of advertising by an administrator, the insurer shall
46 first file the advertising with the director along with a certification in
47 a form prescribed by the director that the advertising complies with Idaho

1 law. The director may disapprove the use of the advertising on any of the
2 grounds set forth in section 41-1813, Idaho Code.

3 41-906. PREMIUM COLLECTION AND PAYMENT OF CLAIMS. (1) All insurance
4 charges or premiums collected by an administrator on behalf of or for an
5 insurer, and the return of premiums received from that insurer, shall be held
6 by the administrator in a fiduciary capacity. The funds shall be immediately
7 remitted to the person entitled to them or shall be deposited promptly
8 in a fiduciary account established and maintained by the administrator
9 in a federally or state insured financial institution. The written
10 agreement between the administrator and the insurer shall provide for the
11 administrator to periodically render an accounting to the insurer detailing
12 all transactions performed by the administrator pertaining to the business
13 underwritten by the insurer.

14 (2) All such funds, including charges, fees or premiums, shall be used
15 to establish the premium tax under section 41-402, Idaho Code.

16 (3) If charges or premiums deposited in a fiduciary account have been
17 collected on behalf of one (1) or more insurers, the administrator shall keep
18 records clearly recording the deposits in and withdrawals from the account
19 on behalf of each insurer. The administrator shall keep copies of all the
20 records and, upon request of an insurer, shall furnish the insurer with
21 copies of such records pertaining to deposits and withdrawals associated
22 with the insurer.

23 (4) The administrator shall not pay any claim by withdrawals from a
24 fiduciary account in which premiums or charges are deposited. Withdrawals
25 from the account shall be made as provided in the written agreement between
26 the administrator and the insurer. The written agreement shall address, but
27 not be limited to, the following:

- 28 (a) Remittance to an insurer entitled to remittance;
29 (b) Deposit in an account maintained in the name of the insurer;
30 (c) Transfer to and deposit in a claims-paying account with claims to be
31 paid as provided for in subsection (5) of this section;
32 (d) Payment to a group policyholder for remittance to the insurer
33 entitled to such remittance;
34 (e) Payment to the administrator of its commission, fees or charges;
35 and
36 (f) Remittance of return premiums to the person or persons entitled to
37 such return premiums.

38 (5) All claims paid by the administrator from funds collected on
39 behalf of or for an insurer shall be paid only on drafts or checks of and as
40 authorized by the insurer.

41 41-907. DELIVERY OF MATERIALS TO COVERED INDIVIDUALS. Any
42 policies, certificates, booklets, termination notices or other written
43 communications delivered by the insurer to the administrator for delivery
44 to insured parties or covered individuals shall be delivered by the
45 administrator promptly after receipt of instructions from the insurer to
46 deliver them.

1 41-908. COMPENSATION TO THE ADMINISTRATOR. (1) An administrator shall
2 not enter into an agreement or understanding with an insurer in which the
3 effect is to make the amount of the administrator's commissions, fees or
4 charges contingent upon savings effected by the adjustment, settlement and
5 payment of losses covered by the insurer's obligations. This provision
6 shall not prohibit an administrator from receiving performance-based
7 compensation for providing hospital or other auditing services.

8 (2) The provisions of this section shall not prevent the compensation
9 of an administrator from being based on premiums or charges collected or the
10 number of claims paid or processed.

11 41-909. NOTICE TO COVERED INDIVIDUALS -- DISCLOSURE OF CHARGES
12 AND FEES. (1) Where the services of an administrator are utilized, the
13 administrator shall provide a written notice approved by the insurer to
14 covered individuals advising them of the identity of and relationship among
15 the administrator, the policyholder and the insurer.

16 (2) Where an administrator collects funds, the reason for collection
17 of each item shall be identified to the insured party and each item shall be
18 shown separately from any premium. Additional charges may not be made for
19 services to the extent the services have been paid for by the insurer.

20 (3) The administrator shall disclose to the insurer all charges,
21 fees and commissions received from all services in connection with the
22 provision of administrative services for the insurer, including any fees or
23 commissions paid by insurers providing reinsurance.

24 41-910. REGISTRATION REQUIREMENT. A person who directly or indirectly
25 underwrites, collects charges or premiums from or adjusts or settles claims
26 on residents of this state in connection with life, annuity or health
27 coverage provided by a self-funded plan not regulated under title 41, Idaho
28 Code, shall register with the director biennially on a form prescribed by the
29 director, verifying its status as herein described.

