

James A. Dunnigan proposes the following substitute bill:

1

Insurance Modifications
2025 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Evan J. Vickers

2

3 **LONG TITLE**4 **General Description:**

5 This bill amends provisions relating to insurance.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ clarifies the circumstances under which a public agency insurance mutual or a reserve
10 fund is exempt from the Insurance Code;

11 ▶ amends provisions related to dual licensing;

12 ▶ amends provisions relating to money appropriated from the Captive Insurance Restricted
13 Account;14 ▶ clarifies that an insurer does not need to file a certification that a non-English policy is in
15 compliance with relevant laws;

16 ▶ aligns state law with federal rules relating to preexisting condition limitations;

17 ▶ limits the scope by which the Insurance Department can issue a waiver for a license;

18 ▶ clarifies that the commissioner may take an action against a licensee if the licensee fails
19 to pay a final judgment within 60 days;20 ▶ adds additional reporting requirements for a licensee against whom a judgment has been
21 entered;

22 ▶ changes the reporting period for agency title insurance producers;

23 ▶ amends provisions relating to captive insurance companies;

24 ▶ reduces the minimum capital requirement for an association captive insurance company;

25 ▶ allows a captive insurance company to be formed as a not-for-profit organization;

26 ▶ clarifies that officers of a captive insurance company must be separate individuals;

27 ▶ amends provisions relating to insurance investments;

28 ▶ amends requirements relating to a sponsored captive insurance company's business;

- 29 ▶ amends the grounds under which the commissioner may revoke the certificate of
- 30 authority of a captive insurance company;
- 31 ▶ modifies the requirements for a small employer stop-loss insurance contract;
- 32 ▶ regulates with which small employers a stop-loss insurer or reinsurer may enter stop-loss
- 33 insurance contracts;
- 34 ▶ provides a transition period for existing small employer stop-loss insurance contracts; and
- 35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

- 42 **31A-1-103**, as last amended by Laws of Utah 2024, Chapter 120
- 43 **31A-2-201**, as last amended by Laws of Utah 2018, Chapter 200
- 44 **31A-2-402**, as last amended by Laws of Utah 2015, Chapter 330
- 45 **31A-2-404**, as last amended by Laws of Utah 2016, Chapter 193
- 46 **31A-3-304**, as last amended by Laws of Utah 2023, Chapter 194
- 47 **31A-21-112**, as enacted by Laws of Utah 2013, Chapter 443
- 48 **31A-21-303**, as last amended by Laws of Utah 2022, Chapter 198
- 49 **31A-22-407**, as enacted by Laws of Utah 1985, Chapter 242
- 50 **31A-22-509**, as enacted by Laws of Utah 1985, Chapter 242
- 51 **31A-22-511**, as enacted by Laws of Utah 1985, Chapter 242
- 52 **31A-22-512**, as enacted by Laws of Utah 1985, Chapter 242
- 53 **31A-22-514**, as enacted by Laws of Utah 1985, Chapter 242
- 54 **31A-22-614**, as last amended by Laws of Utah 2024, Chapter 120
- 55 **31A-22-701**, as last amended by Laws of Utah 2021, Chapter 252
- 56 **31A-23a-105**, as last amended by Laws of Utah 2024, Chapter 120
- 57 **31A-23a-109**, as last amended by Laws of Utah 2018, Chapter 319
- 58 **31A-23a-111**, as last amended by Laws of Utah 2024, Chapter 120
- 59 **31A-23a-119**, as enacted by Laws of Utah 2024, Chapter 120
- 60 **31A-23a-415**, as last amended by Laws of Utah 2023, Chapter 194
- 61 **31A-26-202**, as last amended by Laws of Utah 2018, Chapter 462
- 62 **31A-37-102**, as last amended by Laws of Utah 2023, Chapter 194

63 **31A-37-104**, as last amended by Laws of Utah 2008, Chapter 302
 64 **31A-37-201**, as last amended by Laws of Utah 2019, Chapter 193
 65 **31A-37-202**, as last amended by Laws of Utah 2024, Chapter 120
 66 **31A-37-204**, as last amended by Laws of Utah 2024, Chapter 120
 67 **31A-37-301**, as last amended by Laws of Utah 2019, Chapter 193
 68 **31A-37-302**, as last amended by Laws of Utah 2015, Chapter 244
 69 **31A-37-303**, as last amended by Laws of Utah 2021, Chapter 252
 70 **31A-37-401**, as last amended by Laws of Utah 2019, Chapter 193
 71 **31A-37-402**, as last amended by Laws of Utah 2015, Chapter 244
 72 **31A-37-403**, as last amended by Laws of Utah 2015, Chapter 244
 73 **31A-37-404**, as last amended by Laws of Utah 2015, Chapter 244
 74 **31A-37-501**, as last amended by Laws of Utah 2019, Chapter 193
 75 **31A-37-505**, as last amended by Laws of Utah 2015, Chapter 244
 76 **31A-37-701**, as last amended by Laws of Utah 2021, Chapter 252
 77 **31A-37a-205**, as last amended by Laws of Utah 2011, Chapter 297
 78 **31A-43-301**, as last amended by Laws of Utah 2015, Chapter 244
 79 **61-2g-502**, as last amended by Laws of Utah 2020, Chapter 72

80 REPEALS AND REENACTS:

81 **31A-2-405**, as enacted by Laws of Utah 2007, Chapter 325

82

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

84 Section 1. Section **31A-1-103** is amended to read:

85 **31A-1-103 . Scope and applicability of title.**

86 (1) This title does not apply to:

87 (a) a retainer contract made by an attorney-at-law:

88 (i) with an individual client; and

89 (ii) under which fees are based on estimates of the nature and amount of services to
 90 be provided to the specific client;

91 (b) a contract similar to a contract described in Subsection (1)(a) made with a group of
 92 clients involved in the same or closely related legal matters;

93 (c) an arrangement for providing benefits that do not exceed a limited amount of
 94 consultations, advice on simple legal matters, either alone or in combination with
 95 referral services, or the promise of fee discounts for handling other legal matters;

96 (d) limited legal assistance on an informal basis involving neither an express contractual

- 97 obligation nor reasonable expectations, in the context of an employment,
98 membership, educational, or similar relationship;
- 99 (e) legal assistance by employee organizations to their members in matters relating to
100 employment;
- 101 (f) death, accident, health, or disability benefits provided to [~~a person~~] an individual by
102 an organization or [~~its~~] the organization's affiliate if:
- 103 (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue
104 Code and has had [~~its~~] the organization's principal place of business in Utah for at
105 least five years;
- 106 (ii) the [~~person~~] individual is not an employee of the organization; and
- 107 (iii)(A) substantially all the [~~person's~~] individual's time in the organization is spent
108 providing voluntary services:
- 109 (I) in furtherance of the organization's purposes;
- 110 (II) for a designated period of time; and
- 111 (III) for which no compensation, other than expenses, is paid; or
- 112 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no
113 more than 18 months; or
- 114 (g) a prepaid contract of limited duration that provides for scheduled maintenance only.
- 115 (2)(a) This title restricts otherwise legitimate business activity.
- 116 (b) What this title does not prohibit is permitted unless contrary to other provisions of
117 Utah law.
- 118 (3) Except as otherwise expressly provided, this title does not apply to:
- 119 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of
120 the federal Employee Retirement Income Security Act of 1974, as amended;
- 121 (b) ocean marine insurance;
- 122 (c) death, accident, health, or disability benefits provided by an organization that:
- 123 (i) has as the organization's principal purpose to achieve charitable, educational,
124 social, or religious objectives rather than to provide death, accident, health, or
125 disability benefits;
- 126 (ii) does not incur a legal obligation to pay a specified amount;
- 127 (iii) does not create reasonable expectations of receiving a specified amount on the
128 part of an insured person; and
- 129 (iv) is not a health care sharing ministry that provides that a participant make a
130 contribution to pay another participant's qualified expenses with no assumption of

