

1                   **SMALL EMPLOYER HEALTH INSURANCE AMENDMENT**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Todd Weiler**

5                                   House Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends the definition of "small employer" as used in the Insurance Code.

10 **Highlighted Provisions:**

11       This bill:

- 12           ▶ amends the definition of "small employer" as used in the Insurance Code for  
13 policies entered into or renewed on or after January 15, 2015; and  
14           ▶ makes technical changes.

15 **Money Appropriated in this Bill:**

16       None

17 **Other Special Clauses:**

18       None

19 **Utah Code Sections Affected:**

20 AMENDS:

21           **31A-1-301**, as last amended by Laws of Utah 2013, Chapter 319

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

24       Section 1. Section **31A-1-301** is amended to read:

25       **31A-1-301. Definitions.**

26       As used in this title, unless otherwise specified:

27       (1) (a) "Accident and health insurance" means insurance to provide protection against



28 economic losses resulting from:

29 (i) a medical condition including:

30 (A) a medical care expense; or

31 (B) the risk of disability;

32 (ii) accident; or

33 (iii) sickness.

34 (b) "Accident and health insurance":

35 (i) includes a contract with disability contingencies including:

36 (A) an income replacement contract;

37 (B) a health care contract;

38 (C) an expense reimbursement contract;

39 (D) a credit accident and health contract;

40 (E) a continuing care contract; and

41 (F) a long-term care contract; and

42 (ii) may provide:

43 (A) hospital coverage;

44 (B) surgical coverage;

45 (C) medical coverage;

46 (D) loss of income coverage;

47 (E) prescription drug coverage;

48 (F) dental coverage; or

49 (G) vision coverage.

50 (c) "Accident and health insurance" does not include workers' compensation insurance.

51 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title

52 63G, Chapter 3, Utah Administrative Rulemaking Act.

53 (3) "Administrator" is defined in Subsection (163).

54 (4) "Adult" means an individual who has attained the age of at least 18 years.

55 (5) "Affiliate" means a person who controls, is controlled by, or is under common

56 control with, another person. A corporation is an affiliate of another corporation, regardless of

57 ownership, if substantially the same group of individuals manage the corporations.

58 (6) "Agency" means:

59 (a) a person other than an individual, including a sole proprietorship by which an  
60 individual does business under an assumed name; and

61 (b) an insurance organization licensed or required to be licensed under Section  
62 [31A-23a-301](#), [31A-25-207](#), or [31A-26-209](#).

63 (7) "Alien insurer" means an insurer domiciled outside the United States.

64 (8) "Amendment" means an endorsement to an insurance policy or certificate.

65 (9) "Annuity" means an agreement to make periodical payments for a period certain or  
66 over the lifetime of one or more individuals if the making or continuance of all or some of the  
67 series of the payments, or the amount of the payment, is dependent upon the continuance of  
68 human life.

69 (10) "Application" means a document:

70 (a) (i) completed by an applicant to provide information about the risk to be insured;

71 and

72 (ii) that contains information that is used by the insurer to evaluate risk and decide  
73 whether to:

74 (A) insure the risk under:

75 (I) the coverage as originally offered; or

76 (II) a modification of the coverage as originally offered; or

77 (B) decline to insure the risk; or

78 (b) used by the insurer to gather information from the applicant before issuance of an  
79 annuity contract.

80 (11) "Articles" or "articles of incorporation" means:

81 (a) the original articles;

82 (b) a special law;

83 (c) a charter;

84 (d) an amendment;

85 (e) restated articles;

86 (f) articles of merger or consolidation;

87 (g) a trust instrument;

88 (h) another constitutive document for a trust or other entity that is not a corporation;

89 and

- 90 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 91 (12) "Bail bond insurance" means a guarantee that a person will attend court when
- 92 required, up to and including surrender of the person in execution of a sentence imposed under
- 93 Subsection 77-20-7(1), as a condition to the release of that person from confinement.
- 94 (13) "Binder" is defined in Section 31A-21-102.
- 95 (14) "Blanket insurance policy" means a group policy covering a defined class of
- 96 persons:
  - 97 (a) without individual underwriting or application; and
  - 98 (b) that is determined by definition without designating each person covered.
- 99 (15) "Board," "board of trustees," or "board of directors" means the group of persons
- 100 with responsibility over, or management of, a corporation, however designated.
- 101 (16) "Bona fide office" means a physical office in this state:
  - 102 (a) that is open to the public;
  - 103 (b) that is staffed during regular business hours on regular business days; and
  - 104 (c) at which the public may appear in person to obtain services.
- 105 (17) "Business entity" means:
  - 106 (a) a corporation;
  - 107 (b) an association;
  - 108 (c) a partnership;
  - 109 (d) a limited liability company;
  - 110 (e) a limited liability partnership; or
  - 111 (f) another legal entity.
- 112 (18) "Business of insurance" is defined in Subsection (88).
- 113 (19) "Business plan" means the information required to be supplied to the
- 114 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
- 115 when these subsections apply by reference under:
  - 116 (a) Section 31A-7-201;
  - 117 (b) Section 31A-8-205; or
  - 118 (c) Subsection 31A-9-205(2).
- 119 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
- 120 corporation's affairs, however designated.

- 121 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
- 122 corporation.
- 123 (21) "Captive insurance company" means:
- 124 (a) an insurer:
- 125 (i) owned by another organization; and
- 126 (ii) whose exclusive purpose is to insure risks of the parent organization and an
- 127 affiliated company; or
- 128 (b) in the case of a group or association, an insurer:
- 129 (i) owned by the insureds; and
- 130 (ii) whose exclusive purpose is to insure risks of:
- 131 (A) a member organization;
- 132 (B) a group member; or
- 133 (C) an affiliate of:
- 134 (I) a member organization; or
- 135 (II) a group member.
- 136 (22) "Casualty insurance" means liability insurance.
- 137 (23) "Certificate" means evidence of insurance given to:
- 138 (a) an insured under a group insurance policy; or
- 139 (b) a third party.
- 140 (24) "Certificate of authority" is included within the term "license."
- 141 (25) "Claim," unless the context otherwise requires, means a request or demand on an
- 142 insurer for payment of a benefit according to the terms of an insurance policy.
- 143 (26) "Claims-made coverage" means an insurance contract or provision limiting
- 144 coverage under a policy insuring against legal liability to claims that are first made against the
- 145 insured while the policy is in force.
- 146 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
- 147 commissioner.
- 148 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent
- 149 supervisory official of another jurisdiction.
- 150 (28) (a) "Continuing care insurance" means insurance that:
- 151 (i) provides board and lodging;

152 (ii) provides one or more of the following:

153 (A) a personal service;

154 (B) a nursing service;

155 (C) a medical service; or

156 (D) any other health-related service; and

157 (iii) provides the coverage described in this Subsection (28)(a) under an agreement

158 effective:

159 (A) for the life of the insured; or

160 (B) for a period in excess of one year.

