

- 26 ▶ modifies title insurance agency and producer licensing requirements;
- 27 ▶ addresses when a title insurance producer may do an escrow involving a real
- 28 property transaction;
- 29 ▶ modifies provisions related to disbursements from escrow accounts;
- 30 ▶ modifies title insurance related assessments;
- 30a **§→ ▶ addresses licensee compensation; ←§**
- 31 ▶ addresses when a person may represent that the person acts in behalf of an insurer;
- 32 ▶ modifies provisions related to providing the commissioner address, telephone, and
- 33 email address information;
- 34 ▶ addresses verification under a nonresident jurisdictional agreement;
- 35 ▶ addresses per diem and travel expenses of public representatives on the board of
- 36 directors of the Utah Life and Health Insurance Guaranty Association;
- 37 ▶ addresses the establishment of classes of business;
- 38 ▶ modifies rating restrictions;
- 39 ▶ addresses the renewal of a bail bond surety company license;
- 40 ▶ permits the commissioner to assign a department employee to engage in certain
- 41 activities related to the regulation of captive insurance companies;
- 42 ▶ requires a professional employer organization to notify the commissioner of
- 43 material changes;
- 44 ▶ removes the title insurance assessment from the sunset act;
- 45 ▶ converts certain dedicated credits into several restricted accounts and provides that
- 46 related appropriations are nonlapsing; and
- 47 ▶ makes technical and conforming amendments.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 This bill has an effective date.

52 This bill provides for retrospective operation of certain provisions.

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **31A-1-301**, as last amended by Laws of Utah 2010, Chapter 10

56 **31A-2-208**, as last amended by Laws of Utah 2010, Chapter 391

- 57 **31A-2-212**, as last amended by Laws of Utah 2007, Chapter 309
- 58 **31A-3-304**, as last amended by Laws of Utah 2010, Chapters 10, 68 and last amended
- 59 by Coordination Clause, Laws of Utah 2010, Chapter 265
- 60 **31A-14-211**, as last amended by Laws of Utah 2003, Chapter 298
- 61 **31A-22-305**, as last amended by Laws of Utah 2010, Chapter 354
- 62 **31A-22-607**, as last amended by Laws of Utah 2004, Chapter 329
- 63 **31A-22-610.6**, as enacted by Laws of Utah 2008, Chapters 345, 383, and 390
- 64 **31A-22-614.5**, as last amended by Laws of Utah 2010, Chapter 357
- 65 **31A-22-618.5**, as last amended by Laws of Utah 2010, Chapter 68
- 66 **31A-22-625**, as last amended by Laws of Utah 2010, Chapters 10 and 68
- 67 **31A-22-701**, as last amended by Laws of Utah 2010, Chapter 10
- 68 **31A-22-716**, as last amended by Laws of Utah 2005, Chapter 71
- 69 **31A-22-721**, as last amended by Laws of Utah 2004, Chapter 329
- 70 **31A-22-723**, as last amended by Laws of Utah 2010, Chapter 68
- 71 **31A-23a-102**, as last amended by Laws of Utah 2009, Chapter 349
- 72 **31A-23a-106**, as last amended by Laws of Utah 2009, Chapter 349
- 73 **31A-23a-111**, as last amended by Laws of Utah 2009, Chapters 349 and 355
- 74 **31A-23a-202**, as last amended by Laws of Utah 2009, Chapter 127
- 75 **31A-23a-203**, as last amended by Laws of Utah 2009, Chapter 349
- 76 **31A-23a-204**, as last amended by Laws of Utah 2009, Chapter 349
- 77 **31A-23a-406**, as last amended by Laws of Utah 2007, Chapter 325
- 78 **31A-23a-408**, as renumbered and amended by Laws of Utah 2003, Chapter 298
- 79 **31A-23a-412**, as renumbered and amended by Laws of Utah 2003, Chapter 298
- 80 **31A-23a-415**, as last amended by Laws of Utah 2010, Chapter 10 and last amended by
- 81 Coordination Clause, Laws of Utah 2010, Chapter 265
- 81a **§→ 31A-23a-501, as last amended by Laws of Utah 2010, Chapter 10 ←§**
- 82 **31A-25-208**, as last amended by Laws of Utah 2009, Chapter 349
- 83 **31A-26-206**, as last amended by Laws of Utah 2008, Chapter 382
- 84 **31A-26-208**, as last amended by Laws of Utah 2008, Chapter 3
- 85 **31A-26-213**, as last amended by Laws of Utah 2009, Chapter 349
- 86 **31A-26-306**, as last amended by Laws of Utah 2004, Chapter 173
- 87 **31A-28-107**, as last amended by Laws of Utah 2010, Chapter 292