30 41-911. HOME STATE LICENSE. (1) A person shall apply to be an
31 administrator in its home state and shall receive a license from the
32 regulatory authority of its home state prior to performing any function of
33 an administrator in this state.

34 (2) A person applying to Idaho as the home state shall submit to the
35 director an application in the form prescribed by the director that shall
36 include or be accompanied by the following information and documents:

37 (a) All basic organizational documents of the applicant, including
38 any articles of incorporation, articles of association, partnership
39 agreement, trade name certificate, trust agreement, shareholder
40 agreement, certificate of existence from the Idaho secretary of state
41 and other applicable documents and all amendments to such documents;

42 (b) The bylaws, rules, regulations or similar documents regulating the
43 internal affairs of the applicant;

44 (c) NAIC biographical affidavits for the individuals who are directly
45 or indirectly responsible for the conduct of affairs of the applicant,
46 including all members of the board of directors, board of trustees,
47 executive committee or other governing board or committee, the

1 principal officers in the case of a corporation or the partners or
2 members in the case of a partnership, association or limited liability
3 company, any shareholders or members holding directly or indirectly
4 ten percent (10%) or more of the voting stock, voting securities or
5 voting interest of the applicant and any other person who directly
6 or indirectly exercises control or influence over the affairs of the
7 applicant;

8 (d) Audited annual financial statements or reports for the two (2)
9 most recent fiscal years that prove that the applicant has a positive
10 net worth. If the applicant has been in existence for less than two
11 (2) fiscal years, the uniform application shall include financial
12 statements or reports, certified by an officer of the applicant and
13 prepared in accordance with GAAP, for any completed fiscal years and
14 for any month during the current fiscal year for which such financial
15 statements or reports have been completed. An audited annual financial
16 report prepared on a consolidated basis shall include a columnar
17 consolidating or combining worksheet that shall be filed with the
18 report and include the following:

19 (i) Amounts shown on the consolidated audited financial report
20 shall be shown on the worksheet;

21 (ii) Amounts for each entity shall be stated separately; and

22 (iii) Explanations of consolidating and eliminating entries shall
23 be included.

24 The applicant shall also include such other information as the director
25 may require in order to review the current financial condition of the
26 applicant;

27 (e) A statement describing the business plan, including information on
28 staffing levels and activities, proposed in this state and nationwide.
29 The plan shall provide details setting forth the applicant's capability
30 for providing a sufficient number of experienced and qualified
31 personnel in the areas of claims processing, recordkeeping and
32 underwriting;

33 (f) The license application fee as provided for by rule; and

34 (g) Such other pertinent information as may be required by the
35 director.

36 (3) An administrator licensed or applying for licensure under the
37 provisions of this section shall make available for inspection by the
38 director, copies of all contracts with insurers or other persons utilizing
39 the services of the administrator.

40 (4) An administrator licensed or applying for licensure under the
41 provisions of this section shall produce its accounts, records and files
42 for examination, and make its officers available to give information with
43 respect to its affairs, as often as reasonably required by the director.

44 (5) The director may refuse to issue a license if the director
45 determines that the administrator or any individual responsible for the
46 conduct of affairs of the administrator is not competent, trustworthy,
47 financially responsible or of good personal and business reputation,
48 or has had an insurance or an administrator certificate of authority or
49 license denied or revoked for cause by any jurisdiction, or if the director

1 determines that any of the grounds set forth in section 41-915, Idaho Code,
2 exist with respect to the administrator.

3 (6) A license issued under this section shall remain valid, unless
4 surrendered, suspended or revoked by the director, for so long as the
5 administrator continues in business in this state and remains in compliance
6 with the provisions of this chapter and any applicable rules.

7 (7) An administrator licensed or applying for licensure under the
8 provisions of this section shall immediately notify the director of any
9 material change in its ownership, control or other fact or circumstance
10 affecting its qualification for a license in this state.

11 (8) An administrator licensed or applying for a home state license
12 that administers or will administer self-funded health plans subject to
13 regulation under chapter 40 or 41, title 41, Idaho Code, shall maintain a
14 surety bond for the use and benefit of the director to be held in trust for
15 the benefit and protection of covered persons and the insurer or insurers
16 against loss by reason of acts of fraud or dishonesty. The bond shall be in
17 the greater of the following amounts:

18 (a) One hundred thousand dollars (\$100,000); or

19 (b) An amount equal to the greater of ten percent (10%) of the
20 contributions collected by the administrator from self-funded plans
21 subject to regulation under chapters 40 and 41, title 41, Idaho Code,
22 or ten percent (10%) of the benefits paid by such self-funded plans
23 administered during the preceding calendar year. If the administrator
24 did not administer any self-funded plans subject to regulation under
25 chapter 40 or 41, title 41, Idaho Code, during the preceding calendar
26 year, the bond shall be in an amount equal to ten percent (10%) of the
27 contributions projected to be received by the administrator from such
28 self-funded plans during the next calendar year.