161 (b) Insurance is continuing care insurance regardless of whether or not the board and

162 lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

163 (29) (a) "Control," "controlling," "controlled," or "under common control" means the

164 direct or indirect possession of the power to direct or cause the direction of the management

165 and policies of a person. This control may be:

166 (i) by contract;

167 (ii) by common management;

168 (iii) through the ownership of voting securities; or

169 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

170 (b) There is no presumption that an individual holding an official position with another

171 person controls that person solely by reason of the position.

172 (c) A person having a contract or arrangement giving control is considered to have

173 control despite the illegality or invalidity of the contract or arrangement.

174 (d) There is a rebuttable presumption of control in a person who directly or indirectly

175 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the

176 voting securities of another person.

177 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly

178 controlled by a producer.

179 (31) "Controlling person" means a person that directly or indirectly has the power to

180 direct or cause to be directed, the management, control, or activities of a reinsurance

181 intermediary.

182 (32) "Controlling producer" means a producer who directly or indirectly controls an

183 insurer.

184 (33) (a) "Corporation" means an insurance corporation, except when referring to:

185 (i) a corporation doing business:

186 (A) as:

187 (I) an insurance producer;

188 (II) a surplus lines producer;

189 (III) a limited line producer;

190 (IV) a consultant;

191 (V) a managing general agent;

192 (VI) a reinsurance intermediary;

193 (VII) a third party administrator; or

194 (VIII) an adjuster; and

195 (B) under:

196 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

197 Reinsurance Intermediaries;

198 (II) Chapter 25, Third Party Administrators; or

199 (III) Chapter 26, Insurance Adjusters; or

200 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance

201 Holding Companies.

202 (b) "Stock corporation" means a stock insurance corporation.

203 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.

204 (34) (a) "Creditable coverage" has the same meaning as provided in federal regulations

205 adopted pursuant to the Health Insurance Portability and Accountability Act.

206 (b) "Creditable coverage" includes coverage that is offered through a public health plan

207 such as:

208 (i) the Primary Care Network Program under a Medicaid primary care network

209 demonstration waiver obtained subject to Section [26-18-3](#);

210 (ii) the Children's Health Insurance Program under Section [26-40-106](#); or

211 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.

212 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.

213 (35) "Credit accident and health insurance" means insurance on a debtor to provide

214 indemnity for payments coming due on a specific loan or other credit transaction while the  
215 debtor has a disability.

216 (36) (a) "Credit insurance" means insurance offered in connection with an extension of  
217 credit that is limited to partially or wholly extinguishing that credit obligation.

218 (b) "Credit insurance" includes:

- 219 (i) credit accident and health insurance;
- 220 (ii) credit life insurance;
- 221 (iii) credit property insurance;
- 222 (iv) credit unemployment insurance;
- 223 (v) guaranteed automobile protection insurance;
- 224 (vi) involuntary unemployment insurance;
- 225 (vii) mortgage accident and health insurance;
- 226 (viii) mortgage guaranty insurance; and
- 227 (ix) mortgage life insurance.

228 (37) "Credit life insurance" means insurance on the life of a debtor in connection with  
229 an extension of credit that pays a person if the debtor dies.

230 (38) "Credit property insurance" means insurance:

- 231 (a) offered in connection with an extension of credit; and
- 232 (b) that protects the property until the debt is paid.

233 (39) "Credit unemployment insurance" means insurance:

- 234 (a) offered in connection with an extension of credit; and
- 235 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
  - 236 (i) specific loan; or
  - 237 (ii) credit transaction.

238 (40) "Creditor" means a person, including an insured, having a claim, whether:

- 239 (a) matured;
- 240 (b) unmatured;
- 241 (c) liquidated;
- 242 (d) unliquidated;
- 243 (e) secured;
- 244 (f) unsecured;



245 (g) absolute;

246 (h) fixed; or

247 (i) contingent.

248 (41) (a) "Crop insurance" means insurance providing protection against damage to  
249 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,  
250 disease, or other yield-reducing conditions or perils that is:

251 (i) provided by the private insurance market; or

252 (ii) subsidized by the Federal Crop Insurance Corporation.

253 (b) "Crop insurance" includes multiperil crop insurance.

254 (42) (a) "Customer service representative" means a person that provides an insurance  
255 service and insurance product information:

256 (i) for the customer service representative's:

257 (A) producer;

258 (B) surplus lines producer; or

259 (C) consultant employer; and

260 (ii) to the customer service representative's employer's:

261 (A) customer;

262 (B) client; or

263 (C) organization.

264 (b) A customer service representative may only operate within the scope of authority of  
265 the customer service representative's producer, surplus lines producer, or consultant employer.

266 (43) "Deadline" means a final date or time:

267 (a) imposed by:

268 (i) statute;

269 (ii) rule; or

270 (iii) order; and

271 (b) by which a required filing or payment must be received by the department.

272 (44) "Deemer clause" means a provision under this title under which upon the  
273 occurrence of a condition precedent, the commissioner is considered to have taken a specific  
274 action. If the statute so provides, a condition precedent may be the commissioner's failure to  
275 take a specific action.

276 (45) "Degree of relationship" means the number of steps between two persons  
277 determined by counting the generations separating one person from a common ancestor and  
278 then counting the generations to the other person.

279 (46) "Department" means the Insurance Department.

280 (47) "Director" means a member of the board of directors of a corporation.

281 (48) "Disability" means a physiological or psychological condition that partially or  
282 totally limits an individual's ability to:

283 (a) perform the duties of:

284 (i) that individual's occupation; or

285 (ii) any occupation for which the individual is reasonably suited by education, training,  
286 or experience; or

287 (b) perform two or more of the following basic activities of daily living:

288 (i) eating;

289 (ii) toileting;

290 (iii) transferring;

291 (iv) bathing; or

292 (v) dressing.

293 (49) "Disability income insurance" is defined in Subsection (79).

294 (50) "Domestic insurer" means an insurer organized under the laws of this state.

295 (51) "Domiciliary state" means the state in which an insurer:

296 (a) is incorporated;

297 (b) is organized; or

298 (c) in the case of an alien insurer, enters into the United States.

299 (52) (a) "Eligible employee" means:

300 (i) an employee who:

301 (A) works on a full-time basis; and

302 (B) has a normal work week of 30 or more hours; or

303 (ii) a person described in Subsection (52)(b).