1390 (b) For new policies written on or after January 1, 2001, the limits of uninsured
 1391 motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle
 1392 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
 1393 under the insured's motor vehicle policy, unless the insured purchases coverage in a lesser
 1394 amount by signing an acknowledgment form that:

1395 (i) is filed with the department;

1396 (ii) is provided by the insurer;

1397 (iii) waives the higher coverage;

1398 (iv) reasonably explains the purpose of uninsured motorist coverage; and

1399 (v) discloses the additional premiums required to purchase uninsured motorist
 1400 coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability
 1401 coverage or the maximum uninsured motorist coverage limits available by the insurer under the
 1402 insured's motor vehicle policy.

1403 (c) A self-insured, including a governmental entity, may elect to provide uninsured
 1404 motorist coverage in an amount that is less than its maximum self-insured retention under
 1405 Subsections (3)(b) and (4)(a) by issuing a declaratory memorandum or policy statement from
 1406 the chief financial officer or chief risk officer that declares the:

1407 (i) self-insured entity's coverage level; and

1408 (ii) process for filing an uninsured motorist claim.

1409 (d) Uninsured motorist coverage may not be sold with limits that are less than the
 1410 minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

1411 (e) The acknowledgment under Subsection (3)(b) continues for that issuer of the
 1412 uninsured motorist coverage until the insured, in writing, requests different uninsured motorist
 1413 coverage from the insurer.

1414 **H→ [F] (f) (i) In conjunction with the first two renewal notices sent after January 1,**
 1414a **2001, for**

1415 **policies existing on that date, the insurer shall disclose in the same medium as the premium**
 1416 **renewal notice, an explanation of: [F]**

1417 **[F] (A) the purpose of uninsured motorist coverage; and [F]**

1418 **[F] (B) the costs associated with increasing the coverage in amounts up to and**
 1418a **including**

1419 **the maximum amount available by the insurer under the insured's motor vehicle policy. [F]**

1420 **[F] (ii) The disclosure required under this Subsection (3)(f) shall be sent to all insureds**

1421 that carry uninsured motorist coverage limits in an amount less than the insured's motor
1421a vehicle

1422 liability policy limits or the maximum uninsured motorist coverage limits available by the
1423 insurer under the insured's motor vehicle policy. [j] ←Ĥ

1424 (4) (a) (i) Except as provided in Subsection (4)(b), the named insured may reject
1425 uninsured motorist coverage by an express writing to the insurer that provides liability
1426 coverage under Subsection 31A-22-302(1)(a).

1427 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable
1428 explanation of the purpose of uninsured motorist coverage.

1429 (iii) This rejection continues for that issuer of the liability coverage until the insured in
1430 writing requests uninsured motorist coverage from that liability insurer.

1431 (b) (i) All persons, including governmental entities, that are engaged in the business of,
1432 or that accept payment for, transporting natural persons by motor vehicle, and all school
1433 districts that provide transportation services for their students, shall provide coverage for all
1434 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
1435 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

1436 (ii) This coverage is secondary to any other insurance covering an injured covered
1437 person.

1438 (c) Uninsured motorist coverage:

1439 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
1440 Compensation Act;

1441 (ii) may not be subrogated by the workers' compensation insurance carrier;

1442 (iii) may not be reduced by any benefits provided by workers' compensation insurance;

1443 (iv) may be reduced by health insurance subrogation only after the covered person has
1444 been made whole;

1445 (v) may not be collected for bodily injury or death sustained by a person:

1446 (A) while committing a violation of Section 41-1a-1314;

1447 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
1448 in violation of Section 41-1a-1314; or

1449 (C) while committing a felony; and

1450 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

1451 (A) for a person under 18 years of age who is injured within the scope of Subsection

1855 the requirements of Chapter 8, Health Maintenance Organizations and Limited Health Plans;
1856 and

1857 (b) may offer to a potential purchaser one or more health benefit plans that:

1858 (i) are not subject to one or more of the following:

1859 (A) the limitations on insured indemnity benefits in Subsection 31A-8-105(4);

1860 (B) the limitation on point of service products in Subsections 31A-8-408(3) through

1861 (6);

