

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 619

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO WILDFIRE RISK REINSURANCE AND MITIGATION POOL;
2 AMENDING SECTION 41-406, IDAHO CODE, TO ESTABLISH PROVISIONS FOR DIS-
3 BURSEMENTS TO THE IDAHO WILDFIRE RISK REINSURANCE AND MITIGATION POOL;
4 AMENDING THE HEADING FOR CHAPTER 24, TITLE 41, IDAHO CODE; AMENDING
5 CHAPTER 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
6 41-2402, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 24, TITLE 41,
7 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2403, IDAHO CODE, TO
8 ESTABLISH PROVISIONS REGARDING THE WILDFIRE RISK REINSURANCE AND MIT-
9 IGATION POOL AND TO PROVIDE FOR A BOARD OF DIRECTORS; AMENDING CHAPTER
10 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2404, IDAHO
11 CODE, TO ESTABLISH PROVISIONS FOR THE PLAN OF OPERATION; AMENDING CHAP-
12 TER 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2405,
13 IDAHO CODE, TO PROVIDE FOR POWERS AND AUTHORITY; AMENDING CHAPTER 24,
14 TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2406, IDAHO
15 CODE, TO ESTABLISH PROVISIONS REGARDING REINSURANCE; AMENDING CHAPTER
16 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2407, IDAHO
17 CODE, TO ESTABLISH PROVISIONS REGARDING REINSURANCE PREMIUM RATES;
18 AMENDING CHAPTER 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW
19 SECTION 41-2408, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ASSESS-
20 MENTS; AMENDING CHAPTER 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF
21 A NEW SECTION 41-2409, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
22 CEDING ELIGIBILITY; AMENDING CHAPTER 24, TITLE 41, IDAHO CODE, BY THE
23 ADDITION OF A NEW SECTION 41-2410, IDAHO CODE, TO ESTABLISH PROVISIONS
24 REGARDING FUNDING; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFEC-
25 TIVE DATE.
26

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

28 SECTION 1. That Section 41-406, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The direc-
31 tor shall transmit all taxes, fines and penalties collected by him to the
32 state treasurer as provided under section 59-1014, Idaho Code. The director
33 shall file with the state controller a statement of each deposit thus made.
34 All such funds received shall be deposited into the department of insurance
35 suspense account. Such funds shall be distributed as follows:

36 (a) The director may deposit up to twenty percent (20%) of the funds
37 received in the insurance refund account which is hereby created for
38 the purpose of repaying overpayments of any taxes, fines, and penalties
39 or other erroneous receipts. There is hereby appropriated out of the
40 insurance refund account so much thereof as shall be necessary for the
41 payment of refunds. Any unencumbered balance remaining in the insur-
42 ance refund account on June 30 of each and every year in excess of forty

1 thousand dollars (\$40,000) shall be transferred to the general fund and
 2 the state controller is hereby authorized and directed on such dates to
 3 make such transfers unless the board of examiners, which is hereby au-
 4 thorized to do so, changes the date of transfer or sum to be transferred.

5 (b) That portion of the premium tax, payable to the public employee re-
 6 tirement fund as provided in section 59-1394, Idaho Code, shall be dis-
 7 tributed to that fund.

8 (c) That portion of the premium tax necessary to cover administrative
 9 costs incurred by the department in placing insurance companies or any
 10 other insurance entities into receivership or under administrative su-
 11 pervision, and such costs cannot be satisfied from the assets of these
 12 companies or entities, shall be distributed to the insurance insolvency
 13 administrative fund which is hereby created. There is hereby appro-
 14 priated out of the insurance insolvency administrative fund so much
 15 thereof as shall be necessary, but not to exceed two hundred thousand
 16 dollars (\$200,000) in any one (1) fiscal year, for the payment of the
 17 department's administrative expenses incurred in carrying out such re-
 18 ceiverships or supervision. A balance of one hundred thousand dollars
 19 (\$100,000) shall be maintained in this fund on June 30 of each year.

20 (d) After all other deductions authorized in this section have been
 21 made, if the premium tax remaining exceeds forty-five million dollars
 22 (\$45,000,000), one-fourth (1/4) of such excess is hereby appropriated
 23 and shall be paid to the Idaho individual high risk reinsurance pool
 24 established in chapter 55, title 41, Idaho Code.