304 (b) "Eligible employee" includes, if the individual is included under a health benefit  
305 plan of a small employer:

306 (i) a sole proprietor;

- 307 (ii) a partner in a partnership; or
- 308 (iii) an independent contractor.
- 309 (c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):
- 310 (i) an individual who works on a temporary or substitute basis for a small employer;
- 311 (ii) an employer's spouse; or
- 312 (iii) a dependent of an employer.
- 313 (53) "Employee" means an individual employed by an employer.
- 314 (54) "Employee benefits" means one or more benefits or services provided to:
- 315 (a) an employee; or
- 316 (b) a dependent of an employee.
- 317 (55) (a) "Employee welfare fund" means a fund:
- 318 (i) established or maintained, whether directly or through a trustee, by:
- 319 (A) one or more employers;
- 320 (B) one or more labor organizations; or
- 321 (C) a combination of employers and labor organizations; and
- 322 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 323 from investments of the fund:
- 324 (A) by or on behalf of an employer doing business in this state; or
- 325 (B) for the benefit of a person employed in this state.
- 326 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 327 revenues.
- 328 (56) "Endorsement" means a written agreement attached to a policy or certificate to
- 329 modify the policy or certificate coverage.
- 330 (57) "Enrollment date," with respect to a health benefit plan, means:
- 331 (a) the first day of coverage; or
- 332 (b) if there is a waiting period, the first day of the waiting period.
- 333 (58) (a) "Escrow" means:
- 334 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,
- 335 when a person not a party to the transaction, and neither having nor acquiring an interest in the
- 336 title, performs, in accordance with the written instructions or terms of the written agreement
- 337 between the parties to the transaction, any of the following actions:

- 338 (A) the explanation, holding, or creation of a document; or
- 339 (B) the receipt, deposit, and disbursement of money;
- 340 (ii) a settlement or closing involving:
  - 341 (A) a mobile home;
  - 342 (B) a grazing right;
  - 343 (C) a water right; or
  - 344 (D) other personal property authorized by the commissioner.
- 345 (b) "Escrow" does not include:
  - 346 (i) the following notarial acts performed by a notary within the state:
    - 347 (A) an acknowledgment;
    - 348 (B) a copy certification;
    - 349 (C) jurat; and
    - 350 (D) an oath or affirmation;
  - 351 (ii) the receipt or delivery of a document; or
  - 352 (iii) the receipt of money for delivery to the escrow agent.
- 353 (59) "Escrow agent" means an agency title insurance producer meeting the
- 354 requirements of Sections [31A-4-107](#), [31A-14-211](#), and [31A-23a-204](#), who is acting through an
- 355 individual title insurance producer licensed with an escrow subline of authority.
- 356 (60) (a) "Excludes" is not exhaustive and does not mean that another thing is not also
- 357 excluded.
- 358 (b) The items listed in a list using the term "excludes" are representative examples for
- 359 use in interpretation of this title.
- 360 (61) "Exclusion" means for the purposes of accident and health insurance that an
- 361 insurer does not provide insurance coverage, for whatever reason, for one of the following:
  - 362 (a) a specific physical condition;
  - 363 (b) a specific medical procedure;
  - 364 (c) a specific disease or disorder; or
  - 365 (d) a specific prescription drug or class of prescription drugs.
- 366 (62) "Expense reimbursement insurance" means insurance:
  - 367 (a) written to provide a payment for an expense relating to hospital confinement
  - 368 resulting from illness or injury; and

- 369 (b) written:
- 370 (i) as a daily limit for a specific number of days in a hospital; and
- 371 (ii) to have a one or two day waiting period following a hospitalization.
- 372 (63) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding
- 373 a position of public or private trust.
- 374 (64) (a) "Filed" means that a filing is:
- 375 (i) submitted to the department as required by and in accordance with applicable
- 376 statute, rule, or filing order;
- 377 (ii) received by the department within the time period provided in applicable statute,
- 378 rule, or filing order; and
- 379 (iii) accompanied by the appropriate fee in accordance with:
- 380 (A) Section [31A-3-103](#); or
- 381 (B) rule.
- 382 (b) "Filed" does not include a filing that is rejected by the department because it is not
- 383 submitted in accordance with Subsection (64)(a).
- 384 (65) "Filing," when used as a noun, means an item required to be filed with the
- 385 department including:
- 386 (a) a policy;
- 387 (b) a rate;
- 388 (c) a form;
- 389 (d) a document;
- 390 (e) a plan;
- 391 (f) a manual;
- 392 (g) an application;
- 393 (h) a report;
- 394 (i) a certificate;
- 395 (j) an endorsement;
- 396 (k) an actuarial certification;
- 397 (l) a licensee annual statement;
- 398 (m) a licensee renewal application;
- 399 (n) an advertisement; or

400 (o) an outline of coverage.

401 (66) "First party insurance" means an insurance policy or contract in which the insurer  
402 agrees to pay a claim submitted to it by the insured for the insured's losses.

403 (67) "Foreign insurer" means an insurer domiciled outside of this state, including an  
404 alien insurer.

405 (68) (a) "Form" means one of the following prepared for general use:

406 (i) a policy;

407 (ii) a certificate;

408 (iii) an application;

409 (iv) an outline of coverage; or

410 (v) an endorsement.

411 (b) "Form" does not include a document specially prepared for use in an individual  
412 case.

413 (69) "Franchise insurance" means an individual insurance policy provided through a  
414 mass marketing arrangement involving a defined class of persons related in some way other  
415 than through the purchase of insurance.

416 (70) "General lines of authority" include:

417 (a) the general lines of insurance in Subsection (71);

418 (b) title insurance under one of the following sublines of authority:

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

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

421 (iii) title marketing representative only;

422 (c) surplus lines;

423 (d) workers' compensation; and

424 (e) any other line of insurance that the commissioner considers necessary to recognize  
425 in the public interest.

426 (71) "General lines of insurance" include:

427 (a) accident and health;

428 (b) casualty;

429 (c) life;

430 (d) personal lines;

- 431 (e) property; and
- 432 (f) variable contracts, including variable life and annuity.
- 433 (72) "Group health plan" means an employee welfare benefit plan to the extent that the
- 434 plan provides medical care:
  - 435 (a) (i) to an employee; or
  - 436 (ii) to a dependent of an employee; and
  - 437 (b) (i) directly;
  - 438 (ii) through insurance reimbursement; or
  - 439 (iii) through another method.
- 440 (73) (a) "Group insurance policy" means a policy covering a group of persons that is
- 441 issued:
  - 442 (i) to a policyholder on behalf of the group; and
  - 443 (ii) for the benefit of a member of the group who is selected under a procedure defined
  - 444 in:
    - 445 (A) the policy; or
    - 446 (B) an agreement that is collateral to the policy.
  - 447 (b) A group insurance policy may include a member of the policyholder's family or a
  - 448 dependent.
- 449 (74) "Guaranteed automobile protection insurance" means insurance offered in
- 450 connection with an extension of credit that pays the difference in amount between the
- 451 insurance settlement and the balance of the loan if the insured automobile is a total loss.
- 452 (75) (a) Except as provided in Subsection (75)(b), "health benefit plan" means a policy
- 453 or certificate that:
  - 454 (i) provides health care insurance;
  - 455 (ii) provides major medical expense insurance; or
  - 456 (iii) is offered as a substitute for hospital or medical expense insurance, such as:
    - 457 (A) a hospital confinement indemnity; or
    - 458 (B) a limited benefit plan.
  - 459 (b) "Health benefit plan" does not include a policy or certificate that:
    - 460 (i) provides benefits solely for:
      - 461 (A) accident;