1862 (C) except as provided in Subsection (2)(b)(ii), basic health care services as defined in
1863 Section 31A-8-101; or

1864 (D) coverage mandates enacted after January 1, 2009 that are not required by federal
1865 law, provided that the insurer offers one plan under Subsection (2)(a) that covers the mandate
1866 enacted after January 1, 2009; and

1867 (ii) when offering a health plan under this section, provide coverage for an emergency
1868 medical condition as required by Section 31A-22-627 as follows:

1869 (A) within the organization's service area, covered services shall include health care
1870 services from non-affiliated providers when medically necessary to stabilize an emergency
1871 medical condition; and

1872 (B) outside the organization's service area, covered services shall include medically
1873 necessary health care services for the treatment of an emergency medical condition that are
1874 immediately required while the enrollee is outside the geographic limits of the organization's
1875 service area.

1876 (3) An insurer that offers a health benefit plan that is not subject to Chapter 8, Health
1877 Maintenance Organizations and Limited Health Plans:

1878 (a) notwithstanding Subsection 31A-22-617(2), may offer a health benefit plan that
1879 groups providers into the following reimbursement levels:

1880 (i) tier one contracted providers;

1881 (ii) tier two contracted providers who the insurer must reimburse at least 75% of tier
1882 one providers; and

1883 (iii) one or more tiers of non-contracted providers; ~~H→~~ [and] ~~←H~~

1884 (b) notwithstanding Subsection 31A-22-617(9) may offer a health benefit plan that is
1885 not subject to Section 31A-22-618;

2258 individual conversion policy within 30 days of the insurer receiving notice of, the insured's
 2259 termination of ~~H~~→ COBRA or Utah mini-COBRA ←~~H~~ coverage to:

2260 (i) the terminated insured;

2261 (ii) the ex-spouse; or

2262 (iii) in the case of the death of the insured:

2263 (A) the surviving spouse; and

2264 (B) the guardian of any dependents, if different from a surviving spouse.

2265 (b) The notification required by Subsection (4)(a) shall:

2266 (i) be sent by first class mail;

2267 (ii) contain the name, address, and telephone number of the insurer that will provide
 2268 the conversion coverage; and

2269 (iii) be sent to the insured's last-known address as shown on the records of the
 2270 employer of:

2271 (A) the insured;

2272 (B) the ex-spouse; and

2273 (C) if the policy terminates by reason of the death of the insured to:

2274 (I) the surviving spouse; and

2275 (II) the guardian of any dependents, if different from a surviving spouse.

2276 (5) (a) An insurer is not required to issue a converted policy [~~which~~] that provides
 2277 benefits in excess of those provided under the group policy from which conversion is made.

2278 (b) Except as provided in Subsection (5)(c), if the conversion is made from a health
 2279 benefit plan, the employee or member shall be offered[~~:(i) at least the basic benefit plan as~~
 2280 ~~provided in Section 31A-22-613.5 through December 31, 2009; and (ii) beginning January 1,~~
 2281 ~~2010, only~~] the alternative coverage as provided in Subsection 31A-22-724(1)(a).

2282 (c) If the benefit levels required under Subsection (5)(b) exceed the benefit levels
 2283 provided under the group policy, the conversion policy may offer benefits [~~which~~] that are
 2284 substantially similar to those provided under the group policy.

2285 (6) Written application for [~~the~~] a converted policy shall be made and the first premium
 2286 paid to the insurer no later than [~~60~~] 30 days after [~~termination of the group accident and health~~
 2287 ~~insurance~~] the date of notice under Subsection (4)(a).

2288 (7) [~~The~~] A converted policy shall be issued without evidence of insurability.

2909 (d) ~~[(i) all funds]~~ money deposited with the title insurance producer in connection with
 2910 any escrow:

2911 ~~[(A) are]~~ (i) is deposited:

2912 ~~[(F)] (A)~~ in a federally insured financial institution; and

2913 ~~[(H)] (B)~~ in a trust account that is separate from all other trust account ~~[funds that are]~~
 2914 money that is not related to real estate transactions; ~~[and]~~

2915 ~~[(B) are]~~ (ii) is the property of the one or more persons entitled to ~~[them]~~ the money
 2916 under the provisions of the escrow; and

2917 ~~[(ii) are]~~ (iii) is segregated escrow by escrow in the records of the title insurance
 2918 producer;