- 131 risk or promise to pay.
- 132 (d) other business specified in rules adopted by the commissioner on a finding that:
- 133 (i) the transaction of the business in this state does not require regulation for the
- 134 protection of the interests of the residents of this state; or
- 135 (ii) it would be impracticable to require compliance with this title;
- 136 (e) except as provided in Subsection (4), a transaction independently procured through
- 137 negotiations under Section 31A-15-104;
- 138 (f) self-insurance;
- 139 (g) reinsurance;
- 140 (h) subject to Subsection (5), an employee or labor union group insurance policy
- 141 covering risks in this state or an employee or labor union blanket insurance policy
- 142 covering risks in this state, if:
- 143 (i) the policyholder exists primarily for purposes other than to procure insurance;
- 144 (ii) the policyholder:
- 145 (A) is not a resident of this state;
- 146 (B) is not a domestic corporation; or
- 147 (C) does not have the policyholder's principal office in this state;
- 148 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 149 (iv) on request of the commissioner, the insurer files with the department a copy of
- 150 the policy and a copy of each form or certificate; and
- 151 (v)(A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's
- 152 business, as if the insurer were authorized to do business in this state; and
- 153 (B) the insurer provides the commissioner with the security the commissioner
- 154 considers necessary for the payment of premium taxes under Title 59, Chapter
- 155 9, Taxation of Admitted Insurers;
- 156 (i) to the extent provided in Subsection (6):
- 157 (i) a manufacturer's or seller's warranty; and
- 158 (ii) a manufacturer's or seller's service contract;
- 159 (j) except to the extent provided in Subsection (7), a public agency insurance mutual;
- 160 (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a
- 161 guaranteed asset protection waiver; or
- 162 (l) a health care sharing ministry, if the health care sharing ministry:
- 163 (i) provides to each participant upon enrollment and annually thereafter a written
- 164 statement of nationwide data from the preceding calendar year that lists the total

165 dollar amount of contributions provided to participants toward qualified expenses;
166 and

167 (ii) includes a written disclaimer, titled "Notice", on or with each application and all
168 guideline materials that states:

169 (A) the health care sharing ministry is not an insurance company;

170 (B) nothing the health care sharing ministry offers or provides is an insurance
171 policy, including the health care sharing ministry's guidelines or plan of
172 operations;

173 (C) participation in the health care sharing ministry is entirely voluntary and no
174 participant is compelled by law to contribute to another participant's expenses;

175 (D) participation in the health care sharing ministry or subscription to any of the
176 health care sharing ministry's services is not insurance; and

177 (E) each participant is always personally responsible for the participant's expenses
178 regardless of whether the participant receives payment for the expenses
179 through the health care sharing ministry or whether this health care sharing
180 ministry continues to operate.

181 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section
182 31A-3-301.

183 (5)(a) After a hearing, the commissioner may order an insurer of certain group insurance
184 policies or blanket insurance policies to transfer the Utah portion of the business
185 otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts
186 have been written by an unauthorized insurer.

187 (b) If the commissioner finds that the conditions required for the exemption of a group
188 or blanket insurer are not satisfied or that adequate protection to residents of this state
189 is not provided, the commissioner may require:

190 (i) the insurer to be authorized to do business in this state; or

191 (ii) that any of the insurer's transactions be subject to this title.

192 (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and
193 health insurance.

194 (6)(a) As used in Subsection (3)(i) and this Subsection (6):

195 (i) [~~manufacturer's~~] "Manufacturer's or seller's service contract" means a service
196 contract:

197 (A) made available by:

198 (I) a manufacturer of a product;

- 199 (II) a seller of a product; or
 200 (III) an affiliate of a manufacturer or seller of a product;
 201 (B) made available:
 202 (I) on one or more specific products; or
 203 (II) on products that are components of a system; and
 204 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for
 205 services to be provided under the service contract including, if the
 206 manufacturer's or seller's service contract designates, providing parts and labor[;] .
 207 (ii) [~~manufacturer's~~] "Manufacturer's or seller's warranty" means the guaranty of:
 208 (A)(I) the manufacturer of a product;
 209 (II) a seller of a product; or
 210 (III) an affiliate of a manufacturer or seller of a product;
 211 (B)(I) on one or more specific products; or
 212 (II) on products that are components of a system; and
 213 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for
 214 services to be provided under the warranty, including, if the manufacturer's or
 215 seller's warranty designates, providing parts and labor[;and] .
 216 (iii) [~~service~~] "Service contract" means the same as that term is defined in Section
 217 31A-6a-101.
 218 (b) A manufacturer's or seller's warranty may be designated as:
 219 (i) a warranty;
 220 (ii) a guaranty; or
 221 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
 222 (c) This title does not apply to:
 223 (i) a manufacturer's or seller's warranty;
 224 (ii) a manufacturer's or seller's service contract paid for with consideration that is in
 225 addition to the consideration paid for the product itself; and
 226 (iii) a service contract that is not a manufacturer's or seller's warranty or
 227 manufacturer's or seller's service contract if:
 228 (A) the service contract is paid for with consideration that is in addition to the
 229 consideration paid for the product itself;
 230 (B) the service contract is for the repair or maintenance of goods;
 231 (C) the purchase price of the product is \$3,700 or less;
 232 (D) the product is not a motor vehicle; and

233 (E) the product is not the subject of a home warranty service contract.

234 (d) This title does not apply to a manufacturer's or seller's warranty or service contract
 235 paid for with consideration that is in addition to the consideration paid for the product
 236 itself regardless of whether the manufacturer's or seller's warranty or service contract
 237 is sold:

238 (i) at the time of the purchase of the product; or

239 (ii) at a time other than the time of the purchase of the product.

240 (7)(a) For purposes of this Subsection (7)[;] :

241 (i) [~~public~~] "Public agency insurance mutual" means an entity:

242 (A) formed by two or more political subdivisions or public agencies of the state[;]

243 [(+)] under Title 11, Chapter 13, Interlocal Cooperation Act; and

244 [(ii) ~~for the purpose of providing for the political subdivisions or public agencies;~~]

245 [(A) ~~subject to Subsection (7)(b), insurance coverage; or~~]

246 [(B) ~~risk management.~~]

247 (B) that issues an insurance policy, subject to Subsection (7)(b), or provides risk
 248 management, to a political subdivision or public agency in the state under Title
 249 11, Chapter 13, Interlocal Cooperation Act.

250 (ii) "Reserve fund" means a fund established:

251 (A) to fund a loss to a political subdivision's assets; and

252 (B) by one or more political subdivision for a purpose identified in Section
 253 63G-7-703.

254 (b) [~~Notwithstanding Subsection (7)(a)(ii)(A), a~~] A public agency insurance mutual or
 255 reserve fund may not provide health insurance unless the public agency insurance
 256 mutual provides the health insurance using:

257 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;

258 (ii) an admitted insurer; or

259 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and
 260 Insurance Program Act.

261 (c) [~~Except for this Subsection (7), a~~] A public agency insurance mutual or a reserve fund
 262 is exempt from this title[;] except as provided in the provisions in Sections 31A-3-301
 263 and 31A-3-303 describing the surplus lines tax that are applicable to a policyholder.

264 (d) A public agency insurance mutual ~~is~~ **or reserve fund** ~~is~~ considered[~~to be~~] a
 264a governmental entity and
 265 political subdivision of the state with all of the rights, privileges, and immunities of a

266 governmental entity or political subdivision of the state including all the rights and
 267 benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

268 Section 2. Section **31A-2-201** is amended to read:

269 **31A-2-201 . General duties and powers.**

270 (1) The commissioner shall administer and enforce this title.

271 (2) The commissioner has all powers specifically granted, and all further powers that are
 272 reasonable and necessary to enable the commissioner to perform the duties imposed by
 273 this title.

274 (3)~~(a)~~ The commissioner may make rules to implement the provisions of this title
 275 according to the procedures and requirements of Title 63G, Chapter 3, Utah
 276 Administrative Rulemaking Act.

277 ~~[(b) In addition to the notice requirements of Section 63G-3-301, the commissioner shall
 278 provide notice under Section 31A-2-303 of hearings concerning insurance
 279 department rules.]~~

280 (4)(a)(i) The commissioner shall issue prohibitory, mandatory, and other orders as
 281 necessary to secure compliance with this title.

