

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 431

BY BUSINESS COMMITTEE

AN ACT

RELATING TO INSURANCE RECORDS; AMENDING SECTION 41-2710, IDAHO CODE, TO CLARIFY THAT TITLE AGENTS MAY BE EXAMINED ON CERTAIN ISSUES, TO PROVIDE THAT THE DIRECTOR PREPARE AN EXAMINATION REPORT, TO PROVIDE THAT TITLE AGENT EXAMINATION REPORTS AND ANY RESPONSE DESIGNATED AS PUBLIC BY THE TITLE AGENT ARE NONEXEMPT PUBLIC RECORDS, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 41-4011, IDAHO CODE, TO PROVIDE THAT CERTAIN ANNUAL AND QUARTERLY REPORTS ARE PUBLIC RECORDS AVAILABLE TO THE PUBLIC AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-4111, IDAHO CODE, TO PROVIDE THAT CERTAIN ANNUAL AND QUARTERLY REPORTS ARE PUBLIC RECORDS AVAILABLE TO THE PUBLIC.

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

SECTION 1. That Section 41-2710, Idaho Code, be, and the same is hereby amended to read as follows:

41-2710. REQUIREMENTS FOR AGENTS. (1) A title insurance agent is a person owning or leasing separately or with another licensed agent a complete set of tract indexes and abstract records of each county for which policies are written and authorized in writing by a title insurer to solicit insurance, issue or countersign policies, or otherwise engage in the title insurance business. A title insurer shall not allow or permit any person, firm, association or corporation to act as its agent in relation to the issuance of any certificate, title insurance policy, or other underwriting contract unless such person, firm, association or corporation shall first have obtained a title insurance agent's license for each county for which policies are to be written from the director of the department of insurance. No person, firm, association or corporation shall act within this state as such agent for any title insurer without first having obtained a license from the director of insurance and filed a bond or cash deposit in lieu thereof as required herein.

(2) A separate agent's license for each county shall be issued by the director of the department of insurance upon due showing filed by the applicant upon forms to be provided by the director of the department of insurance and payment of a fee of fifty dollars (\$50.00), upon oath, that such applicant if an individual, is a bona fide resident of Idaho, if a firm or association is composed wholly of Idaho residents, or if a corporation is duly authorized or qualified to do business in the state, that the individual agent (or if a corporation or association, its managerial personnel who are going to exercise the license privilege) has reasonable experience or instruction in the field of title examinations and title insurance and the insurance laws of Idaho, that the applicant owns or leases, separately or with another, and maintains an adequate, complete set of tract indexes and abstract records of each county wherein he proposed to do business, and

such application shall be ~~indorsed~~ endorsed by the title insurer with whom he proposed to do business that the proposed agent is known to have a good reputation and is worthy of public trust and that such title insurer knows of no fact or condition that would disqualify the agent from receiving the permit. An agent's license shall continue from the date issued until the first day of January of each year and shall be automatically renewed thereon upon the payment of the annual fee of fifty dollars (\$50.00) by the agent, unless terminated as herein provided by the director of the department of insurance for cause. If the filing fee is not promptly paid, the applicant shall be subject to a late filing fee of two dollars (\$2.00) a day up to a maximum of one hundred dollars (\$100).

(3) Upon the termination of any agency by a title insurer or by the agent terminating, the title insurer shall immediately notify the director of the department of insurance in writing and a title insurance agent shall forthwith notify the director of the department of insurance of the name of a new title insurer with whom he proposes to do business, with the new title insurer's ~~indorsement~~ endorsement upon said notification. No title insurer shall allow the license of an agent for which it has vouched to continue unless all of the foregoing conditions have been complied with.

(4) The license of any title insurance agent may be denied, or the license suspended, revoked or renewal thereof refused, by the director of the department of insurance after notice and hearing if he finds that such license holder has:

(1a) ~~Willfully~~ Willfully violated any provisions of title 41, Idaho Code, or the ~~regulations~~ rules issued thereunder; ~~or~~

(2b) Has intentionally made a material misstatement in the application for such license; ~~or~~

(3c) Has obtained or attempted to obtain such license by fraud or misrepresentation; ~~or~~

(4d) Has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, an insured or any other person; ~~or~~

(5e) Has demonstrated his lack of trustworthiness or competence to act as such agent or been guilty of fraudulent or dishonest practices; ~~or~~

(6f) Has materially misrepresented the terms and conditions of a title insurance policy or contract, or the condition of the title represented thereby; or

(7g) Has failed to maintain a separate and distinct accounting of escrowed funds<sup>7</sup> and has failed to maintain an escrow bank account or account separate and apart from all other accounts.

(5) Before any license is denied, suspended or revoked or renewal refused, the director shall give thirty (30) days' written notice by registered mail to the licensee or applicant and the title insurer represented by the agent, and if said agent or title insurer desires, to set a date of hearing and to allow the production of evidence by said parties<sup>7</sup> or any other interested person as to the matter. The right and remedies of the parties shall be as set forth in chapter 52, title 67, Idaho Code. Any decision of the director of the department of insurance shall be made in writing and filed in his office and mailed to the title insurer and agent involved.