2919 (e) earnings on ~~[funds]~~ money held in escrow may be paid out of the escrow account to
 2920 any person in accordance with the conditions of the escrow; ~~[and]~~

2921 (f) the escrow does not require the title insurance producer to hold:

2922 (i) construction ~~[funds]~~ money; or

2923 (ii) ~~[funds]~~ money held for exchange under Section 1031, Internal Revenue Code[-];

2924 and

2925 (g) ~~H→~~ [if] ~~←H~~ the title insurance producer ~~H→~~ shall maintain a physical office in Utah
 2925a staffed by a person ~~←H~~ with an escrow subline of authority ~~H→~~ [conducts a
 2926 closing, the title insurance producer is physically present with a borrower, seller, or purchaser
 2927 involving real estate that is the subject of the real estate transaction] who processes the escrow ~~←H~~ .

2928 (2) Notwithstanding Subsection (1), a title insurance producer may engage in the
 2929 escrow business if:

2930 (a) the escrow involves:

2931 (i) a mobile home;

2932 (ii) a grazing right;

2933 (iii) a water right; or

2934 (iv) other personal property authorized by the commissioner; and

2935 (b) the title insurance producer complies with ~~[all the requirements of]~~ this section
 2936 except for ~~[the requirement of]~~ Subsection (1)(c).

2937 (3) ~~[Funds]~~ Money held in escrow:

2938 (a) ~~[are]~~ is not subject to any debts of the title insurance producer;

2939 (b) may only be used to fulfill the terms of the individual escrow under which the

3126 received by the state under this section.

3127 (d) The commissioner shall administer the Title Licensee Enforcement Restricted
3128 Account. Subject to appropriations by the Legislature, the commissioner shall use the money
3129 deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or
3130 expense incurred by the department in the administration, investigation, and enforcement of
3131 this part and Part 5, Compensation of Producers and Consultants, related to:

3132 (i) the marketing of title insurance; and

3133 (ii) audits of agencies.

3134 (e) An appropriation from the Title Licensee Enforcement Restricted Account is
3135 nonlapsing.

3136 (4) The assessment imposed by this section shall be in addition to any premium
3137 assessment imposed under Subsection 59-9-101(3).

3137a **§→ Section 26. Section 31A-23A-501 is amended to read:**

3137b **31A-23a-501. Licensee compensation.**

3137c (1) As used in this section:

3137d (a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee
3137e from:

3137f (i) commission amounts deducted from insurance premiums on insurance sold by or placed
3137g through the licensee; or

3137h (ii) commission amounts received from an insurer or another licensee as a result of the sale or
3137i placement of insurance.

3137j (b) (i) "Compensation from an insurer or third party administrator" means commissions, fees,
3137k awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other
3137l form of valuable consideration:

3137m (A) whether or not payable pursuant to a written agreement; and

3137n (B) received from:

3137o (I) an insurer; or

3137p (II) a third party to the transaction for the sale or placement of insurance.

3137q (ii) "Compensation from an insurer or third party administrator" does not mean
3137r compensation from a customer that is:

3137s (A) a fee or pass-through costs as provided in Subsection (1)(e); or

3137t (B) a fee or amount collected by or paid to the producer that does not exceed an amount
3137u established by the commissioner by administrative rule.

3137v (c) (i) "Customer" means:

3137w (A) the person signing the application or submission for insurance; or

3137x (B) the authorized representative of the insured actually negotiating the placement of
3137y insurance with the producer.

3137z (ii) "Customer" does not mean a person who is a participant or beneficiary of:

3137aa (A) an employee benefit plan; or ←§

- 3137ab **§→ (B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated**
 3137ac **by the producer or affiliate.**
- 3137ad (d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of
 3137ae a licensee other than commission compensation.
- 3137af (ii) "Noncommission compensation" does not include charges for pass-through costs incurred
 3137ag by the licensee in connection with obtaining, placing, or servicing an insurance policy.
- 3137ah (e) "Pass-through costs" include:
- 3137ai (i) costs for copying documents to be submitted to the insurer; and
- 3137aj (ii) bank costs for processing cash or credit card payments.
- 3137ak (2) A licensee may receive from an insured or from a person purchasing an insurance policy,
 3137al noncommission compensation if the noncommission compensation is stated on a separate, written
 3137am disclosure.
- 3137an (a) The disclosure required by this Subsection (2) shall:
- 3137ao (i) include the signature of the insured or prospective insured acknowledging the
 3137ap noncommission compensation;
- 3137aq (ii) clearly specify the amount or extent of the noncommission compensation; and
- 3137ar (iii) be provided to the insured or prospective insured before the performance of the service.
- 3137as (b) Noncommission compensation shall be:
- 3137at (i) limited to actual or reasonable expenses incurred for services; and
- 3137au (ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or
 3137av for a specific service or services.
- 3137aw (c) A copy of the signed disclosure required by this Subsection (2) must be maintained by any
 3137ax licensee who collects or receives the noncommission compensation or any portion of the
 3137ay noncommission compensation.
- 3137az (d) All accounting records relating to noncommission compensation shall be maintained by the
 3137ba person described in Subsection (2)(c) in a manner that facilitates an audit.
- 3137bb (3) (a) A licensee may receive noncommission compensation when acting as a producer for the
 3137bc insured in connection with the actual sale or placement of insurance if:
- 3137bd (i) the producer and the insured have agreed on the producer's noncommission compensation;
 3137be and
- 3137bf (ii) the producer has disclosed to the insured the existence and source of any other
 3137bg compensation that accrues to the producer as a result of the transaction.
- 3137bh (b) The disclosure required by this Subsection (3) shall:
- 3137bi (i) include the signature of the insured or prospective insured acknowledging the
 3137bj noncommission compensation;
- 3137bk (ii) clearly specify the amount or extent of the noncommission compensation and the existence
 3137bl and source of any other compensation; and
- 3137bm (iii) be provided to the insured or prospective insured before the performance of the service.
- 3137bn (c) The following additional noncommission compensation is authorized:
- 3137bo (i) compensation received by a producer of a compensated corporate surety who ←§

- 3137bp **§→ under procedures approved by a rule or order of the commissioner is paid by surety bond**
 3137bq **principal debtors for extra services;**
- 3137br (ii) **compensation received by an insurance producer who is also licensed as a public adjuster**
 3137bs **under Section 31A-26-203, for services performed for an insured in connection with a claim**
 3137bt **adjustment, so long as the producer does not receive or is not promised compensation for aiding in the**
 3137bu **claim adjustment prior to the occurrence of the claim;**
- 3137bv (iii) **compensation received by a consultant as a consulting fee, provided the consultant**
 3137bw **complies with the requirements of Section 31A-23a-401; or**
- 3137bx (iv) **other compensation arrangements approved by the commissioner after a finding that they**
 3137by **do not violate Section 31A-23a-401 and are not harmful to the public.**
- 3137bz (4) (a) **For purposes of this Subsection (4), "producer" includes:**
- 3137ca (i) **a producer;**
- 3137cb (ii) **an affiliate of a producer; or**
- 3137cc (iii) **a consultant.**
- 3137cd (b) **Beginning January 1, 2010, in addition to any other disclosures required by this section, a**
 3137ce **producer may not accept or receive any compensation from an insurer or third party administrator**
 3137cf **for the placement of a health benefit plan, other than a hospital confinement indemnity policy, unless**
 3137cg **prior to the customer's purchase of the health benefit plan the producer:**
- 3137ch (i) **except as provided in Subsection (4)(c), discloses in writing to the customer that the**
 3137ci **producer will receive compensation from the insurer or third party administrator for the placement of**
 3137cj **insurance, including the amount or type of compensation known to the producer at the time of the**
 3137ck **disclosure; and**
- 3137cl (ii) **except as provided in Subsection (4)(c):**
- 3137cm (A) **obtains the customer's signed acknowledgment that the disclosure under Subsection**
 3137cn **(4)(b)(i) was made to the customer; or**
- 3137co (B) (I) **signs a statement that the disclosure required by Subsection (4)(b)(i) was made to the**
 3137cp **customer; and**
- 3137cq (II) **keeps the signed statement on file in the producer's office while the health benefit plan**
 3137cr **placed with the customer is in force.**
- 3137cs (c) **If the compensation to the producer from an insurer or third party administrator is for the**
 3137ct **renewal of a health benefit plan, once the producer has made an initial disclosure that complies with**
 3137cu **Subsection (4)(b), the producer does not have to disclose compensation received for the subsequent**
 3137cv **yearly renewals in accordance with Subsection (4)(b) until the renewal period immediately following**
 3137cw **36 months after the initial disclosure.**
- 3137cx (d) (i) **A licensee who collects or receives any part of the compensation from an insurer or third**
 3137cy **party administrator in a manner that facilitates an audit shall, while the health benefit plan placed**
 3137cz **with the customer is in force, maintain a copy of:**
- 3137da (A) **the signed acknowledgment described in Subsection (4)(b)(i); or**
- 3137db (B) **the signed statement described in Subsection (4)(b)(ii).**
- 3137dc (ii) **The standard application developed in accordance with Section 31A-22-635 shall include ←§**