282 (ii) An order by the commissioner is not effective unless the order:

283 ~~[(i)]~~ (A) is in writing; and

284 ~~[(ii)]~~ (B) is signed by the commissioner or under the commissioner's authority.

285 (b) On request of any person ~~[who]~~ that would be affected by an order under Subsection
 286 (4)(a), the commissioner may issue a declaratory order to clarify the person's rights or
 287 duties.

288 (5)(a) The commissioner may hold informal adjudicative proceedings and public
 289 meetings, for the purpose of:

290 (i) investigation;

291 (ii) ascertainment of public sentiment; or

292 (iii) informing the public.

293 (b) An effective rule or order may not result from informal hearings and meetings unless
 294 the requirement of a hearing under this section is satisfied.

295 (6) The commissioner shall inquire into violations of this title and may conduct any
 296 examinations and investigations of insurance matters, in addition to examinations and
 297 investigations expressly authorized, that the commissioner considers proper to determine:

298 (a) whether or not any person has violated any provision of this title; or

299 (b) to secure information useful in the lawful administration of this title.

300 (7) The commissioner shall ensure that any training or certification required of a public
 301 official or public employee, as those terms are defined in Section 63G-22-102, complies
 302 with Title 63G, Chapter 22, State Training and Certification Requirements, if the
 303 training or certification is required:

- 304 (a) under this title;
- 305 (b) by the department; or
- 306 (c) by an agency or division within the department.

307 Section 3. Section **31A-2-402** is amended to read:

308 **31A-2-402 . Definitions.**

309 As used in this part:

310 (1) "Commission" means the Title and Escrow Commission created in Section 31A-2-403.

311 (2) "Concurrence" means the entities given a concurring role must jointly agree for the
 312 action to be taken.

313 [~~(3) "Dual licensed title licensee" means a title licensee who holds:]~~

314 [~~(a) an individual title insurance producer license as a title licensee; and]~~

315 [~~(b) a license or certificate under:]~~

316 [~~(i) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;]~~

317 [~~(ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or]~~

318 [~~(iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.]~~

319 [~~(4)~~] (3) "Real Estate Commission" means the Real Estate Commission created in Section
 320 61-2f-103.

321 [~~(5)~~] (4) "Title insurance matter" means a matter related to:

- 322 (a) title insurance;
- 323 (b) an escrow conducted by an individual title insurance producer or agency title
 324 insurance producer;
- 325 (c) licensing, examination, and continuing education of an applicant to be a title
 326 licensee; or
- 327 (d) conduct of a title licensee.

328 [~~(6)~~] (5) "Title licensee" means a person licensed under this title as:

- 329 (a) an agency title insurance producer with a title insurance line of authority;
- 330 (b) an individual title insurance producer with:
 - 331 (i) a general title insurance line of authority; or
 - 332 (ii) a specific category of authority for title insurance; or
 - 333 (c) a title insurance adjuster.

334 Section 4. Section **31A-2-404** is amended to read:

335 **31A-2-404 . Duties of the commissioner and Title and Escrow Commission.**

336 (1)(a) Notwithstanding the other provisions of this chapter, to the extent provided in this
337 part, the commissioner shall administer and enforce the provisions in this title related
338 to a title insurance matter.

339 (b)(i) The commissioner may impose a penalty:

340 (A) under this title related to a title insurance matter;

341 (B) after investigation by the commissioner in accordance with Part 3, Procedures
342 and Enforcement; and

343 (C) that is enforced by the commissioner.

344 (ii) The commissioner shall consult with and seek concurrence of the commission in
345 a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding
346 the imposition of a penalty, and if concurrence cannot be reached, the
347 commissioner has final authority.

348 (c)(i) Unless a provision of this title grants specific authority to the commission, the
349 commissioner has authority over the implementation of this title related to a title
350 insurance matter.

351 (ii) When a provision requires concurrence between the commission and
352 commissioner, and concurrence cannot be reached, the commissioner has final
353 authority.

354 (d) Except as provided in Subsection (1)(e), when this title requires concurrence
355 between the commissioner and commission related to a title insurance matter:

356 (i) the commissioner shall report to and update the commission on a regular basis
357 related to that title insurance matter; and

358 (ii) the commission shall review the report submitted by the commissioner under this
359 Subsection (1)(d); and

360 (A) concur with the report[;] ; or[;]

361 [(A)] (B) provide a reason for not concurring with the report[;] and

362 [(B)] provide recommendations to the commissioner.

363 (e) When this title requires concurrence between the commissioner and commission
364 under Subsection (2), (3), or (4):

365 (i) the commission shall report to and update the commissioner on a regular basis
366 related to that title insurance matter; and

367 (ii) the commissioner shall review a report submitted by the commission under this

- 368 Subsection (1)(e) and concur with the report or:
- 369 (A) provide a reason for not concurring with the report; and
- 370 (B) provide recommendations to the commission.
- 371 (2) The commission shall:
- 372 (a) subject to Subsection (4), make rules for the administration of the provisions in this
- 373 title related to title insurance matters including rules related to:
- 374 (i) rating standards and rating methods for a title licensee, as provided in Section
- 375 31A-19a-209;
- 376 (ii) the licensing for a title licensee, including the licensing requirements of Section
- 377 31A-23a-204;
- 378 (iii) continuing education requirements of Section 31A-23a-202; and
- 379 (iv) standards of conduct for a title licensee;
- 380 (b) concur in the issuance and renewal of a license in accordance with Section
- 381 31A-23a-105 or 31A-26-203;
- 382 [~~(e) in accordance with Section 31A-3-103, establish, with the concurrence of the~~
- 383 ~~commissioner, the fees imposed by this title on a title licensee;]~~
- 384 [~~(d) in accordance with Section 31A-23a-415 determine, after consulting with the~~
- 385 ~~commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;]~~
- 386 [(~~e~~) (c) with the concurrence of the commissioner, approve a continuing education
- 387 program required by Section 31A-23a-202;
- 388 [(~~f~~) (d) on a regular basis advise the commissioner of the most critical matters affecting
- 389 the title insurance industry and request the commissioner to direct the department's
- 390 investigative resources to investigate and enforce those matters;
- 391 [(~~g~~) (e) in accordance with Section 31A-23a-204, participate in the annual license
- 392 testing evaluation conducted by the commissioner's test administrator;
- 393 [(~~h~~) (f) advise the commissioner on matters affecting the commissioner's budget related
- 394 to title insurance; and
- 395 [(~~i~~) (g) perform other duties as provided in this title.
- 396 (3) The commission may make rules establishing an examination for a license that will
- 397 satisfy Section 31A-23a-204:
- 398 (a) after consultation with the commissioner's test administrator; and
- 399 (b) subject to Subsection (4).
- 400 (4)(a) The commission may make a rule under this title only:
- 401 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

- 402 (ii) with the concurrence of the commissioner, except that if concurrence cannot be
 403 reached, the commissioner has final authority; and
- 404 (iii) if at the time the commission files [its] the commission's proposed rule and rule
 405 analysis with the Office of Administrative Rules in accordance with Section
 406 63G-3-301, the commission provides the Real Estate Commission that same
 407 information.
- 408 (b) The commission may not make a rule regarding adjudicative procedures.
- 409 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding
 410 adjudicative procedures.
- 411 (5)(a) The commissioner shall annually report the information described in Subsection
 412 (5)(b) in writing to the commission.
- 413 (b) The information required to be reported under this Subsection (5):
- 414 (i) may not identify a person; and
- 415 (ii) shall include:
- 416 (A) the number of complaints the commissioner receives with regard to
 417 transactions involving title insurance or a title licensee during the calendar year
 418 immediately proceeding the report;
- 419 (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
- 420 (C) for each complaint described in Subsection (5)(b)(ii)(A):
- 421 (I) any action taken by the commissioner with regard to the complaint; and
- 422 (II) the time-period beginning the day on which a complaint is made and
 423 ending the day on which the commissioner determines it will take no further
 424 action with regard to the complaint.

