

1 **INSURANCE AMENDMENTS - LICENSING**

2 **FOR SALES OF ANNUITIES**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Merlynn T. Newbold**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Insurance Code to address licensure.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires licensure under securities law before selling, soliciting, or negotiating
13 indexed annuities; and

14 ▶ makes technical changes.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 **AMENDS:**

21 **31A-23a-106**, as last amended by Chapter 81 and renumbered and amended by Chapter
22 298, Laws of Utah 2003

23 **31A-23a-108**, as renumbered and amended by Chapter 298, Laws of Utah 2003

24 **31A-23a-206**, as renumbered and amended by Chapter 298, Laws of Utah 2003

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **31A-23a-106** is amended to read:



28 **31A-23a-106. License types.**

29 (1) (a) A resident or nonresident license issued under this chapter shall be issued under
30 the license types described under Subsections [~~(1)~~] (2) through [~~(7)~~] (8).

31 (b) License types and lines of authority pertaining to each license type describe:

32 (i) the type of licensee; and

33 (ii) the lines of business that the licensee may sell, solicit, or negotiate.

34 (c) License types are intended to describe the matters to be considered under any
35 education, examination, and training required of license applicants under Sections
36 31A-23a-108, 31A-23a-202, and 31A-23a-203.

37 [~~(1)~~] (2) A producer license type includes the following lines of authority:

38 (a) life insurance, including nonvariable contracts;

39 (b) variable contracts, including variable life and annuity, if the producer has the life
40 insurance line of authority;

41 (c) accident and health insurance, including contracts issued to policyholders under:

42 (i) Chapter 7, Nonprofit Health Service Insurance Corporations; or

43 (ii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

44 (d) property insurance;

45 (e) casualty insurance, including surety and other bonds;

46 (f) title insurance under one or more of the following categories:

47 (i) search, including authority to act as a title marketing representative;

48 (ii) escrow, including authority to act as a title marketing representative;

49 (iii) search and escrow, including authority to act as a title marketing representative;

50 and

51 (iv) title marketing representative only;

52 (g) workers' compensation insurance;

53 (h) personal lines insurance; and

54 (i) surplus lines, if the producer has [~~the~~] property [~~or~~], casualty, or both property and
55 casualty lines of authority.

56 [~~(2)~~] (3) A limited line producer license type includes the following limited lines of
57 authority:

58 (a) limited line credit insurance;

- 59 (b) travel insurance;
- 60 (c) motor club insurance;
- 61 (d) car rental related insurance;
- 62 (e) legal expense insurance;
- 63 (f) bail bond producer; and
- 64 (g) viatical settlements.

65 [~~3~~] (4) A customer service representative license type includes the following lines of
 66 authority, if held by the customer service representative's employer producer:

- 67 (a) life insurance, including nonvariable contracts;
- 68 (b) accident and health insurance, including contracts issued to policyholders under:
 - 69 (i) Chapter 7, Nonprofit Health Service Insurance Corporations; or
 - 70 (ii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 71 (c) property insurance;
- 72 (d) casualty insurance, including surety and other bonds;
- 73 (e) workers' compensation insurance;
- 74 (f) personal lines insurance; and
- 75 (g) surplus lines, if the employer producer has [~~the~~] property [~~or~~], casualty, or both
 76 property and casualty lines of authority.

77 [~~4~~] (5) A consultant license type includes the following lines of authority:

- 78 (a) life insurance, including nonvariable contracts;
- 79 (b) variable contracts, including variable life and annuity, if the consultant has the life
 80 insurance line of authority;
- 81 (c) accident and health insurance, including contracts issued to policyholders under:
 - 82 (i) Chapter 7, Nonprofit Health Service Insurance Corporations; or
 - 83 (ii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 84 (d) property insurance;
- 85 (e) casualty insurance, including surety and other bonds;
- 86 (f) workers' compensation insurance; and
- 87 (g) personal lines insurance.

88 [~~5~~] (6) A managing general agent license type includes the following lines of
 89 authority:

- 90 (a) life insurance, including nonvariable contracts;
- 91 (b) variable contracts, including variable life and annuity, if the managing general
- 92 agent has the life insurance line of authority;
- 93 (c) accident and health insurance, including contracts issued to policyholders under:
- 94 (i) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 95 (ii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 96 (d) property insurance;
- 97 (e) casualty insurance, including surety and other bonds;
- 98 (f) workers' compensation insurance; and
- 99 (g) personal lines insurance.

100 ~~[(6)]~~ (7) A reinsurance intermediary license type includes the following lines of
 101 authority:

- 102 (a) life insurance, including nonvariable contracts;
- 103 (b) variable contracts, including variable life and annuity, if the reinsurance
- 104 intermediary has the life insurance line of authority;
- 105 (c) accident and health insurance, including contracts issued to policyholders under:
- 106 (i) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 107 (ii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 108 (d) property insurance;
- 109 (e) casualty insurance, including surety and other bonds;
- 110 (f) workers' compensation insurance; and
- 111 (g) personal lines insurance.