25 (e) After all other deductions pursuant to this subsection have been
 26 made, if the premium tax remaining exceeds one hundred thirty-five mil-
 27 lion dollars (\$135,000,000), one fourth (1/4) of such excess is hereby
 28 appropriated and shall be paid to the Idaho wildfire risk reinsurance
 29 and mitigation pool established in chapter 24, title 41, Idaho Code.

30 ~~(e)~~ (f) The balance of the premium tax, fines and penalties shall be
 31 distributed to the general fund of the state of Idaho.

32 ~~(f)~~ (g) All moneys received for fees, licenses and miscellaneous
 33 charges collected shall be distributed to the insurance administrative
 34 account.

35 (2) The director shall make and file with the state controller an item-
 36 ized statement of the fees, licenses, taxes, fines and penalties collected
 37 by him during the preceding month.

38 SECTION 2. That the Heading for Chapter 24, Title 41, Idaho Code, be,
 39 and the same is hereby amended to read as follows:

40 CHAPTER 24
 41 PROPERTY INSURANCE CONTRACTS AND IDAHO WILDFIRE RISK REINSURANCE AND
 42 MITIGATION POOL

43 SECTION 3. That Chapter 24, Title 41, Idaho Code, be, and the same is
 44 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 45 ignated as Section 41-2402, Idaho Code, and to read as follows:

46 41-2402. DEFINITIONS. As used in this chapter:

1 (1) "Board" means the board of directors of the Idaho wildfire risk
2 reinsurance and mitigation pool established in section 41-2403, Idaho Code.

3 (2) "Ceding insurer" means an insurer that has ceded risk to the pool
4 established pursuant to this chapter.

5 (3) "Director" means the director of the department of insurance.

6 (4) "Eligible property risk" means a property located within the pool's
7 target area that meets the eligibility rules of the ceding insurer.

8 (5) "Insurer" means any entity that provides or is authorized to pro-
9 vide property insurance as defined in section 41-504, Idaho Code, in this
10 state. For purposes of this chapter, insurer includes an insurance company
11 and any other entity providing property insurance coverage in this state
12 subject to state insurance regulation. It excludes any entity providing
13 only casualty insurance, as defined by section 41-506, Idaho Code.

14 (6) "Plan of operation" means the plan of operation of the Idaho wild-
15 fire risk reinsurance and mitigation pool established pursuant to this chap-
16 ter.

17 (7) "Producer" means a producer as defined in section 41-1003(8), Idaho
18 Code, that is licensed to sell property insurance.

19 (8) "Reinsurance premium" means the premium set by the board pursuant
20 to this chapter to be paid by a ceding insurer for eligible property risks
21 ceded to the pool.

22 (9) "Target area" means the area determined by the board where:

23 (a) A substantially elevated wildfire risk is present;

24 (b) Property coverage is difficult to obtain or retain; or

25 (c) Reinsurance is challenging to obtain or retain.

26 (10) "Idaho wildfire risk reinsurance and mitigation pool" or "pool"
27 means an independent body corporate and politic with a wildfire risk rein-
28 surance fund and a wildfire risk mitigation fund, and is established to:

29 (a) Receive funding from various sources;

30 (b) Improve access to property insurance in target areas through offer-
31 ing reinsurance pursuant to the provisions of this chapter; and

32 (c) Distribute funding to mitigate wildfire risk, including but not
33 limited to grants, matching programs, and educational efforts.

34 (11) "Wildfire risk reinsurance premium" means all money paid by an in-
35 surer to obtain reinsurance coverage from the pool as well as fees and pre-
36 mium tax contributions collected pursuant to this chapter.

37 SECTION 4. That Chapter 24, Title 41, Idaho Code, be, and the same is
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
39 ignated as Section 41-2403, Idaho Code, and to read as follows:

40 41-2403. CREATION OF THE WILDFIRE RISK REINSURANCE AND MITIGATION
41 POOL -- BOARD. (1) There is hereby created an independent public body cor-
42 porate and politic to be known as the Idaho wildfire risk reinsurance and
43 mitigation pool. The pool will perform an essential governmental function
44 in the exercise of power conferred on it pursuant to this chapter. The pool
45 and any assessments imposed or collected pursuant to the operation of the
46 pool shall at all times be free from taxation of every kind.