29 41-912. NONRESIDENT ADMINISTRATOR LICENSE. (1) Unless an
30 administrator has obtained a home state license in this state, any
31 administrator who performs administrator duties in this state shall obtain a
32 nonresident administrator license in accordance with the provisions of this
33 section by filing with the director the uniform application, accompanied by
34 a letter of certification. In lieu of requiring an administrator to file
35 a letter of certification with the uniform application, the director may
36 verify the nonresident administrator's home state certificate of authority
37 or license status through an electronic database maintained by the NAIC, its
38 affiliates or subsidiaries.

39 (2) An administrator shall not be eligible for a nonresident
40 administrator license under the provisions of this section if it does
41 not hold a license in a home state that has adopted under the provisions of
42 this chapter or a substantially similar law governing administrators.

43 (3) Except as provided in subsections (2) and (8) of this section,
44 the director shall issue to the administrator a nonresident administrator
45 license promptly upon receipt of a complete application.

46 (4) Each nonresident administrator shall file biennially, as a part of
47 its application for renewal of its license, a statement that its home state
48 administrator license remains in force and has not been revoked or suspended
49 by its home state during the preceding years.

1 (5) At the time of filing the application for licensing required under
2 the provisions of this section the nonresident administrator shall pay a
3 license application fee as provided for by rule.

4 (6) An administrator licensed or applying for licensure under the
5 provisions of this section shall produce its accounts, records and files
6 for examination, and make its officers available to give information with
7 respect to its affairs, as often as reasonably required by the director.

8 (7) A nonresident administrator is not required to hold a nonresident
9 administrator license in this state if the administrator is licensed in its
10 home state and the administrator's duties in this state are limited to:

11 (a) The administration of a group policy or plan and no more than a
12 total of twenty percent (20%) of covered persons, for all plans the
13 administrator services, reside in this state; and

14 (b) The total number of covered persons residing in this state is less
15 than one hundred (100).

16 (8) The director may refuse to issue a nonresident administrator
17 license, or delay the issuance of a nonresident administrator license,
18 if the director determines that, due to events or information obtained
19 subsequent to the home state's licensure of the administrator, the
20 nonresident administrator cannot satisfy the requirements of this chapter
21 or that grounds exist for the home state's revocation or suspension of the
22 administrator's home state certificate of authority or license.

23 41-913. EXPIRATION AND RENEWAL OF ADMINISTRATOR LICENSE. (1) A
24 license issued pursuant to this chapter shall expire on December 31 of the
25 year following its issuance, but may be renewed for a period of two (2) years
26 commencing January 1 upon filing a renewal form prescribed by the director
27 accompanied by a fee as provided for by rule. The renewal form shall be
28 filed on or before December 31. Any renewal form postmarked or submitted
29 electronically after December 31 shall be accompanied by an additional
30 late filing fee in the amount of double the unpaid renewal fee. Any renewal
31 postmarked after January 31 must be submitted as a new application with
32 supporting documents and accompanied by the full application fee as provided
33 for by rule.

34 (2) The license shall be renewed by the director unless the director
35 determines that the administrator is not competent, trustworthy or
36 financially responsible, or has had an insurance license denied, revoked
37 or suspended for cause by any state, or otherwise does not meet the
38 qualifications for licensure as set forth in this chapter.

39 41-914. ANNUAL REPORT. (1) Each administrator licensed under
40 the provisions of this chapter shall file an annual report for the
41 preceding calendar year with the director on or before July 1 of each
42 year, or within such extension of time as the director for good cause may
43 grant. The annual report shall include an audited financial statement
44 performed by an independent certified public accountant. An audited annual
45 financial report prepared on a consolidated basis shall include a columnar
46 consolidating or combining worksheet that shall be filed with the report and
47 include the following:

- 1 (a) Amounts shown on the consolidated audited financial report shall be
2 shown on the worksheet;
3 (b) Amounts for each entity shall be stated separately; and
4 (c) Explanations of consolidating and eliminating entries shall be
5 included.

6 The report shall be in the form and contain such matters as the director
7 prescribes and shall be verified by at least two (2) officers of the
8 administrator.