112 ~~[(7)]~~ (8) A holder of licenses under Subsections ~~[(1)]~~ (2), ~~[(4)]~~ (5), ~~[(5)]~~ (6), and ~~[(6)]~~
 113 (7) has all qualifications necessary to act as a holder of a license under Subsections ~~[(2)]~~ (3)
 114 and ~~[(3)]~~ (4).

115 ~~[(8) The]~~ (9) As to kinds of insurance not listed under Subsections (2) through (7), the
 116 commissioner may by rule recognize other intermediary lines of insurance for:

- 117 (a) a producer[;];
- 118 (b) a limited line producer[;];
- 119 (c) a customer service representative[;];
- 120 (d) a consultant[;];

121 (e) a managing general agent~~[-];~~ or
 122 (f) reinsurance [~~intermediary lines of authority as to kinds of insurance not listed under~~
 123 ~~Subsections (1) through (6)~~].

124 ~~[(9)]~~ (10) The variable contracts line of authority, including variable life and annuity
 125 line of authority requires:

126 (a) licensure as a registered agent or broker by the National Association of Securities
 127 Dealers [~~(NASD)~~]; and

128 (b) current registration with a securities broker/dealer.

129 (11) (a) For purposes of this Subsection (11), "indexed annuity" means a fixed annuity
 130 that earns interest or provides benefits that are linked to an external:

131 (i) equity reference; or

132 (ii) equity index.

133 (b) Before a person may sell, solicit, or negotiate an indexed annuity, that person shall
 134 meet the same licensing requirements described in Subsection (10) for variable contracts line of
 135 authority.

136 ~~[(10)]~~ (12) A surplus lines producer is a producer who has a surplus lines line of
 137 authority.

138 Section 2. Section **31A-23a-108** is amended to read:

139 **31A-23a-108. Examination requirements.**

140 (1) (a) The commissioner may require applicants for any particular license type under
 141 Section 31A-23a-106 to pass a line of authority examination as a requirement for a license,
 142 except that an examination may not be required of applicants for:

143 (i) licenses under Subsections 31A-23a-106~~[(2)]~~(3) and ~~[(3)]~~ (4); or

144 (ii) other limited line license lines of authority recognized by the commissioner by rule
 145 as provided in Subsection 31A-23a-106~~[(8)]~~(9).

146 (b) The examination described in Subsection (1)(a):

147 (i) shall reasonably relate to the line of authority for which it is prescribed; and

148 (ii) may be administered by the commissioner or as otherwise specified by rule.

149 (2) The commissioner shall waive the requirement of an examination for a nonresident
 150 applicant who:

151 (a) applies for an insurance producer license in this state;

152 (b) has been licensed for the same line of authority in another state; and

153 (c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant
154 applies for an insurance producer license in this state; or

155 (ii) if the application is received within 90 days of the cancellation of the applicant's
156 previous license:

157 (A) the prior state certifies that at the time of cancellation, the applicant was in good
158 standing in that state; or

159 (B) the state's producer database records maintained by the National Association of
160 Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or
161 subsidiaries, indicates that the producer is or was licensed in good standing for the line of
162 authority requested.

163 (3) A nonresident producer licensee who moves to this state and applies for a resident
164 license within 90 days of establishing legal residence in this state shall be exempt from any line
165 of authority examination that the producer was authorized on the producer's nonresident
166 producer license, except where the commissioner determines otherwise by rule.

167 (4) This section's requirement may only be applied to applicants who are natural
168 persons.

169 Section 3. Section 31A-23a-206 is amended to read:

170 **31A-23a-206. Special requirements for variable contracts line of authority --**
171 **Special requirements for indexed annuities.**

172 (1) (a) Before applying for a variable contracts line of authority, a producer or
173 consultant shall be licensed under Section 61-1-3 as a:

174 [~~(a)~~] (i) broker-dealer; or

175 [~~(b)~~] (ii) agent.

176 [~~(2)~~] (b) A producer's or consultant's variable contracts line of authority is revoked on
177 the day the producer's or consultant's license under Section 61-1-3 is no longer valid.

178 (2) (a) For purposes of this Subsection (2), "indexed annuity" means a fixed annuity
179 that earns interest or provides benefits that are linked to an external:

180 (i) equity reference; or

181 (ii) equity index.

182 (b) Before a person may sell, solicit, or negotiate an indexed annuity, that person must

183 meet the same licensing requirements described in Subsection (1) for a variable contracts line
184 of authority.

185 (c) A producer or consultant may not sell, solicit, or negotiate an indexed annuity
186 during any time period that the producer's or consultant's license under Section 61-1-3 is not
187 valid.

Legislative Review Note

as of 2-5-04 11:16 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0277

Insurance Amendments-Licensing for Sales of Annuities

13-Feb-04

10:39 AM

State Impact

Costs can be handled within existing budgets. This bill would increase revenue to the Commerce Service Fund by \$50 for everyone that gets a securities license as a result of the bill. No estimate of the number of licenses is given.

Individual and Business Impact

Individuals would pay \$50 for the license and \$500 to the National Association of Securities Dealers for testing.

Office of the Legislative Fiscal Analyst