47 (2) The pool shall have two funds:

48 (a) One (1) fund referred to as the wildfire risk reinsurance fund to
49 assist in attracting and retaining insurers to provide property cover-

1 age in target areas through offering reinsurance pursuant to the provi-
2 sions of this chapter; and

3 (b) One (1) fund referred to as the wildfire risk mitigation fund to as-
4 sist in fire prevention and mitigation.

5 (3) (a) The pool created by this section shall operate subject to the su-
6 pervision and control of the board. The board shall consist of fourteen

7 (14) appointed members:

8 (i) Twelve (12) members shall be appointed by the director and
9 serve at the pleasure of the director. In selecting members of the
10 board, the director shall appoint six (6) members representing in-
11 surers, at least two (2) of which are credentialed actuaries; two
12 (2) members shall be property insurance producers; two (2) members
13 shall represent consumer interests; one (1) member shall repre-
14 sent the forest products industry; and one (1) member shall repre-
15 sent firefighters;

16 (ii) One (1) member shall be a member of the senate appointed by
17 the president pro tempore of the senate; and

18 (iii) One (1) member shall be a member of the house of representa-
19 tives appointed by the speaker of the house of representatives.

20 (b) The director or the director's designee shall serve as an ex-offi-
21 cio member of the board. The director may request additional ex-offi-
22 cio members of the board, such as the director of the Idaho department of
23 lands or such director's designee or the Idaho state fire marshal or the
24 state fire marshal's designee.

25 (4) The initial non-legislative board members shall be appointed as
26 follows: three (3) of the members to serve a term of two (2) years; four (4)
27 of the members to serve a term of four (4) years; and three (3) of the members
28 to serve a term of six (6) years. Subsequent non-legislative board members
29 shall serve for a term of three (3) years. Legislative members of the board
30 shall serve for a term of two (2) years.

31 (5) A vacancy in a legislative member's position on the board shall be
32 filled in the same manner as the original appointment. All other vacancies
33 on the board shall be filled by the director. A non-legislative board member
34 may be removed by the director for cause.

35 SECTION 5. That Chapter 24, Title 41, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 41-2404, Idaho Code, and to read as follows:

38 41-2404. PLAN OF OPERATION. (1) The board shall submit to the director
39 a plan of operation and thereafter any amendments thereto necessary or suit-
40 able to assure the fair, reasonable, fiscally responsible, and equitable ad-
41 ministration of the pool.

42 (2) The director shall, after notice and hearing, approve the plan of
43 operation if the director determines it to be suitable to assure the fair,
44 reasonable, fiscally responsible, and equitable administration of the pool,
45 and to provide for the sharing of pool gains or losses on an equitable and
46 proportionate basis pursuant to the provisions of this chapter.

47 (3) The plan of operation shall become effective upon written approval
48 by the director.

1 (4) If the board fails to submit a suitable plan of operation, the di-
 2 rector shall, after notice and hearing, adopt and promulgate a temporary
 3 plan of operation.

4 (5) The director shall amend or rescind any plan of operation adopted
 5 pursuant to this section at the time a plan of operation or amendment is sub-
 6 mitted by the board and approved by the director.

7 (6) The plan of operation shall:

8 (a) Establish procedures for handling and accounting of pool assets and
 9 moneys, and for an annual fiscal reporting of such assets and moneys to
 10 the director;

11 (b) Establish procedures for selecting an administrator and setting
 12 forth the powers and duties of the administrator;

13 (c) Establish a procedure for providing grants to citizens for wild-
 14 fire risk mitigation. Such grant amounts should be limited to assist
 15 the largest number of citizens and may require matching funds;

16 (d) Establish a procedure for funding fire prevention and mitigation
 17 education and resources;

18 (e) Establish procedures for reinsuring wildfire risk in accordance
 19 with the provisions of this chapter;

20 (f) Establish procedures and conditions for an insurer to cede eligible
 21 property risks;

22 (g) Define the target areas where insurers may cede for reinsurance;

23 (h) Set forth the reinsurance parameters, which may include but are not
 24 limited to:

25 (i) The peril covered;

26 (ii) The initial level of claims for which the ceding insurer is
 27 responsible;

28 (iii) The coinsurance percentage at which claims above the initial
 29 level are reinsured by the pool; and

30 (iv) The maximum claims limit above which the pool no longer reim-
 31 burses;

32 (i) Establish procedures for collecting assessments from insurers to
 33 fund claims and administrative expenses incurred or estimated to be in-
 34 curred by the pool; and

35 (j) Provide for any additional matters necessary for the implementa-
 36 tion and administration of the pool.