425 Section 5. Section **31A-2-405** is repealed and reenacted to read:

426 **31A-2-405 . Dual licensing.**

427 An individual title licensee may not conduct the business of title insurance while
 428 conducting business as a holder of a license or certificate under:

- 429 (1) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;
 430 (2) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or
 431 (3) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

432 Section 6. Section **31A-3-304** is amended to read:

433 **31A-3-304 . Annual fees -- Other taxes or fees prohibited -- Captive Insurance**
 434 **Restricted Account.**

- 435 (1)(a) A captive insurance company shall pay an annual fee imposed under this section

- 436 to obtain or renew a certificate of authority.
- 437 (b) The commissioner shall:
- 438 (i) determine the annual fee [~~pursuant to~~] in accordance with Section 31A-3-103; and
- 439 (ii) consider whether the annual fee is competitive with fees imposed by other states
- 440 on captive insurance companies.
- 441 (2) A captive insurance company that fails to pay the fee required by this section is subject
- 442 to the relevant sanctions of this title.
- 443 (3)(a) A captive insurance company that pays one of the following fees is exempt from
- 444 Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9,
- 445 Taxation of Admitted Insurers:
- 446 (i) a fee under this section;
- 447 (ii) a fee under Chapter 37, Captive Insurance Companies Act; or
- 448 (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company
- 449 Act.
- 450 (b) The state or a county, city, or town within the state may not levy or collect an
- 451 occupation tax or other fee or charge not described in Subsections (3)(a)(i) through
- 452 (iii) against a captive insurance company.
- 453 (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115
- 454 against a captive insurance company.
- 455 (4) A captive insurance company shall pay the fee imposed by this section to the
- 456 commissioner by June 1 of each year.
- 457 (5)(a) [~~Money received pursuant to~~] The commissioner shall deposit money received
- 458 from a fee described in Subsection (3)(a) [~~shall be deposited~~] into the Captive
- 459 Insurance Restricted Account.
- 460 (b) There is created in the General Fund a restricted account known as the "Captive
- 461 Insurance Restricted Account."
- 462 (c) The Captive Insurance Restricted Account shall consist of the fees described in
- 463 Subsection (3)(a).
- 464 (d) The commissioner shall administer the Captive Insurance Restricted Account.
- 465 Subject to appropriations by the Legislature, the commissioner shall use the money
- 466 deposited into the Captive Insurance Restricted Account to:
- 467 (i) administer and enforce:
- 468 (A) Chapter 37, Captive Insurance Companies Act; and
- 469 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

- 470 (ii) promote the captive insurance industry in Utah.
- 471 (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing,
- 472 except that at the end of each fiscal year, money received by the commissioner in
- 473 excess of ~~[the following]~~ the legislative appropriation for the fiscal year that just ended
- 474 shall be treated as free revenue in the General Fund[.].
- 475 ~~[(i) for fiscal year 2018-2019 and subsequent fiscal years, in excess of \$1,600,000;]~~
- 476 ~~[(ii) for fiscal year 2019-2020 and subsequent fiscal years, in excess of \$1,450,000;~~
- 477 ~~and]~~
- 478 ~~[(iii) for fiscal year 2023-2024 and subsequent fiscal years, in excess of \$1,650,000.]~~

479 Section 7. Section **31A-21-112** is amended to read:

480 **31A-21-112 . Language other than English.**

- 481 (1) An insurer may conduct a transaction in a language other than English through an
- 482 employee or agent acting as interpreter or through an interpreter provided by the
- 483 customer.
- 484 (2)(a) An insurer may provide a customer an insurance policy, endorsement, rider, or
- 485 explanatory or advertising material in a language other than English.[-]
- 486 (b) If there is a dispute or complaint regarding the insurance policy, endorsement, rider,
- 487 or explanatory or advertising material, the English language version of the insurance
- 488 coverage shall control the resolution of the dispute or complaint.
- 489 (3)(a) A non-English language policy delivered or issued for delivery in this state is [
490 ~~considered to be~~]in compliance with this title if the insurer certifies that the policy is
- 491 translated from an English language policy that complies with this title.
- 492 (b) An insurer is not required to file with the commissioner the certification described in
- 493 Subsection (3)(a).
- 494 (4) If an insurance policy, endorsement, or rider is provided in a language other than
- 495 English, ~~[it]~~ the insurance policy, endorsement, or rider shall be accompanied by:
- 496 (a) the corresponding English language version; and
- 497 (b) a disclaimer in both English and the other language that states that the foreign
- 498 language version is provided only as an accommodation or courtesy to the customer
- 499 and the English language version shall control the resolution of any dispute or
- 500 complaint.
- 501 (5) An insurer is not required to file with the commissioner a form in a language other than
- 502 English.

503 Section 8. Section **31A-21-303** is amended to read:

504 **31A-21-303 . Cancellation, issuance, and renewal.**

505 (1)(a) Except as otherwise provided in this section, other statutes, or by rule under
506 Subsection (1)(c), this section applies to all policies of insurance:

507 (i) except for:

508 (A) life insurance;

509 (B) accident and health insurance; and

510 (C) annuities; and

511 (ii) if the policies of insurance are issued on forms that are subject to filing under
512 Subsection 31A-21-201(1).

513 (b) A policy may provide terms more favorable to insureds than this section requires.

514 (c) The commissioner may by rule totally or partially exempt from this section classes of
515 insurance policies in which the insureds do not need protection against arbitrary or
516 unannounced termination.

517 (d) The rights provided by this section are in addition to and do not prejudice any other
518 rights the insureds may have at common law or under other statutes.

519 (2)(a) As used in this Subsection (2), "grounds" means:

520 (i) material misrepresentation;

521 (ii) substantial change in the risk assumed, unless the insurer should reasonably have
522 foreseen the change or contemplated the risk when entering into the contract;

523 (iii) substantial breaches of contractual duties, conditions, or warranties; or

524 ~~[(iv) attainment of the age specified as the terminal age for coverage, in which case
525 the insurer may cancel by notice under Subsection (2)(e), accompanied by a
526 tender of proportional return of premium; or]~~

527 ~~[(v)]~~ (iv) in the case of motor vehicle insurance, revocation or suspension of the
528 driver's license of:

529 (A) the named insured; or

530 (B) any other ~~[person]~~ individual who customarily drives the motor vehicle.

531 (b)(i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection
532 (2)(b)(ii) are met, an insurer may not cancel an insurance policy ~~[may not be
533 canceled by the insurer]~~ before the earlier of:

534 (A) the expiration of the agreed term; or

535 (B) one year from the effective date of the policy or renewal.

536 (ii) Notwithstanding Subsection (2)(b)(i), an insurer may cancel an insurance policy [
537 ~~may be canceled by the insurer]~~ for:

- 538 (A) nonpayment of a premium when due; or
539 (B) ~~[on]grounds[defined in Subsection (2)(a)]~~.
- 540 (c)(i) The cancellation provided by Subsection (2)(b), except cancellation for
541 nonpayment of premium, is effective no sooner than 30 days after the delivery or
542 first-class mailing of a written notice to the policyholder.
- 543 (ii) Cancellation for nonpayment of premium of a personal lines policy is effective no
544 sooner than 10 days after delivery or first-class mailing of a written notice to the
545 policyholder.
- 546 (iii) Cancellation for nonpayment of premium of a commercial lines policy is
547 effective no sooner than 10 days after delivery or first-class mailing of a written
548 notice to:
- 549 (A) the policyholder;
550 (B) each assignee of the policyholder, if the assignee is named in the policy; and
551 (C) each loss payee or mortgagee or lienholder under property insurance of the
552 policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.
- 553 (iv) An insurer shall deliver or send by first-class mail a copy of the notice of
554 cancellation for nonpayment of premium described in Subsection (2)(c)(iii) to an
555 agent of record of the policyholder on or before the day on which the insurer
556 provides the notice to the policyholder.
- 557 (d)(i) Notice of cancellation for nonpayment of premium shall include a statement of
558 the reason for cancellation.
- 559 (ii) Subsection (7) applies to the notice required for grounds of cancellation other
560 than nonpayment of premium.
- 561 (e)(i) Subsections (2)(a) through (d) do not apply to any insurance contract that has
562 not been previously renewed if the contract has been in effect less than 60 days on
563 the day on which the written notice of cancellation is mailed or delivered.
- 564 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10
565 days after the day on which a written notice of cancellation is delivered to the
566 insured.
- 567 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage
568 prepaid, to the insured at the insured's last-known address, delivery is considered
569 accomplished after the passing, since the mailing date, of the mailing time
570 specified in the Utah Rules of Civil Procedure.
- 571 (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the