- 9 (2) The annual report shall include the complete names and addresses
10 of all insurers with which the administrator had agreements during the
11 preceding fiscal year.

12 41-915. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1)
13 The license of an administrator shall be denied, suspended or revoked if the
14 director finds that the administrator:

- 15 (a) Is in an unsound financial condition;
16 (b) Is using such methods or practices in the conduct of its business so
17 as to render its further transaction of business in this state hazardous
18 or injurious to insured persons or the public; or
19 (c) Has failed to pay any judgment rendered against it in this state
20 within sixty (60) days after the judgment has become final.

21 (2) The director may deny, suspend or revoke the license of an
22 administrator if the director finds that the administrator:

- 23 (a) Has violated any lawful rule or order of the director or any
24 provision of title 41, Idaho Code;
25 (b) Has refused to be examined or to produce its accounts, records
26 and files for examination, or if any individual responsible for the
27 conduct of affairs of the administrator, including members of the
28 board of directors, board of trustees, executive committee or other
29 governing board or committee, the principal officers in the case of a
30 corporation or the partners or members in the case of a partnership,
31 association or limited liability company, any shareholder or member
32 holding directly or indirectly ten percent (10%) or more of the voting
33 stock, voting securities or voting interest of the administrator and
34 any other person who exercises control or influence over the affairs of
35 the administrator, has refused to give information with respect to its
36 affairs or has refused to perform any other legal obligation as to an
37 examination, when required by the director;
38 (c) Has, without just cause, refused to pay proper claims or perform
39 services arising under its contracts or has, without just cause, caused
40 covered individuals to accept less than the amount due them or caused
41 covered individuals to employ attorneys or bring suit against the
42 administrator to secure full payment or settlement of such claims;
43 (d) Fails, at any time, to meet any qualification for which issuance
44 of the license could have been refused had the failure then existed and
45 been known to the director;
46 (e) Or any of the individuals responsible for the conduct of its
47 affairs, including members of the board of directors, board of
48 trustees, executive committee or other governing board or committee,
49 the principal officers in the case of a corporation or the partners or

1 members in the case of a partnership, association or limited liability
2 company, any shareholder or member holding directly or indirectly ten
3 percent (10%) or more of its voting stock, voting securities or voting
4 interest and any other person who exercises control or influence over
5 its affairs, has been convicted of, or has entered a plea of guilty
6 or nolo contendere to any felony, or to a misdemeanor that evidences
7 bad moral character, dishonesty, a lack of integrity and financial
8 responsibility or an unfitness and inability to provide acceptable
9 service to the consuming public without regard to whether adjudication
10 was withheld; or

11 (f) Is under suspension or revocation in another state.

12 (3) The director may, in his discretion and without advance notice or
13 hearing, immediately suspend the license of an administrator if the director
14 finds that one (1) or more of the following circumstances exist:

15 (a) The administrator is insolvent or impaired;

16 (b) A proceeding for receivership, conservatorship, rehabilitation
17 or other delinquency proceeding regarding the administrator has been
18 commenced in any state;

19 (c) The financial condition or business practices of the administrator
20 otherwise pose an imminent threat to the public health, safety or
21 welfare of the residents of this state; or

22 (d) A final order suspending or revoking the administrator's license in
23 its home state has been entered.

24 (4) If the director finds that one (1) or more grounds exist for
25 the suspension or revocation of a license issued under the provisions of
26 this chapter, the director may, in lieu of or in addition to suspension
27 or revocation, impose an administrative penalty upon the administrator
28 pursuant to section 41-117, Idaho Code.

29 41-916. REPORTING OF ACTIONS. (1) An administrator shall report to
30 the director any administrative action taken against the administrator in
31 another jurisdiction or by another governmental agency within thirty (30)
32 days of the final disposition of the matter. The report shall include a copy
33 of the order, consent order or other relevant legal documents.

34 (2) Within thirty (30) days of the initial pretrial hearing date, an
35 administrator shall report to the director any criminal prosecution of the
36 administrator or an individual responsible for the conduct of its affairs
37 taken in any jurisdiction. The report shall include a copy of the initial
38 complaint filed, the order resulting from the hearing and any other relevant
39 legal documents.

40 41-917. PROVISIONS NOT LIMITING. The requirements of this chapter are
41 not a waiver or limitation of provisions of this title or other laws of this
42 state but are additional requirements.

43 SECTION 3. An emergency existing therefor, which emergency is hereby
44 declared to exist, this act shall be in full force and effect on and after its
45 passage and approval, and retroactively to February 1, 2010.