- 462 (B) dental;
- 463 (C) income replacement;
- 464 (D) long-term care;
- 465 (E) a Medicare supplement;
- 466 (F) a specified disease;
- 467 (G) vision; or
- 468 (H) a short-term limited duration; or
- 469 (ii) is offered and marketed as supplemental health insurance.
- 470 (76) "Health care" means any of the following intended for use in the diagnosis,
- 471 treatment, mitigation, or prevention of a human ailment or impairment:
  - 472 (a) a professional service;
  - 473 (b) a personal service;
  - 474 (c) a facility;
  - 475 (d) equipment;
  - 476 (e) a device;
  - 477 (f) supplies; or
  - 478 (g) medicine.
- 479 (77) (a) "Health care insurance" or "health insurance" means insurance providing:
  - 480 (i) a health care benefit; or
  - 481 (ii) payment of an incurred health care expense.
- 482 (b) "Health care insurance" or "health insurance" does not include accident and health
- 483 insurance providing a benefit for:
  - 484 (i) replacement of income;
  - 485 (ii) short-term accident;
  - 486 (iii) fixed indemnity;
  - 487 (iv) credit accident and health;
  - 488 (v) supplements to liability;
  - 489 (vi) workers' compensation;
  - 490 (vii) automobile medical payment;
  - 491 (viii) no-fault automobile;
  - 492 (ix) equivalent self-insurance; or



493 (x) a type of accident and health insurance coverage that is a part of or attached to  
494 another type of policy.

495 (78) "Health Insurance Portability and Accountability Act" means the Health Insurance  
496 Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.

497 (79) "Income replacement insurance" or "disability income insurance" means insurance  
498 written to provide payments to replace income lost from accident or sickness.

499 (80) "Indemnity" means the payment of an amount to offset all or part of an insured  
500 loss.

501 (81) "Independent adjuster" means an insurance adjuster required to be licensed under  
502 Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

503 (82) "Independently procured insurance" means insurance procured under Section  
504 31A-15-104.

505 (83) "Individual" means a natural person.

506 (84) "Inland marine insurance" includes insurance covering:

507 (a) property in transit on or over land;

508 (b) property in transit over water by means other than boat or ship;

509 (c) bailee liability;

510 (d) fixed transportation property such as bridges, electric transmission systems, radio  
511 and television transmission towers and tunnels; and

512 (e) personal and commercial property floaters.

513 (85) "Insolvency" means that:

514 (a) an insurer is unable to pay its debts or meet its obligations as the debts and  
515 obligations mature;

516 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level  
517 RBC under Subsection 31A-17-601(8)(c); or

518 (c) an insurer is determined to be hazardous under this title.

519 (86) (a) "Insurance" means:

520 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more  
521 persons to one or more other persons; or

522 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a  
523 group of persons that includes the person seeking to distribute that person's risk.

- 524 (b) "Insurance" includes:
- 525 (i) a risk distributing arrangement providing for compensation or replacement for
- 526 damages or loss through the provision of a service or a benefit in kind;
- 527 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
- 528 business and not as merely incidental to a business transaction; and
- 529 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
- 530 but with a class of persons who have agreed to share the risk.
- 531 (87) "Insurance adjuster" means a person who directs the investigation, negotiation, or
- 532 settlement of a claim under an insurance policy other than life insurance or an annuity, on
- 533 behalf of an insurer, policyholder, or a claimant under an insurance policy.
- 534 (88) "Insurance business" or "business of insurance" includes:
- 535 (a) providing health care insurance by an organization that is or is required to be
- 536 licensed under this title;
- 537 (b) providing a benefit to an employee in the event of a contingency not within the
- 538 control of the employee, in which the employee is entitled to the benefit as a right, which
- 539 benefit may be provided either:
- 540 (i) by a single employer or by multiple employer groups; or
- 541 (ii) through one or more trusts, associations, or other entities;
- 542 (c) providing an annuity:
- 543 (i) including an annuity issued in return for a gift; and
- 544 (ii) except an annuity provided by a person specified in Subsections [31A-22-1305\(2\)](#)
- 545 and (3);
- 546 (d) providing the characteristic services of a motor club as outlined in Subsection
- 547 (116);
- 548 (e) providing another person with insurance;
- 549 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
- 550 or surety, a contract or policy of title insurance;
- 551 (g) transacting or proposing to transact any phase of title insurance, including:
- 552 (i) solicitation;
- 553 (ii) negotiation preliminary to execution;
- 554 (iii) execution of a contract of title insurance;

- 555 (iv) insuring; and
- 556 (v) transacting matters subsequent to the execution of the contract and arising out of
- 557 the contract, including reinsurance;
- 558 (h) transacting or proposing a life settlement; and
- 559 (i) doing, or proposing to do, any business in substance equivalent to Subsections
- 560 (88)(a) through (h) in a manner designed to evade this title.
- 561 (89) "Insurance consultant" or "consultant" means a person who:
- 562 (a) advises another person about insurance needs and coverages;
- 563 (b) is compensated by the person advised on a basis not directly related to the insurance
- 564 placed; and
- 565 (c) except as provided in Section [31A-23a-501](#), is not compensated directly or
- 566 indirectly by an insurer or producer for advice given.
- 567 (90) "Insurance holding company system" means a group of two or more affiliated
- 568 persons, at least one of whom is an insurer.
- 569 (91) (a) "Insurance producer" or "producer" means a person licensed or required to be
- 570 licensed under the laws of this state to sell, solicit, or negotiate insurance.
- 571 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
- 572 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
- 573 insurer.
- 574 (ii) "Producer for the insurer" may be referred to as an "agent."
- 575 (c) (i) "Producer for the insured" means a producer who:
- 576 (A) is compensated directly and only by an insurance customer or an insured; and
- 577 (B) receives no compensation directly or indirectly from an insurer for selling,
- 578 soliciting, or negotiating an insurance product of that insurer to an insurance customer or
- 579 insured.
- 580 (ii) "Producer for the insured" may be referred to as a "broker."
- 581 (92) (a) "Insured" means a person to whom or for whose benefit an insurer makes a
- 582 promise in an insurance policy and includes:
- 583 (i) a policyholder;
- 584 (ii) a subscriber;
- 585 (iii) a member; and

- 586 (iv) a beneficiary.
- 587 (b) The definition in Subsection (92)(a):
- 588 (i) applies only to this title; and
- 589 (ii) does not define the meaning of this word as used in an insurance policy or
- 590 certificate.
- 591 (93) (a) "Insurer" means a person doing an insurance business as a principal including:
- 592 (i) a fraternal benefit society;
- 593 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
- 594 [31A-22-1305](#)(2) and (3);
- 595 (iii) a motor club;
- 596 (iv) an employee welfare plan; and
- 597 (v) a person purporting or intending to do an insurance business as a principal on that
- 598 person's own account.
- 599 (b) "Insurer" does not include a governmental entity to the extent the governmental
- 600 entity is engaged in an activity described in Section [31A-12-107](#).
- 601 (94) "Interinsurance exchange" is defined in Subsection (146).
- 602 (95) "Involuntary unemployment insurance" means insurance:
- 603 (a) offered in connection with an extension of credit; and
- 604 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
- 605 coming due on a:
- 606 (i) specific loan; or
- 607 (ii) credit transaction.
- 608 (96) "Large employer," in connection with a health benefit plan, means an employer
- 609 who, with respect to a calendar year and to a plan year:
- 610 (a) employed an average of at least 51 eligible employees on each business day during
- 611 the preceding calendar year; and
- 612 (b) employs at least two employees on the first day of the plan year.
- 613 (97) "Late enrollee," with respect to an employer health benefit plan, means an
- 614 individual whose enrollment is a late enrollment.
- 615 (98) "Late enrollment," with respect to an employer health benefit plan, means
- 616 enrollment of an individual other than:

617 (a) on the earliest date on which coverage can become effective for the individual  
618 under the terms of the plan; or

619 (b) through special enrollment.