- 572 procedures described in Subsection (7).
- 573 (3) A policy may be issued for a term longer than one year or for an indefinite term if the
574 policy includes a clause providing for cancellation by the insurer by giving notice as
575 provided in Subsection (4)(b)(i) 30 days before an anniversary date.
- 576 (4)(a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the
577 policy renewed:
- 578 (i) on the terms then being applied by the insurer to similar risks; and
579 (ii)(A) for an additional period of time equivalent to the expiring term if the
580 agreed term is one year or less; or
581 (B) for one year if the agreed term is longer than one year.
- 582 (b) Except as provided in Subsections (4)(c) and (5), the right to renewal under
583 Subsection (4)(a) is extinguished if:
- 584 (i) at least 30 days before the day on which the policy expires or completes an
585 anniversary, the insurer delivers or sends by first-class mail a notice of intention
586 not to renew the policy beyond the agreed expiration or anniversary date to the
587 policyholder at the policyholder's last-known address;
- 588 (ii) ~~not~~ no more than 45 ~~nor~~ but no less than 14 days before the day on which the
589 renewal premium is due, the insurer delivers or sends by first-class mail a notice
590 to the policyholder at the policyholder's last-known address, clearly stating:
- 591 (A) the renewal premium;
592 (B) how the renewal premium may be paid, including the due date for payment of
593 the renewal premium;
594 (C) that failure to pay the renewal premium extinguishes the policyholder's right
595 to renewal; and
596 (D) subject to Subsection (4)(e), that the extinguishment of the right to renew for
597 nonpayment of premium is effective no sooner than at least 10 days after
598 delivery or first-class mailing of a written notice to the policyholder that the
599 policyholder has failed to pay the premium when due;
- 600 (iii) the policyholder has:
- 601 (A) accepted replacement coverage; or
602 (B) requested or agreed to nonrenewal; or
603 (iv) the policy is expressly designated as nonrenewable.
- 604 (c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to
605 renew an insurance policy as a result of a telephone call or other inquiry that:

- 606 (i) references a policy coverage; and
- 607 (ii) does not result in the insured requesting payment of a claim.
- 608 (d) Failure to renew under this Subsection (4) is subject to Subsection (5).
- 609 (e)(i)(A) If the policy is a personal lines policy, during the period that begins
- 610 when an insurer delivers or sends by first-class mail the notice described in
- 611 Subsection (4)(b)(ii)(D) and ends when the premium is paid, coverage exists
- 612 and premiums are due.
- 613 (B) If the policy is a commercial lines policy, during the period that begins when
- 614 an insurer delivers or sends by first-class mail the notice described in
- 615 Subsection (2)(c)(iii) and ends when the premium is paid, coverage exists and
- 616 premiums are due.
- 617 (ii)(A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal
- 618 lines policyholder fails to pay the renewal premium, the coverage is
- 619 extinguished as of the date the renewal premium is originally due.
- 620 (B) If after receiving the notice required under Subsection (2)(c)(iii), a
- 621 commercial lines policyholder fails to pay the renewal premium within the 10
- 622 days before the day on which cancellation for nonpayment is effective, the
- 623 coverage is extinguished as of the day on which the renewal premium is
- 624 originally due.
- 625 (iii) Delivery of the notice required by Subsection (2)(c)(iii), (2)(c)(iv), or
- 626 (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.
- 627 (iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if:
- 628 (A) the insurer provides notice of the extinguishment of the right to renew for
- 629 failure to pay premium at least 15 days, but no longer than 45 days, before the
- 630 day on which the renewal payment is due; and
- 631 (B) the policy is a personal lines policy.
- 632 (v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30
- 633 days or less.
- 634 (5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal
- 635 lines insurance policies solely on the basis of:
- 636 (a) in the case of a motor vehicle insurance policy:
- 637 (i) a claim from the insured that:
- 638 (A) results from an accident in which:
- 639 (I) the insured is not at fault; and

- 640 (II) the driver of the motor vehicle that is covered by the motor vehicle
 641 insurance policy is 21 years [~~of age~~] old or older; and
- 642 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a
 643 36-month period;
- 644 (ii) a single traffic violation by an insured that:
- 645 (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;
- 646 (B) is not in excess of 10 miles per hour over the speed limit;
- 647 (C) is not a traffic violation under[~~:~~]
- 648 [~~(I)~~] Section 41-6a-601, 41-6a-604, or 41-6a-605;
- 649 [~~(II)~~] Section 41-6a-604; or
- 650 [~~(III)~~] Section 41-6a-605;
- 651 (D) is not a violation by an insured driver who is younger than 21 years [~~of age~~] old;
- 652 and
- 653 (E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A)
 654 through (D) within a 36-month period; or
- 655 (iii) a claim for damage that:
- 656 (A) results solely from[~~:~~] wind, hail, lightning, or an earthquake;
- 657 [~~(I)~~] wind;
- 658 [~~(II)~~] hail;
- 659 [~~(III)~~] lightning; or
- 660 [~~(IV)~~] an earthquake;
- 661 (B) is not preventable by the exercise of reasonable care; and
- 662 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)
 663 within a 36-month period; [~~and~~] or
- 664 (b) in the case of a homeowner's insurance policy, a claim by the insured that is for
 665 damage that:
- 666 (i) results solely from[~~:~~] wind, hail, or lightning;
- 667 [~~(A)~~] wind;
- 668 [~~(B)~~] hail; or
- 669 [~~(C)~~] lightning;
- 670 (ii) is not preventable by the exercise of reasonable care; and
- 671 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a
 672 36-month period.
- 673 (6)(a)(i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the

674 policy, but on less favorable terms or at higher rates, the new terms or rates take
675 effect on the renewal date if the insurer delivered or sent by first-class mail to the
676 policyholder notice of the new terms or rates at least 30 days before the day on
677 which the previous policy expires.

678 (ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i)
679 to the policyholder, the new terms or rates do not take effect until 30 days after the
680 day on which the insurer delivers or sends by first-class mail the notice, in which
681 case the policyholder may elect to cancel the renewal policy at any time during the
682 30-day period.

683 (iii) Return premiums or additional premium charges shall be calculated
684 proportionately on the basis that the old rates apply.

685 (b) Except as provided in Subsection (6)(c), Subsection (6)(a) does not apply if the only
686 change in terms that is adverse to the policyholder is:

687 (i) a rate increase generally applicable to the class of business to which the policy
688 belongs;

689 (ii) a rate increase resulting from a classification change based on the altered nature
690 or extent of the risk insured against; or

691 (iii) a policy form change made to make the form consistent with Utah law.

692 (c) Subsections (6)(b)(i) and (ii) do not apply to a rate increase of 25% or more on a
693 commercial policy.

694 (7)(a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state
695 with reasonable precision the facts on which the insurer's decision is based, the
696 insurer shall send by first-class mail or deliver that information within 10 working
697 days [~~after receipt of~~] after the day on which the insurer receives a written request by
698 the policyholder.

699 (b) A notice under Subsection (2)(c) is not effective unless [it] the notice contains
700 information about the policyholder's right to make the request.

701 (8)(a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a
702 motor vehicle insurance policy issued in accordance with the requirements of Chapter
703 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide
704 notice of nonrenewal or cancellation to a lienholder if the insurer has been provided
705 the name and mailing address of the lienholder.

706 (b) An insurer shall provide the notice described in Subsection (8)(a) to the lienholder by
707 first-class mail or, if agreed by the parties, any electronic means of communication.