37 SECTION 6. That Chapter 24, Title 41, Idaho Code, be, and the same is
 38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 39 ignated as Section 41-2405, Idaho Code, and to read as follows:

40 41-2405. POWERS AND AUTHORITY. (1) The pool shall have the general
 41 powers and authority granted under the laws of this state to insurance com-
 42 panies licensed to transact business, except the power to issue property
 43 coverage directly to individuals.

44 (2) In addition, the pool shall have the specific authority to:

45 (a) Enter into contracts as are necessary or proper to carry out the
 46 provisions and purposes authorized pursuant to this chapter, includ-
 47 ing the authority, with the approval of the director, to enter into con-
 48 tracts with similar programs of other states for the joint performance

1 of common functions or with persons or other organizations for the per-
2 formance of administrative functions;

3 (b) Sue or be sued, including taking any legal actions necessary or
4 proper to recover any assessments and penalties for, on behalf of, or
5 against the pool or any insurer;

6 (c) Define the conditions and target areas within which reinsurance
7 will be provided and issue reinsurance policies, in accordance with the
8 provisions of this chapter;

9 (d) Establish rules, conditions, and procedures for reinsuring risks
10 under the pool;

11 (e) Establish actuarial functions as appropriate for the operation of
12 the pool;

13 (f) Assess insurers in accordance with the provisions of section
14 41-2408, Idaho Code, and make advance interim assessments of insurers
15 as may be reasonable and necessary for organizational and interim oper-
16 ating expenses. Any interim assessments shall be credited as offsets
17 against any regular assessments due following the close of the fiscal
18 year;

19 (g) Appoint appropriate legal, actuarial, and other committees as nec-
20 essary to provide technical assistance in the operation of the pool,
21 policy, contract design, and any other function within the authority of
22 the pool;

23 (h) Borrow money to affect the purposes of the pool. Any notes or other
24 evidence of indebtedness of the pool not in default shall be legal in-
25 vestments for insurers and may be carried as admitted assets; and

26 (i) Establish rules, policies, and procedures as may be necessary or
27 convenient for the implementation of this chapter and the operation of
28 the pool.

29 (3) Neither the board nor its employees shall be liable for any obliga-
30 tions of the pool. No member or employee of the board shall be liable, and no
31 cause of action of any nature may arise against them, for any act or omission
32 related to the performance of their powers and duties pursuant to this chap-
33 ter, unless such act or omission constitutes willful or wanton misconduct.
34 The board may provide for indemnification of, and legal representation for,
35 its members and employees.

36 (4) No participation of a ceding insurer in the pool, no establishment
37 of rates, forms, or procedures, and no other joint or collective action re-
38 quired pursuant to this chapter shall be grounds for any legal action, crim-
39 inal or civil liability, or penalty against the pool or any of its ceding in-
40 surers either jointly or separately.

41 SECTION 7. That Chapter 24, Title 41, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 41-2406, Idaho Code, and to read as follows:

44 41-2406. REINSURANCE. (1) Any ceding insurer shall be liable to the
45 pool for the reinsurance premium and shall be reinsured by the pool for each
46 eligible property risk ceded pursuant to the provisions of section 41-2409,
47 Idaho Code, and the plan of operation.

48 (2) The pool shall reimburse a ceding insurer only for claims incurred
49 and paid for benefits covered by the ceding insurer's policy on an eligible

1 property risk, in accordance with the reinsurance parameters set forth in
2 the plan of operation.

3 (3) The board may adjust the reinsurance parameters by submitting an
4 amendment to the plan of operation in accordance with section 41-2404, Idaho
5 Code. The adjustments must consider the stability of the property insurance
6 market, as well as any objectives stated in the plan of operation.

7 (4) Each insurer shall file with the director, in a form and manner to
8 be prescribed by the director, a report disclosing any information deemed by
9 the director to be necessary and appropriate for the efficient and effective
10 operation of the pool.

11 SECTION 8. That Chapter 24, Title 41, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 41-2407, Idaho Code, and to read as follows:

14 41-2407. REINSURANCE PREMIUM RATES. (1) The board, as a part of the
15 plan of operation, shall establish an actuarially appropriate methodology
16 for determining reinsurance premium rates to be charged pursuant to this
17 chapter.