620 (99) (a) Except for a retainer contract or legal assistance described in Section  
621 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a  
622 specified legal expense.

623 (b) "Legal expense insurance" includes an arrangement that creates a reasonable  
624 expectation of an enforceable right.

625 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,  
626 legal services incidental to other insurance coverage.

627 (100) (a) "Liability insurance" means insurance against liability:

628 (i) for death, injury, or disability of a human being, or for damage to property,  
629 exclusive of the coverages under:

630 (A) Subsection (110) for medical malpractice insurance;

631 (B) Subsection (138) for professional liability insurance; and

632 (C) Subsection (172) for workers' compensation insurance;

633 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the  
634 insured who is injured, irrespective of legal liability of the insured, when issued with or  
635 supplemental to insurance against legal liability for the death, injury, or disability of a human  
636 being, exclusive of the coverages under:

637 (A) Subsection (110) for medical malpractice insurance;

638 (B) Subsection (138) for professional liability insurance; and

639 (C) Subsection (172) for workers' compensation insurance;

640 (iii) for loss or damage to property resulting from an accident to or explosion of a  
641 boiler, pipe, pressure container, machinery, or apparatus;

642 (iv) for loss or damage to property caused by:

643 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or

644 (B) water entering through a leak or opening in a building; or

645 (v) for other loss or damage properly the subject of insurance not within another kind  
646 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

647 (b) "Liability insurance" includes:

648 (i) vehicle liability insurance;  
649 (ii) residential dwelling liability insurance; and  
650 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,  
651 boiler, machinery, or apparatus of any kind when done in connection with insurance on the  
652 elevator, boiler, machinery, or apparatus.

653 (101) (a) "License" means authorization issued by the commissioner to engage in an  
654 activity that is part of or related to the insurance business.

655 (b) "License" includes a certificate of authority issued to an insurer.

656 (102) (a) "Life insurance" means:

657 (i) insurance on a human life; and

658 (ii) insurance pertaining to or connected with human life.

659 (b) The business of life insurance includes:

660 (i) granting a death benefit;

661 (ii) granting an annuity benefit;

662 (iii) granting an endowment benefit;

663 (iv) granting an additional benefit in the event of death by accident;

664 (v) granting an additional benefit to safeguard the policy against lapse; and

665 (vi) providing an optional method of settlement of proceeds.

666 (103) "Limited license" means a license that:

667 (a) is issued for a specific product of insurance; and

668 (b) limits an individual or agency to transact only for that product or insurance.

669 (104) "Limited line credit insurance" includes the following forms of insurance:

670 (a) credit life;

671 (b) credit accident and health;

672 (c) credit property;

673 (d) credit unemployment;

674 (e) involuntary unemployment;

675 (f) mortgage life;

676 (g) mortgage guaranty;

677 (h) mortgage accident and health;

678 (i) guaranteed automobile protection; and

679 (j) another form of insurance offered in connection with an extension of credit that:  
680 (i) is limited to partially or wholly extinguishing the credit obligation; and  
681 (ii) the commissioner determines by rule should be designated as a form of limited line  
682 credit insurance.

683 (105) "Limited line credit insurance producer" means a person who sells, solicits, or  
684 negotiates one or more forms of limited line credit insurance coverage to an individual through  
685 a master, corporate, group, or individual policy.

686 (106) "Limited line insurance" includes:

- 687 (a) bail bond;
- 688 (b) limited line credit insurance;
- 689 (c) legal expense insurance;
- 690 (d) motor club insurance;
- 691 (e) car rental related insurance;
- 692 (f) travel insurance;
- 693 (g) crop insurance;
- 694 (h) self-service storage insurance;
- 695 (i) guaranteed asset protection waiver;
- 696 (j) portable electronics insurance; and
- 697 (k) another form of limited insurance that the commissioner determines by rule should  
698 be designated a form of limited line insurance.

699 (107) "Limited lines authority" includes:

- 700 (a) the lines of insurance listed in Subsection (106); and
- 701 (b) a customer service representative.

702 (108) "Limited lines producer" means a person who sells, solicits, or negotiates limited  
703 lines insurance.

704 (109) (a) "Long-term care insurance" means an insurance policy or rider advertised,  
705 marketed, offered, or designated to provide coverage:

- 706 (i) in a setting other than an acute care unit of a hospital;
- 707 (ii) for not less than 12 consecutive months for a covered person on the basis of:
  - 708 (A) expenses incurred;
  - 709 (B) indemnity;

- 710 (C) prepayment; or
- 711 (D) another method;
- 712 (iii) for one or more necessary or medically necessary services that are:
- 713 (A) diagnostic;
- 714 (B) preventative;
- 715 (C) therapeutic;
- 716 (D) rehabilitative;
- 717 (E) maintenance; or
- 718 (F) personal care; and
- 719 (iv) that may be issued by:
- 720 (A) an insurer;
- 721 (B) a fraternal benefit society;
- 722 (C) (I) a nonprofit health hospital; and
- 723 (II) a medical service corporation;
- 724 (D) a prepaid health plan;
- 725 (E) a health maintenance organization; or
- 726 (F) an entity similar to the entities described in Subsections (109)(a)(iv)(A) through (E)
- 727 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 728 (b) "Long-term care insurance" includes:
- 729 (i) any of the following that provide directly or supplement long-term care insurance:
- 730 (A) a group or individual annuity or rider; or
- 731 (B) a life insurance policy or rider;
- 732 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 733 (A) cognitive impairment; or
- 734 (B) functional capacity; or
- 735 (iii) a qualified long-term care insurance contract.
- 736 (c) "Long-term care insurance" does not include:
- 737 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 738 (ii) basic hospital expense coverage;
- 739 (iii) basic medical/surgical expense coverage;
- 740 (iv) hospital confinement indemnity coverage;