1       (6) As a condition of obtaining said license, the individual to be  
 2 licensed for himself, or the entity to be licensed for each employee escrow  
 3 officer shall obtain, file and pay for a surety bond as provided for an escrow  
 4 officer.

5       (7) Regular examination of the tract indexes, ~~and~~ abstract records,  
 6 and any other records to ascertain compliance with title 41, Idaho Code, and  
 7 related rules, of a title agent after the first examination thereof by the  
 8 director shall be limited to not more than every fifth year, unless the agent  
 9 otherwise requests or the director has cause to believe the same does not  
 10 comply with this chapter or the ~~regulations~~ rules thereunder. The director  
 11 shall prepare an examination report following each examination and shall  
 12 provide such report to the title agent being examined affording the person  
 13 up to twenty-eight (28) days within which to review, comment and request a  
 14 hearing. Unless a hearing is requested in accordance with chapter 2, title  
 15 41, Idaho Code, the examination report shall be deemed available to the  
 16 public notwithstanding the exemptions from disclosure provided in chapter  
 17 3, title 9, Idaho Code. In addition, if the title agency affirmatively  
 18 requests, any reply to the examination report shall be deemed available  
 19 to the public notwithstanding the exemptions from disclosure provided  
 20 in chapter 3, title 9, Idaho Code. However, all working papers and other  
 21 records produced by, obtained by or disclosed to the director or any other  
 22 person in the course of an examination hereunder shall be made available  
 23 to the person or company which was the subject of the examination in any  
 24 proceeding pursuant to chapter 2, title 41, Idaho Code, but shall otherwise  
 25 be held by the director as an exempt record not required to be made public.

26       SECTION 2. That Section 41-4011, Idaho Code, be, and the same is hereby  
 27 amended to read as follows:

28       41-4011. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The trustees of  
 29 a self-funded plan shall cause full and accurate records and accounts to be  
 30 entered and maintained covering all financial transactions and affairs of  
 31 the trust fund.

32       (2) Within ninety (90) days after close of a fiscal year of the  
 33 plan, the trustee shall make an annual statement in writing summarizing  
 34 the financial transactions of the trust fund for such fiscal year and  
 35 its financial condition at the end of such year in accordance with this  
 36 chapter and generally accepted and applicable accounting principles. The  
 37 statement shall otherwise be in form and require information as prescribed  
 38 by the director, and the financial information therein shall be certified  
 39 by the accountant by whom such information was prepared or audited. The  
 40 trustee shall promptly deliver a copy of the statement to each employer  
 41 participating in the plan, and keep a copy thereof on file in the business  
 42 office of the plan where it shall be available at all reasonable times for a  
 43 period of not less than three (3) years for review by any beneficiary.

44       (3) On or before expiration of such ninety (90) day period the trustee  
 45 shall cause an original of the annual statement to be filed with the  
 46 director. The trustee shall pay a filing fee as provided for by rule. The  
 47 director may grant a thirty (30) day extension of the time for filing the  
 48 annual statement.

1 (4) The trustee shall also file quarterly supplemental unaudited  
2 financial reports in a form and at the times prescribed by the director.

3 (5) The director shall transmit and account for all fees received by him  
4 hereunder as provided in section 41-406, Idaho Code.

5 (6) The annual and quarterly reports required under this section  
6 are public records and are available to the public, notwithstanding the  
7 exemptions from disclosure provided in chapter 3, title 9, Idaho Code.

8 SECTION 3. That Section 41-4111, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 41-4111. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The board  
11 of a joint public agency self-funded plan shall cause full and accurate  
12 records and accounts to be entered and maintained covering all financial  
13 transactions and affairs of the trust fund.

14 (2) Within ninety (90) days after the close of a fiscal year of the  
15 plan, the board shall make an annual statement in writing summarizing  
16 the financial transactions of the trust fund for such fiscal year and its  
17 financial condition at the end of such year in accordance with this chapter  
18 and generally accepted and applicable accounting principles. The statement  
19 shall be in the form as prescribed by the director and the financial  
20 information therein shall be certified by an independent public accountant  
21 by whom such information was prepared. The board shall keep a copy thereof  
22 on file in the business office of the plan where it shall be available at all  
23 reasonable times for a period of not less than three (3) years for review  
24 by any beneficiary and shall deliver a copy of a financial summary to each  
25 participating employer.

26 (3) On or before expiration of such ninety (90) day period the board  
27 shall cause an original of the annual statement to be filed with the  
28 director. The joint public agency self-funded plan shall not be subject to  
29 any filing fees provided for by rule. The director may grant a thirty (30)  
30 day extension of the time for filing the annual statement.

31 (4) The board shall also file quarterly supplemental financial reports  
32 in a form and at the times prescribed by the director.

33 (5) The annual and quarterly reports required under this section ~~shall~~  
34 be are public records and are available to the public, notwithstanding the  
35 exemptions from disclosure provided in chapter 3, title 9, Idaho Code.