708 (c) A lienholder shall provide a current physical address of notification or an electronic
 709 address of notification to an insurer that is required to make a notification under
 710 Subsection (8)(a).

711 (9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided
 712 by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal
 713 required under Subsection (2)(c) or (4)(b)(i) may not be effective unless the notice
 714 contains instructions to the policyholder for applying for insurance through the available
 715 risk-sharing plan.

716 (10) There is no liability on the part of, and no cause of action against, any insurer, [its] the
 717 insurer's authorized representatives, agents, employees, or any other person furnishing to
 718 the insurer information relating to the reasons for cancellation or nonrenewal or for any
 719 statement made or information given [by them] by an insurer, the insurer's authorized
 720 representative, agent, employee, or any other person in complying or enabling the
 721 insurer to comply with this section unless actual malice is proved by clear and
 722 convincing evidence.

723 (11) This section does not alter any common law right of contract rescission for material
 724 misrepresentation.

725 (12) If a person is required to pay a premium in accordance with this section:

726 (a) the person may make the payment using:

727 (i) the United States Postal Service;

728 (ii) a delivery service the commissioner describes or designates by rule made in
 729 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

730 (iii) electronic means; and

731 (b) the payment is [~~considered to be~~]made:

732 (i) for a payment that is mailed using the method described in Subsection (12)(a)(i),
 733 on the date on which the payment is postmarked;

734 (ii) for a payment that is delivered using the method described in Subsection
 735 (12)(a)(ii), on the date on which the delivery service records or marks the payment
 736 as having been received by the delivery service; or

737 (iii) for a payment that is made using the method described in Subsection (12)(a)(iii),
 738 on the date on which the payment is made electronically.

739 Section 9. Section **31A-22-407** is amended to read:

740 **31A-22-407 . Reinstatement.**

741 (1)(a) Except as provided under Subsection (2), [~~life insurance policies, other than group~~

742 policies,] an individual life insurance policy shall be reinstated upon written
 743 application made within three years, or within two years in the case of [~~policies~~] an
 744 individual life insurance policy with [~~face amounts~~] a face amount under \$5,000, from
 745 the date of premium default.

746 (b) [~~The~~] An applicant described in Subsection (1)(a) shall

747 (i) produce evidence of insurability satisfactory to the insurer[;] ;

748 (ii) pay all premiums in arrears[;] ; and

749 (iii) pay or reinstate any other indebtedness to the insurer upon the policy, all with
 750 interest[;] ;

751 (A) compounded annually, at a rate not exceeding the rate set by the policy for
 752 policy loans compounded annually[;] ; or

753 (B) [~~If~~] if no rate is set in the policy, the commissioner shall adopt a rule [~~which~~]
 754 that sets the rate the same as under Section 31A-22-402.

755 (2) Subsection (1) does not apply if any of these conditions exist:

756 (a) [~~The~~] the policy has been surrendered for its cash surrender value[;] ;

757 (b) [~~The~~] the policy's cash surrender value has been exhausted[;] ; or

758 (c) [~~The~~] the paid-up term insurance, if any, has expired.

759 Section 10. Section **31A-22-509** is amended to read:

760 **31A-22-509 . Commissioner's authority to approve other groups.**

761 (1) A policy may be issued to a group other than those specified under Sections [
 762 ~~31A-22-502~~] 31A-22-501 through 31A-22-508, if specifically authorized by the
 763 commissioner and if granting the permission is not contrary to public policy.[;]

764 (2)(a) The commissioner may not grant permission to issue these types of policies unless
 765 the insurer demonstrates to the commissioner's satisfaction that the proposed group [
 766 ~~would~~] will:

767 (i) be actuarially sound[;] ;

768 (ii) [~~would~~] result in economies of acquisition and administration [~~which~~] that justify
 769 a group rate[;] ; and [~~would~~]

770 (iii) not present hazards of adverse selection.

771 (b) The policyholders shall pay the premiums for the policy [~~shall be paid by the~~
 772 ~~policyholder, either from the policyholder's funds or~~] from funds contributed by:

773 (i) the policyholder;

774 (ii) [~~by~~] the covered [~~persons;~~] person; or [~~from both.~~]

775 (iii) both the policyholder and the covered person.

776 (c) Premiums for the policy and any contributions by or on behalf of the insured persons
777 shall be reasonable in relation to the benefits provided.

778 Section 11. Section **31A-22-511** is amended to read:

779 **31A-22-511 . Dependents' coverage.**

780 (1) ~~[Any] A~~ group life policy issued under Sections 31A-22-502 through 31A-22-505
781 or Section 31A-22-509 may insure ~~[the employees or members against loss due to the~~
782 ~~death of their spouses and dependent children, or any classes of the employees or~~
783 ~~members]~~ any class of employee or member and the spouse and dependent children of an
784 employee or member against loss due to death.

785 (2) The policyholder shall pay the premiums for the insurance ~~[shall be paid by the~~
786 ~~policyholder]~~ from funds contributed by ~~[the person to whom the policy has been issued,~~
787 ~~from funds contributed by the covered persons, or from both.] :~~

788 (a) the policyholder;

789 (b) the covered person; or

790 (c) both the policyholder and the covered person.

791 (3) Except as provided under Section 31A-22-512, a policy on which no part of the
792 premium for the ~~[dependent's]~~ dependent coverage is contributed by the covered ~~[persons]~~
793 person shall insure ~~[all insured persons]~~ each eligible person, including ~~[their spouses]~~
794 the covered person's spouse and dependent or minor children.

795 Section 12. Section **31A-22-512** is amended to read:

796 **31A-22-512 . Individual insurability.**

797 (1) An insurer may exclude or limit the coverage under a group life insurance policy on any
798 person, including a group member's dependent, as to whom the evidence of individual
799 insurability is not satisfactory to the insurer.

800 (2) The group life insurance policy shall contain a provision setting forth the conditions, if
801 any, under which the insurer reserves the right to require a person eligible for insurance
802 to furnish satisfactory evidence to the insurer of the individual insurability as a condition
803 to part or all of ~~[his]~~ the person's coverage.

804 Section 13. Section **31A-22-514** is amended to read:

805 **31A-22-514 . Incontestability.**

806 (1) ~~[The]~~ A group life insurance policy shall contain a provision that the validity of the
807 policy may not be contested, except for nonpayment of premiums, after ~~[it]~~ the policy
808 has been in force for two years from its date of issue.

809 (2) ~~[This]~~ The provision described in Subsection (1) shall ~~[also]~~ state that no statement made

810 by ~~[any]~~ a person insured under the policy relating to ~~[his]~~ the person's insurability may
811 be used:

812 (a) in contesting the validity of the insurance with respect to which the statement was
813 made after the insurance has been in force, prior to the contest, for a period of two
814 years during the person's lifetime~~[, nor may the statement be used]~~ ; or

815 (b) unless ~~[it]~~ the statement is ~~[contained in a written instrument signed by him.]~~ in
816 writing and signed by the person.

817 (3) ~~[This type of provision does not preclude]~~ Nothing in this section precludes the assertion
818 of defenses based upon provisions in the policy which relate to eligibility for coverage.

819 Section 14. Section **31A-22-614** is amended to read:

820 **31A-22-614 . Claims under accident and health policies.**

821 (1) Section 31A-21-312 applies generally to claims under accident and health policies.

822 (2)(a) Subject to Subsection (1), an accident and health insurance policy may not contain
823 a claim notice requirement less favorable to the insured, or an insured's network
824 provider, than one which requires written notice of the claim within 20 days after the
825 occurrence or commencement of any loss covered by the policy. The policy shall
826 specify to whom claim notices may be given.

827 (b) If a loss of time benefit under a policy may be paid for a period of at least two years,
828 an insurer may require periodic notices that the insured continues to have a disability,
829 unless the insured is legally incapacitated. The insured's, or the insured's network
830 provider's, delay in giving that notice does not impair the insured's, the insured's
831 network provider's, or beneficiary's right to any indemnity which would otherwise
832 have accrued during the six months preceding the date on which that notice is
833 actually given.