- 741 (v) major medical expense coverage;
- 742 (vi) income replacement or related asset-protection coverage;
- 743 (vii) accident only coverage;
- 744 (viii) coverage for a specified:
  - 745 (A) disease; or
  - 746 (B) accident;
- 747 (ix) limited benefit health coverage; or
- 748 (x) a life insurance policy that accelerates the death benefit to provide the option of a  
749 lump sum payment:
  - 750 (A) if the following are not conditioned on the receipt of long-term care:
    - 751 (I) benefits; or
    - 752 (II) eligibility; and
  - 753 (B) the coverage is for one or more the following qualifying events:
    - 754 (I) terminal illness;
    - 755 (II) medical conditions requiring extraordinary medical intervention; or
    - 756 (III) permanent institutional confinement.
- 757 (110) "Medical malpractice insurance" means insurance against legal liability incident  
758 to the practice and provision of a medical service other than the practice and provision of a  
759 dental service.
- 760 (111) "Member" means a person having membership rights in an insurance  
761 corporation.
- 762 (112) "Minimum capital" or "minimum required capital" means the capital that must be  
763 constantly maintained by a stock insurance corporation as required by statute.
- 764 (113) "Mortgage accident and health insurance" means insurance offered in connection  
765 with an extension of credit that provides indemnity for payments coming due on a mortgage  
766 while the debtor has a disability.
- 767 (114) "Mortgage guaranty insurance" means surety insurance under which a mortgagee  
768 or other creditor is indemnified against losses caused by the default of a debtor.
- 769 (115) "Mortgage life insurance" means insurance on the life of a debtor in connection  
770 with an extension of credit that pays if the debtor dies.
- 771 (116) "Motor club" means a person:

- 772 (a) licensed under:
- 773 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 774 (ii) Chapter 11, Motor Clubs; or
- 775 (iii) Chapter 14, Foreign Insurers; and
- 776 (b) that promises for an advance consideration to provide for a stated period of time
- 777 one or more:
- 778 (i) legal services under Subsection 31A-11-102(1)(b);
- 779 (ii) bail services under Subsection 31A-11-102(1)(c); or
- 780 (iii) (A) trip reimbursement;
- 781 (B) towing services;
- 782 (C) emergency road services;
- 783 (D) stolen automobile services;
- 784 (E) a combination of the services listed in Subsections (116)(b)(iii)(A) through (D); or
- 785 (F) other services given in Subsections 31A-11-102(1)(b) through (f).
- 786 (117) "Mutual" means a mutual insurance corporation.
- 787 (118) "Network plan" means health care insurance:
- 788 (a) that is issued by an insurer; and
- 789 (b) under which the financing and delivery of medical care is provided, in whole or in
- 790 part, through a defined set of providers under contract with the insurer, including the financing
- 791 and delivery of an item paid for as medical care.
- 792 (119) "Nonparticipating" means a plan of insurance under which the insured is not
- 793 entitled to receive a dividend representing a share of the surplus of the insurer.
- 794 (120) "Ocean marine insurance" means insurance against loss of or damage to:
- 795 (a) ships or hulls of ships;
- 796 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
- 797 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
- 798 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;
- 799 (c) earnings such as freight, passage money, commissions, or profits derived from
- 800 transporting goods or people upon or across the oceans or inland waterways; or
- 801 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
- 802 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons

803 in connection with maritime activity.

804 (121) "Order" means an order of the commissioner.

805 (122) "Outline of coverage" means a summary that explains an accident and health  
806 insurance policy.

807 (123) "Participating" means a plan of insurance under which the insured is entitled to  
808 receive a dividend representing a share of the surplus of the insurer.

809 (124) "Participation," as used in a health benefit plan, means a requirement relating to  
810 the minimum percentage of eligible employees that must be enrolled in relation to the total  
811 number of eligible employees of an employer reduced by each eligible employee who  
812 voluntarily declines coverage under the plan because the employee:

813 (a) has other group health care insurance coverage; or

814 (b) receives:

815 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social  
816 Security Amendments of 1965; or

817 (ii) another government health benefit.

818 (125) "Person" includes:

819 (a) an individual;

820 (b) a partnership;

821 (c) a corporation;

822 (d) an incorporated or unincorporated association;

823 (e) a joint stock company;

824 (f) a trust;

825 (g) a limited liability company;

826 (h) a reciprocal;

827 (i) a syndicate; or

828 (j) another similar entity or combination of entities acting in concert.

829 (126) "Personal lines insurance" means property and casualty insurance coverage sold  
830 for primarily noncommercial purposes to:

831 (a) an individual; or

832 (b) a family.

833 (127) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).

834 (128) "Plan year" means:  
835 (a) the year that is designated as the plan year in:  
836 (i) the plan document of a group health plan; or  
837 (ii) a summary plan description of a group health plan;  
838 (b) if the plan document or summary plan description does not designate a plan year or  
839 there is no plan document or summary plan description:  
840 (i) the year used to determine deductibles or limits;  
841 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;  
842 or  
843 (iii) the employer's taxable year if:  
844 (A) the plan does not impose deductibles or limits on a yearly basis; and  
845 (B) (I) the plan is not insured; or  
846 (II) the insurance policy is not renewed on an annual basis; or  
847 (c) in a case not described in Subsection (128)(a) or (b), the calendar year.  
848 (129) (a) "Policy" means a document, including an attached endorsement or application  
849 that:  
850 (i) purports to be an enforceable contract; and  
851 (ii) memorializes in writing some or all of the terms of an insurance contract.  
852 (b) "Policy" includes a service contract issued by:  
853 (i) a motor club under Chapter 11, Motor Clubs;  
854 (ii) a service contract provided under Chapter 6a, Service Contracts; and  
855 (iii) a corporation licensed under:  
856 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or  
857 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.  
858 (c) "Policy" does not include:  
859 (i) a certificate under a group insurance contract; or  
860 (ii) a document that does not purport to have legal effect.  
861 (130) "Policyholder" means a person who controls a policy, binder, or oral contract by  
862 ownership, premium payment, or otherwise.  
863 (131) "Policy illustration" means a presentation or depiction that includes  
864 nonguaranteed elements of a policy of life insurance over a period of years.

865 (132) "Policy summary" means a synopsis describing the elements of a life insurance  
866 policy.

867 (133) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No.  
868 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and  
869 related federal regulations and guidance.

870 (134) "Preexisting condition," with respect to a health benefit plan:

871 (a) means a condition that was present before the effective date of coverage, whether or  
872 not medical advice, diagnosis, care, or treatment was recommended or received before that day;  
873 and

874 (b) does not include a condition indicated by genetic information unless an actual  
875 diagnosis of the condition by a physician has been made.

876 (135) (a) "Premium" means the monetary consideration for an insurance policy.

877 (b) "Premium" includes, however designated:

878 (i) an assessment;

879 (ii) a membership fee;

880 (iii) a required contribution; or

881 (iv) monetary consideration.

882 (c) (i) "Premium" does not include consideration paid to a third party administrator for  
883 the third party administrator's services.

884 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for  
885 insurance on the risks administered by the third party administrator.

886 (136) "Principal officers" for a corporation means the officers designated under  
887 Subsection [31A-5-203\(3\)](#).

888 (137) "Proceeding" includes an action or special statutory proceeding.

889 (138) "Professional liability insurance" means insurance against legal liability incident  
890 to the practice of a profession and provision of a professional service.

891 (139) (a) Except as provided in Subsection (139)(b), "property insurance" means  
892 insurance against loss or damage to real or personal property of every kind and any interest in  
893 that property:

894 (i) from all hazards or causes; and

895 (ii) against loss consequential upon the loss or damage including vehicle

896 comprehensive and vehicle physical damage coverages.