18 (2) The board shall periodically review the methodology established
19 under the provisions of subsection (1) of this section, including any system
20 of classification or rating factors, to assure that the methodology reason-
21 ably reflects market practices.

22 (3) The board may consider adjustments to the reinsurance premium rates
23 charged by the pool to reflect the use of effective cost containment arrange-
24 ments.

25 SECTION 9. That Chapter 24, Title 41, Idaho Code, be, and the same is
26 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
27 ignated as Section 41-2408, Idaho Code, and to read as follows:

28 41-2408. ASSESSMENTS. (1) The board shall determine and report to the
29 director the pool's net loss for the previous calendar year, including ad-
30 ministrative expenses and incurred losses for the year, taking into account
31 investment income and other appropriate gains and losses, and any premium
32 tax funds appropriated to the pool under the provisions of section 41-406,
33 Idaho Code. Any net loss for the year to the wildfire risk reinsurance fund
34 may be recouped by assessments of insurers.

35 (2) Each of the insurer's proportion of the assessment shall be deter-
36 mined by multiplying the total assessment by a fraction, the numerator of
37 which shall be the insurer's total premium earned in the preceding calendar
38 year from all property insurance in this state, and the denominator of which
39 shall be the sum of all insurers' total premiums earned in the preceding cal-
40 endar year from all property insurance in the state.

41 (3) If assessments exceed net losses of the pool, the excess shall be
42 held at interest and shall be used by the board to offset future losses or to
43 reduce pool premiums. As used in this paragraph, the term "future losses"
44 includes reserves for claims incurred but not reported.

45 (4) The plan of operation shall provide for the imposition of an inter-
46 est penalty for late payment of assessments.

1 (5) An insurer may seek from the director a deferment from all or part
2 of an assessment imposed by the board. The director may defer all or part of
3 an assessment if the director determines that the payment of an assessment
4 would place the insurer in a financially impaired condition. If all or part
5 of an assessment against an insurer is deferred, the amount deferred shall be
6 assessed against the other insurers in a manner consistent with the basis for
7 assessment set forth in this section. The insurer receiving the deferment
8 shall remain liable to the pool for the amount deferred.

9 (6) An insurer may consider any assessments imposed by the board as paid
10 claims in any ratemaking.

11 SECTION 10. That Chapter 24, Title 41, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 41-2409, Idaho Code, and to read as follows:

14 41-2409. CEDING ELIGIBILITY. (1) The pool shall provide reinsurance
15 for any eligible property risk that qualifies for reinsurance pursuant to
16 this chapter and the plan of operation.

17 (2) Reinsurance through the pool shall cease:

18 (a) On the first day of the month following the date such risk is no
19 longer an eligible property risk;

20 (b) On the date coverage under the ceding insurer's coverage ends; or

21 (c) At the option of the board, thirty (30) days after the pool makes
22 any inquiry to the ceding insurer concerning the eligibility of a given
23 risk, to which the ceding insurer does not reply.

24 SECTION 11. That Chapter 24, Title 41, Idaho Code, be, and the same is
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
26 ignated as Section 41-2410, Idaho Code, and to read as follows:

27 41-2410. FUNDING. (1) The Idaho wildfire risk reinsurance and mitiga-
28 tion pool shall be funded from the following sources:

29 (a) Premiums paid by ceding insurers for reinsurance;

30 (b) The ongoing appropriation of premium tax authorized pursuant to
31 section 41-406(1)(e), Idaho Code;

32 (c) Moneys from the reduced cigarette ignition propensity and fire-
33 fighter protection act fund allocated to the state fire marshal pur-
34 suant to sections 39-8904 and 39-8909, Idaho Code, not utilized for the
35 processing, testing, enforcement, and oversight activities authorized
36 pursuant to chapter 89, title 39, Idaho Code;

37 (d) Assessments as deemed necessary to meet the obligations of the
38 reinsurance program; and

39 (e) Grants or other contributions available for fire prevention or mit-
40 igation.

41 (2) Unless otherwise indicated in the plan of operation as approved by
42 the director, all moneys collected shall be divided equally into the wild-
43 fire risk reinsurance fund and the wildfire risk mitigation fund.

44 SECTION 12. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2024.