834 (3) An accident and health insurance policy may not contain a time limit on proof of loss
835 which is more restrictive to the insured, or the insured's network provider, than a
836 provision requiring written proof of loss, delivered to the insurer, within the following
837 time:

838 (a) for a claim where periodic payments are contingent upon continuing loss, within ~~[+20]~~
839 180 days after the termination of the period for which the insurer is liable; or

840 (b) for any other claim, within ~~[+20]~~ 180 days after the date of the loss.

841 (4)(a)(i) Section 31A-26-301 applies generally to the payment of claims.

842 (ii) Indemnity for loss of life is paid in accordance with the beneficiary designation
843 effective at the time of payment. If no valid beneficiary designation exists, the

844 indemnity is paid to the insured's estate. Any other accrued indemnities unpaid at
845 the insured's death are paid to the insured's estate.

846 (b) Reasonable facility of payment clauses, specified by the commissioner by rule or in
847 approving the policy form, are permitted. Payment made in good faith and in
848 accordance with those clauses discharges the insurer's obligation to pay those claims.

849 (c) All or a portion of any indemnities provided under an accident and health policy on
850 account of hospital, nursing, medical, or surgical services may, at the insurer's option,
851 be paid directly to the hospital or person rendering the services.

852 Section 15. Section **31A-22-701** is amended to read:

853 **31A-22-701 . Groups eligible for group or blanket insurance.**

854 (1) A group insurance policy offering accident and health insurance may be issued to:

855 (a) a group:

856 (i) to which a group life insurance policy may be issued under Section 31A-22-502,
857 31A-22-503, 31A-22-504, 31A-22-505, 31A-22-506, [~~or~~]31A-22-507,
858 31A-22-508, or 31A-22-509; and

859 (ii) that is formed and maintained in good faith for a purpose other than obtaining
860 insurance;

861 (b) a group specifically authorized by the commissioner, upon a finding that:

862 (i) authorization is not contrary to the public interest;

863 (ii) the group is actuarially sound;

864 (iii) formation of the proposed group may result in economies of scale in acquisition,
865 administrative, marketing, and brokerage costs;

866 (iv) the insurance policy, insurance certificate, or other indicia of coverage that will
867 be offered to the proposed group is substantially equivalent to insurance policies
868 that are otherwise available to similar groups;

869 (v) the group would not present hazards of adverse selection;

870 (vi) the premiums for the insurance policy and any contributions by or on behalf of
871 the insured persons are reasonable in relation to the benefits provided; and

872 (vii) the group is formed and maintained in good faith for a purpose other than
873 obtaining insurance; or

874 (c) a postsecondary educational institution covering students, upon a finding that:

875 (i) the policy provides standards for financial soundness;

876 (ii) the policy protects the students covered;

877 (iii) the policy provides for the establishment of a financially viable alternative to

- 878 traditional health care plans;
- 879 (iv) authorization is not contrary to the public interest;
- 880 (v) the policy would not present hazards of adverse selection; and
- 881 (vi) the premiums for the policy and any contributions by or on behalf of the insured
- 882 persons are reasonable in relation to the benefits provided.
- 883 (2) A blanket insurance policy offering accident and health insurance:
- 884 (a) covers a defined class of persons;
- 885 (b) may not be offered or underwritten on an individual basis;
- 886 (c) shall cover only a group that is:
- 887 (i) actuarially sound; and
- 888 (ii) formed and maintained in good faith for a purpose other than obtaining insurance;
- 889 and
- 890 (d) may be issued only to:
- 891 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as
- 892 policyholder, covering persons who may become passengers as defined by
- 893 reference to the person's travel status;
- 894 (ii) an employer, as policyholder, covering any group of employees, dependents, or
- 895 guests, as defined by reference to specified hazards incident to any activities of the
- 896 policyholder;
- 897 (iii) an institution of learning, including a school district, a school jurisdictional unit,
- 898 or the head, principal, or governing board of a school jurisdictional unit, as
- 899 policyholder, covering students, teachers, or employees;
- 900 (iv) a religious, charitable, recreational, educational, or civic organization, or branch
- 901 of one of those organizations, as policyholder, covering a group of members or
- 902 participants as defined by reference to specified hazards incident to the activities
- 903 sponsored or supervised by the policyholder;
- 904 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder,
- 905 covering members, campers, employees, officials, or supervisors;
- 906 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer
- 907 organization, as policyholder, covering a group of members or participants as
- 908 defined by reference to specified hazards incident to activities sponsored,
- 909 supervised, or participated in by the policyholder;
- 910 (vii) a newspaper or other publisher, as policyholder, covering [its] a newspaper's or
- 911 publisher's carriers;

- 912 (viii) a labor union, as a policyholder, covering a group of members or participants as
 913 defined by reference to specified hazards incident to the activities or operations
 914 sponsored or supervised by the policyholder;
- 915 (ix) an association that has a constitution and bylaws covering a group of members or
 916 participants as defined by reference to specified hazards incident to the activities
 917 or operations sponsored or supervised by the policyholder; or
- 918 (x) any other class of risks that, in the judgment of the commissioner, may be
 919 properly eligible for a blanket insurance policy offering accident and health
 920 insurance.

921 (3) The judgment of the commissioner may be exercised on the basis of:

- 922 (a) individual risks;
- 923 (b) a class of risks; or
- 924 (c) both risks described in Subsections(3)(a) and (b).

925 (4) A group insurance policy offering accident and health insurance issued to a group
 926 authorized under Subsection 31A-22-504(1)(b)(ii) is subject to the provisions of Section
 927 31A-22-602.

928 Section 16. Section **31A-23a-105** is amended to read:

929 **31A-23a-105 . General requirements for individual and agency license issuance**
 930 **and renewal.**

931 (1)(a) The commissioner shall issue or renew a license to a person described in
 932 Subsection (1)(b) to act as:

- 933 (i) a producer;
- 934 (ii) a surplus lines producer;
- 935 (iii) a limited line producer;
- 936 (iv) a consultant;
- 937 (v) a managing general agent; or
- 938 (vi) a reinsurance intermediary.

939 (b) The commissioner shall issue or renew a license [~~under~~] described in Subsection
 940 (1)(a) to a person who, as to the license type and line of authority classification
 941 applied for under Section 31A-23a-106:

- 942 (i) satisfies the application requirements under Section 31A-23a-104;
- 943 (ii) satisfies the character requirements under Section 31A-23a-107;
- 944 (iii) satisfies applicable continuing education requirements under Section
 945 31A-23a-202;

- 946 (iv) satisfies applicable examination requirements under Section 31A-23a-108;
- 947 (v) satisfies applicable training period requirements under Section 31A-23a-203;
- 948 (vi) if an applicant for a resident individual producer license, certifies that, to the
- 949 extent applicable, the applicant:
- 950 (A) is in compliance with Section 31A-23a-203.5; and
- 951 (B) will maintain compliance with Section 31A-23a-203.5 during the period for
- 952 which the license is issued or renewed;
- 953 (vii) has not committed an act that is a ground for denial, suspension, or revocation as
- 954 provided in Section 31A-23a-111;
- 955 (viii) if a nonresident:
- 956 (A) complies with Section 31A-23a-109; and
- 957 (B) holds an active similar license in that person's home state;
- 958 (ix) if an applicant for an individual title insurance producer or agency title insurance
- 959 producer license, satisfies the requirements of Section 31A-23a-204;
- 960 (x) if an applicant for a license to act as a life settlement provider or life settlement
- 961 producer, satisfies the requirements of Section 31A-23a-117; and
- 962 (xi) pays the applicable fees under Section 31A-3-103.
- 963 (2)(a) This Subsection (2) applies to the following persons:
- 964 (i) an applicant for a pending:
- 965 (A) individual or agency producer license;
- 966 (B) surplus lines producer license;
- 967 (C) limited line producer license;
- 968 (D) consultant license;
- 969 (E) managing general agent license; or
- 970 (F) reinsurance intermediary license; or
- 971 (ii) a licensed:
- 972 (A) individual or agency producer;
- 973 (B) surplus lines producer;
- 974 (C) limited line producer;
- 975 (D) consultant;
- 976 (E) managing general agent; or
- 977 (F) reinsurance intermediary.
- 978 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 979 (i) an administrative action taken against the person, including a denial of a new or