897 (b) "Property insurance" does not include:

898 (i) inland marine insurance; and

899 (ii) ocean marine insurance.

900 (140) "Qualified long-term care insurance contract" or "federally tax qualified  
901 long-term care insurance contract" means:

902 (a) an individual or group insurance contract that meets the requirements of Section  
903 7702B(b), Internal Revenue Code; or

904 (b) the portion of a life insurance contract that provides long-term care insurance:

905 (i) (A) by rider; or

906 (B) as a part of the contract; and

907 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue  
908 Code.

909 (141) "Qualified United States financial institution" means an institution that:

910 (a) is:

911 (i) organized under the laws of the United States or any state; or

912 (ii) in the case of a United States office of a foreign banking organization, licensed  
913 under the laws of the United States or any state;

914 (b) is regulated, supervised, and examined by a United States federal or state authority  
915 having regulatory authority over a bank or trust company; and

916 (c) meets the standards of financial condition and standing that are considered  
917 necessary and appropriate to regulate the quality of a financial institution whose letters of credit  
918 will be acceptable to the commissioner as determined by:

919 (i) the commissioner by rule; or

920 (ii) the Securities Valuation Office of the National Association of Insurance

921 Commissioners.

922 (142) (a) "Rate" means:

923 (i) the cost of a given unit of insurance; or

924 (ii) for property or casualty insurance, that cost of insurance per exposure unit either  
925 expressed as:

926 (A) a single number; or

927 (B) a pure premium rate, adjusted before the application of individual risk variations  
928 based on loss or expense considerations to account for the treatment of:

- 929 (I) expenses;
- 930 (II) profit; and
- 931 (III) individual insurer variation in loss experience.

932 (b) "Rate" does not include a minimum premium.

933 (143) (a) Except as provided in Subsection (143)(b), "rate service organization" means  
934 a person who assists an insurer in rate making or filing by:

- 935 (i) collecting, compiling, and furnishing loss or expense statistics;
- 936 (ii) recommending, making, or filing rates or supplementary rate information; or
- 937 (iii) advising about rate questions, except as an attorney giving legal advice.

938 (b) "Rate service organization" does not mean:

- 939 (i) an employee of an insurer;
- 940 (ii) a single insurer or group of insurers under common control;
- 941 (iii) a joint underwriting group; or
- 942 (iv) an individual serving as an actuarial or legal consultant.

943 (144) "Rating manual" means any of the following used to determine initial and  
944 renewal policy premiums:

- 945 (a) a manual of rates;
- 946 (b) a classification;
- 947 (c) a rate-related underwriting rule; and
- 948 (d) a rating formula that describes steps, policies, and procedures for determining  
949 initial and renewal policy premiums.

950 (145) "Received by the department" means:

- 951 (a) the date delivered to and stamped received by the department, if delivered in  
952 person;
- 953 (b) the post mark date, if delivered by mail;
- 954 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 955 (d) the received date recorded on an item delivered, if delivered by:
  - 956 (i) facsimile;
  - 957 (ii) email; or

958 (iii) another electronic method; or

959 (e) a date specified in:

960 (i) a statute;

961 (ii) a rule; or

962 (iii) an order.

963 (146) "Reciprocal" or "interinsurance exchange" means an unincorporated association  
964 of persons:

965 (a) operating through an attorney-in-fact common to all of the persons; and

966 (b) exchanging insurance contracts with one another that provide insurance coverage  
967 on each other.

968 (147) "Reinsurance" means an insurance transaction where an insurer, for  
969 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to  
970 reinsurance transactions, this title sometimes refers to:

971 (a) the insurer transferring the risk as the "ceding insurer"; and

972 (b) the insurer assuming the risk as the:

973 (i) "assuming insurer"; or

974 (ii) "assuming reinsurer."

975 (148) "Reinsurer" means a person licensed in this state as an insurer with the authority  
976 to assume reinsurance.

977 (149) "Residential dwelling liability insurance" means insurance against liability  
978 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is  
979 a detached single family residence or multifamily residence up to four units.

980 (150) (a) "Retrocession" means reinsurance with another insurer of a liability assumed  
981 under a reinsurance contract.

982 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a  
983 liability assumed under a reinsurance contract.

984 (151) "Rider" means an endorsement to:

985 (a) an insurance policy; or

986 (b) an insurance certificate.

987 [~~(153)~~] (152) "Secondary medical condition" means a complication related to an  
988 exclusion from coverage in accident and health insurance.



- 989            [~~(152)~~] (153) (a) "Security" means a:
- 990            (i) note;
- 991            (ii) stock;
- 992            (iii) bond;
- 993            (iv) debenture;
- 994            (v) evidence of indebtedness;
- 995            (vi) certificate of interest or participation in a profit-sharing agreement;
- 996            (vii) collateral-trust certificate;
- 997            (viii) preorganization certificate or subscription;
- 998            (ix) transferable share;
- 999            (x) investment contract;
- 1000           (xi) voting trust certificate;
- 1001           (xii) certificate of deposit for a security;
- 1002           (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1003 payments out of production under such a title or lease;
- 1004           (xiv) commodity contract or commodity option;
- 1005           (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1006 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
- 1007 in Subsections [~~(152)~~] (153)(a)(i) through (xiv); or
- 1008           (xvi) another interest or instrument commonly known as a security.
- 1009           (b) "Security" does not include:
- 1010           (i) any of the following under which an insurance company promises to pay money in a
- 1011 specific lump sum or periodically for life or some other specified period:
- 1012           (A) insurance;
- 1013           (B) an endowment policy; or
- 1014           (C) an annuity contract; or
- 1015           (ii) a burial certificate or burial contract.
- 1016           (154) (a) "Self-insurance" means an arrangement under which a person provides for
- 1017 spreading its own risks by a systematic plan.
- 1018           (b) Except as provided in this Subsection (154), "self-insurance" does not include an
- 1019 arrangement under which a number of persons spread their risks among themselves.

- 1020 (c) "Self-insurance" includes:
- 1021 (i) an arrangement by which a governmental entity undertakes to indemnify an
- 1022 employee for liability arising out of the employee's employment; and
- 1023 (ii) an arrangement by which a person with a managed program of self-insurance and
- 1024 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
- 1025 employees for liability or risk that is related to the relationship or employment.
- 1026 (d) "Self-insurance" does not include an arrangement with an independent contractor.
- 1027 (155) "Sell" means to exchange a contract of insurance:
- 1028 (a) by any means;
- 1029 (b) for money or its equivalent; and
- 1030 (c) on behalf of an insurance company.
- 1031 (156) "Short-term care insurance" means an insurance policy or rider advertised,
- 1032 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,
- 1033 but that provides coverage for less than 12 consecutive months for each covered person.
- 1034 (157) "Significant break in coverage" means a period of 63 consecutive days during
- 1035 each of which an individual does not have creditable coverage.
- 1036 (158) "Small employer," in connection with a health benefit plan, means:
- 1037 (a) for a policy entered into or renewed on or after January 1, 2015, an employer that,
- 1038 with respect to a calendar year and to a plan year:
- 1039 (i) employed an average of at least two eligible employees but not more than 100
- 1040 eligible employees on business days during the preceding calendar year; and
- 1041 (ii) employs at least two eligible employees on the first day of the plan year; and
- 1042 (b) for a policy entered into or renewed before January 1, 2015, an employer [who]
- 1043 that, with respect to a calendar year and to a plan year:
- 1044 ~~[(a)]~~ (i) employed an average of at least two employees but not more than 50 eligible
- 1045 employees on [each business day] business days during the preceding calendar year; and
- 1046 ~~[(b)]~~ (ii) employs at least two employees on the first day of the plan year.
- 1047 (159) "Special enrollment period," in connection with a health benefit plan, has the
- 1048 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
- 1049 Portability and Accountability Act.
- 1050 (160) (a) "Subsidiary" of a person means an affiliate controlled by that person either

1051 directly or indirectly through one or more affiliates or intermediaries.