3137dd **§→ a place for a producer to provide the disclosure required by this Subsection (4), and if completed,**
 3137de **shall satisfy the requirement of Subsection (4)(d)(i).**

3137df (e) **Subsection (4)(b)(ii) does not apply to:**

3137dg (i) **a person licensed as a producer who acts only as an intermediary between an insurer and**
 3137dh **the customer's producer, including a managing general agent; or**

3137di (ii) **the placement of insurance in a secondary or residual market.**

3137dj (5) **This section does not alter the right of any licensee to recover from an insured the amount**
 3137dk **of any premium due for insurance effected by or through that licensee or to charge a reasonable rate**
 3137dl **of interest upon past-due accounts.**

3137dm (6) **This section does not apply to bail bond producers or bail enforcement agents as defined in**
 3137dn **Section 31A-35-102.**

3137do **(7) A licensee may not receive noncommission compensation for providing a service or engaging in an**
 3137dp **act that is required to be provided or performed in order to receive commission compensation.** ←§

3138 Section **§→ [26] 27 ←§** . Section **31A-25-208** is amended to read:

3139 **31A-25-208. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
 3140 **terminating a license -- Rulemaking for renewal and reinstatement.**

3141 (1) A license type issued under this chapter remains in force until:

3142 (a) revoked or suspended under Subsection (4);

3143 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
 3144 administrative action;

3145 (c) the licensee dies or is adjudicated incompetent as defined under:

3146 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

3147 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
 3148 Minors;

3149 (d) lapsed under Section 31A-25-210; or

3150 (e) voluntarily surrendered.

3151 (2) The following may be reinstated within one year after the day on which the license
 3152 is no longer in force:

3153 (a) a lapsed license; or

3154 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
 3155 not be reinstated after the license period in which the license is voluntarily surrendered.

3156 (3) Unless otherwise stated in ~~[the]~~ a written agreement for the voluntary surrender of a

4087 and individual carriers.

4088 (11) Records submitted to the commissioner under this section shall be maintained by
4089 the commissioner as protected records under Title 63G, Chapter 2, Government Records
4090 Access and Management Act.

4091 Section 38. Section **31A-30-106.5** is amended to read:

4092 **31A-30-106.5. Conversion policy -- Premiums -- Rating restrictions.**

4093 (1) [~~All provisions of Section 31A-30-106.1 apply~~] Section 31A-30-106 applies to
4094 conversion policies.

4095 (2) Conversion policy premium rates may not exceed by more than 35% the index rate
4096 for ~~H~~→ [F] **small employers** [J] [individuals] ←~~H~~ with similar case characteristics for any class
4096a of business in
4097 which the policy form has been [~~approved~~] filed.

4098 (3) An insurer may not consider pregnancy of a covered insured in determining its
4099 conversion policy premium rates.

4100 Section 39. Section **31A-30-108** is amended to read:

4101 **31A-30-108. Eligibility for small employer and individual market.**

4102 (1) (a) Small employer carriers shall accept residents for small group coverage as set
4103 forth in the Health Insurance Portability and Accountability Act, [~~P.L. 104-191, 110 Stat.~~
4104 ~~1962,~~] Sec. 2701(f) and 2711(a).

4105 (b) Individual carriers shall accept residents for individual coverage pursuant to:

4106 (i) [~~to P.L. 104-191, 110 Stat. 1979~~] Health Insurance Portability and Accountability
4107 Act, Sec. 2741(a)-(b); and

4108 (ii) Subsection (3).

4109 (2) (a) Small employer carriers shall offer to accept all eligible employees and their
4110 dependents at the same level of benefits under any health benefit plan provided to a small
4111 employer.

4112 (b) Small employer carriers may:

4113 (i) request a small employer to submit a copy of the small employer's quarterly income
4114 tax withholdings to determine whether the employees for whom coverage is provided or
4115 requested are bona fide employees of the small employer; and

4116 (ii) deny or terminate coverage if the small employer refuses to provide documentation
4117 requested under Subsection (2)(b)(i).