1052 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting  
1053 shares are owned by that person either alone or with its affiliates, except for the minimum  
1054 number of shares the law of the subsidiary's domicile requires to be owned by directors or  
1055 others.

1056 (161) Subject to Subsection (86)(b), "surety insurance" includes:

1057 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or  
1058 perform the principal's obligations to a creditor or other obligee;

1059 (b) bail bond insurance; and

1060 (c) fidelity insurance.

1061 (162) (a) "Surplus" means the excess of assets over the sum of paid-in capital and  
1062 liabilities.

1063 (b) (i) "Permanent surplus" means the surplus of an insurer or organization that is  
1064 designated by the insurer or organization as permanent.

1065 (ii) Sections [31A-5-211](#), [31A-7-201](#), [31A-8-209](#), [31A-9-209](#), and [31A-14-205](#) require  
1066 that insurers or organizations doing business in this state maintain specified minimum levels of  
1067 permanent surplus.

1068 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the  
1069 same as the minimum required capital requirement that applies to stock insurers.

1070 (c) "Excess surplus" means:

1071 (i) for a life insurer, accident and health insurer, health organization, or property and  
1072 casualty insurer as defined in Section [31A-17-601](#), the lesser of:

1073 (A) that amount of an insurer's or health organization's total adjusted capital that  
1074 exceeds the product of:

1075 (I) 2.5; and

1076 (II) the sum of the insurer's or health organization's minimum capital or permanent  
1077 surplus required under Section [31A-5-211](#), [31A-9-209](#), or [31A-14-205](#); or

1078 (B) that amount of an insurer's or health organization's total adjusted capital that  
1079 exceeds the product of:

1080 (I) 3.0; and

1081 (II) the authorized control level RBC as defined in Subsection [31A-17-601\(8\)\(a\)](#); and

1082 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer  
1083 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1084 (A) 1.5; and

1085 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1086 (163) "Third party administrator" or "administrator" means a person who collects  
1087 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of  
1088 the state in connection with insurance coverage, annuities, or service insurance coverage,  
1089 except:

1090 (a) a union on behalf of its members;

1091 (b) a person administering a:

1092 (i) pension plan subject to the federal Employee Retirement Income Security Act of  
1093 1974;

1094 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1095 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1096 (c) an employer on behalf of the employer's employees or the employees of one or  
1097 more of the subsidiary or affiliated corporations of the employer;

1098 (d) an insurer licensed under the following, but only for a line of insurance for which  
1099 the insurer holds a license in this state:

1100 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1101 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

1102 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1103 (iv) Chapter 9, Insurance Fraternal; or

1104 (v) Chapter 14, Foreign Insurers;

1105 (e) a person:

1106 (i) licensed or exempt from licensing under:

1107 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and  
1108 Reinsurance Intermediaries; or

1109 (B) Chapter 26, Insurance Adjusters; and

1110 (ii) whose activities are limited to those authorized under the license the person holds  
1111 or for which the person is exempt; or

1112 (f) an institution, bank, or financial institution:

- 1113 (i) that is:
- 1114 (A) an institution whose deposits and accounts are to any extent insured by a federal
- 1115 deposit insurance agency, including the Federal Deposit Insurance Corporation or National
- 1116 Credit Union Administration; or
- 1117 (B) a bank or other financial institution that is subject to supervision or examination by
- 1118 a federal or state banking authority; and
- 1119 (ii) that does not adjust claims without a third party administrator license.
- 1120 (164) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner
- 1121 of real or personal property or the holder of liens or encumbrances on that property, or others
- 1122 interested in the property against loss or damage suffered by reason of liens or encumbrances
- 1123 upon, defects in, or the unmarketability of the title to the property, or invalidity or
- 1124 unenforceability of any liens or encumbrances on the property.
- 1125 (165) "Total adjusted capital" means the sum of an insurer's or health organization's
- 1126 statutory capital and surplus as determined in accordance with:
- 1127 (a) the statutory accounting applicable to the annual financial statements required to be
- 1128 filed under Section 31A-4-113; and
- 1129 (b) another item provided by the RBC instructions, as RBC instructions is defined in
- 1130 Section 31A-17-601.
- 1131 (166) (a) "Trustee" means "director" when referring to the board of directors of a
- 1132 corporation.
- 1133 (b) "Trustee," when used in reference to an employee welfare fund, means an
- 1134 individual, firm, association, organization, joint stock company, or corporation, whether acting
- 1135 individually or jointly and whether designated by that name or any other, that is charged with
- 1136 or has the overall management of an employee welfare fund.
- 1137 (167) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
- 1138 means an insurer:
- 1139 (i) not holding a valid certificate of authority to do an insurance business in this state;
- 1140 or
- 1141 (ii) transacting business not authorized by a valid certificate.
- 1142 (b) "Admitted insurer" or "authorized insurer" means an insurer:
- 1143 (i) holding a valid certificate of authority to do an insurance business in this state; and

- 1144 (ii) transacting business as authorized by a valid certificate.
- 1145 (168) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.
- 1146 (169) "Vehicle liability insurance" means insurance against liability resulting from or
- 1147 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle
- 1148 comprehensive or vehicle physical damage coverage under Subsection (139).
- 1149 (170) "Voting security" means a security with voting rights, and includes a security
- 1150 convertible into a security with a voting right associated with the security.
- 1151 (171) "Waiting period" for a health benefit plan means the period that must pass before
- 1152 coverage for an individual, who is otherwise eligible to enroll under the terms of the health
- 1153 benefit plan, can become effective.
- 1154 (172) "Workers' compensation insurance" means:
- 1155 (a) insurance for indemnification of an employer against liability for compensation
- 1156 based on:
- 1157 (i) a compensable accidental injury; and
- 1158 (ii) occupational disease disability;
- 1159 (b) employer's liability insurance incidental to workers' compensation insurance and
- 1160 written in connection with workers' compensation insurance; and
- 1161 (c) insurance assuring to a person entitled to workers' compensation benefits the
- 1162 compensation provided by law.

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**Legislative Review Note**  
**as of 1-16-14 1:34 PM**

**Office of Legislative Research and General Counsel**