- 980 renewal license application:
- 981 (A) in another jurisdiction; or
- 982 (B) by another regulatory agency in this state;
- 983 (ii) a criminal prosecution taken against the person in any jurisdiction; and
- 984 (iii) a civil action filed against the person in any jurisdiction if the action involves
- 985 conduct related to a professional or occupational license, certification,
- 986 authorization, or registration, regardless of whether the person held the license,
- 987 certification, authorization, or registration.
- 988 (c) The report required by Subsection (2)(b) shall:
- 989 (i) be filed:
- 990 (A) at the time the person files the application for an individual or agency license;
- 991 and
- 992 (B) for an action or prosecution that occurs on or after the day on which the
- 993 person files the application:
- 994 (I) for an administrative action, within 30 days of the final disposition of the
- 995 administrative action; or
- 996 (II) for a criminal prosecution or civil action, within 30 days of the initial
- 997 appearance before a court; and
- 998 (ii) include a copy of the complaint or other relevant legal documents related to the
- 999 action or prosecution described in Subsection (2)(b).
- 1000 (3)(a) The department may require ~~[a person]~~ an individual applying for a license or for
- 1001 consent to engage in the business of insurance to submit to a criminal background
- 1002 check as a condition of receiving a license or consent.
- 1003 (b) A person, if required to submit to a criminal background check under Subsection
- 1004 (3)(a), shall:
- 1005 (i) submit a fingerprint card in a form acceptable to the department; and
- 1006 (ii) consent to a fingerprint background check by:
- 1007 (A) the Utah Bureau of Criminal Identification; and
- 1008 (B) the Federal Bureau of Investigation.
- 1009 (c) For ~~[a person]~~ an individual who submits a fingerprint card and consents to a
- 1010 fingerprint background check under Subsection (3)(b), the department may request:
- 1011 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
- 1012 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification;
- 1013 and

- 1014 (ii) complete Federal Bureau of Investigation criminal background checks through
1015 the national criminal history system.
- 1016 (d) ~~[Information]~~ The department shall use information obtained by the department from
1017 the review of criminal history records received under this Subsection (3) ~~[shall be~~
1018 ~~used by the department]~~ for the purposes of:
- 1019 (i) determining if ~~[a person]~~ an individual satisfies the character requirements under
1020 Section 31A-23a-107 for issuance or renewal of a license;
- 1021 (ii) determining if ~~[a person]~~ an individual has failed to maintain the character
1022 requirements under Section 31A-23a-107; and
- 1023 (iii) preventing ~~[a person]~~ an individual who violates the federal Violent Crime
1024 Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging
1025 in the business of insurance in the state.
- 1026 (e) If the department requests the criminal background information, the department shall:
- 1027 (i) pay to the Department of Public Safety the costs incurred by the Department of
1028 Public Safety in providing the department criminal background information under
1029 Subsection (3)(c)(i);
- 1030 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal
1031 Bureau of Investigation in providing the department criminal background
1032 information under Subsection (3)(c)(ii); and
- 1033 (iii) charge the ~~[person]~~ individual applying for a license or for consent to engage in
1034 the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and
1035 (ii).
- 1036 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this section,
1037 a person licensed as one of the following in another state who moves to this state shall
1038 apply within 90 days of establishing legal residence in this state:
- 1039 (a) insurance producer;
- 1040 (b) surplus lines producer;
- 1041 (c) limited line producer;
- 1042 (d) consultant;
- 1043 (e) managing general agent; or
- 1044 (f) reinsurance intermediary.
- 1045 (5)(a) The commissioner may deny a license application for a license listed in
1046 Subsection (5)(b) if the person applying for the license, as to the license type and line
1047 of authority classification applied for under Section 31A-23a-106:

1048 (i) fails to satisfy the requirements as set forth in this section; or
 1049 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in
 1050 Section 31A-23a-111.

1051 (b) This Subsection (5) applies to the following licenses:

- 1052 (i) producer;
- 1053 (ii) surplus lines producer;
- 1054 (iii) limited line producer;
- 1055 (iv) consultant;
- 1056 (v) managing general agent; or
- 1057 (vi) reinsurance intermediary.

1058 [~~(6) Notwithstanding the other provisions of this section, the commissioner may:]~~

1059 [~~(a) issue a license to an applicant for a license for a title insurance line of authority only~~
 1060 ~~with the concurrence of the Title and Escrow Commission; and]~~

1061 [~~(b) renew a license for a title insurance line of authority only with the concurrence of~~
 1062 ~~the Title and Escrow Commission.]~~

1063 Section 17. Section **31A-23a-109** is amended to read:

1064 **31A-23a-109 . Nonresident jurisdictional agreement.**

1065 (1)(a) If a nonresident license applicant has a valid producer, surplus lines producer,
 1066 limited line producer, consultant, managing general agent, or reinsurance
 1067 intermediary license from the nonresident license applicant's home state or
 1068 designated home state and the conditions of Subsection (1)(b) are met, the
 1069 commissioner shall:

- 1070 (i) waive the license requirements for a license under this [~~chapter~~] section; and
- 1071 (ii) issue the nonresident license applicant a nonresident license.

1072 (b) Subsection (1)(a) applies if:

1073 (i) the nonresident license applicant:

1074 (A) is licensed in the nonresident license applicant's home state or designated
 1075 home state at the time the nonresident license applicant applies for a
 1076 nonresident producer, surplus lines producer, limited line producer, consultant,
 1077 managing general agent, or reinsurance intermediary license;

1078 (B) has submitted the proper request for licensure;

1079 (C) has submitted to the commissioner:

1080 (I) the application for licensure that the nonresident license applicant submitted
 1081 to the applicant's home state or designated home state; or

- 1082 (II) a completed uniform application; and
- 1083 (D) has paid the applicable fees under Section 31A-3-103; and
- 1084 (ii) the nonresident license applicant's license in the applicant's home state or
- 1085 designated home state is in good standing.
- 1086 (2) A nonresident applicant applying under Subsection (1) shall in addition to complying
- 1087 with all license requirements for a license under this chapter execute, in a form
- 1088 acceptable to the commissioner, an agreement to be subject to the jurisdiction of the
- 1089 Utah commissioner and courts on any matter related to the applicant's insurance
- 1090 activities in this state, on the basis of:
- 1091 (a) service of process under Sections 31A-2-309 and 31A-2-310; or
- 1092 (b) service authorized:
- 1093 (i) in the Utah Rules of Civil Procedure; or
- 1094 (ii) under Section 78B-3-206.
- 1095 (3) The commissioner may verify a producer's licensing status through the producer
- 1096 database maintained by:
- 1097 (a) the National Association of Insurance Commissioners; or
- 1098 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.
- 1099 (4) The commissioner may not assess a greater fee for an insurance license or related
- 1100 service to a person not residing in this state solely on the fact that the person does not
- 1101 reside in this state.
- 1102 Section 18. Section **31A-23a-111** is amended to read:
- 1103 **31A-23a-111 . Revoking, suspending, surrendering, lapsing, limiting, or**
- 1104 **otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**
- 1105 (1) A license type issued under this chapter remains in force until:
- 1106 (a) revoked or suspended under Subsection (5);
- 1107 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
- 1108 administrative action;
- 1109 (c) the licensee dies or is adjudicated incompetent as defined under:
- 1110 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 1111 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
- 1112 Minors;
- 1113 (d) lapsed under Section 31A-23a-113; or
- 1114 (e) voluntarily surrendered.
- 1115 (2) The following may be reinstated within one year after the day on which the license is no

- 1116 longer in force:
- 1117 (a) a lapsed license; or
- 1118 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
- 1119 not be reinstated after the license period in which the license is voluntarily
- 1120 surrendered.
- 1121 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license,
- 1122 submission and acceptance of a voluntary surrender of a license does not prevent the
- 1123 department from pursuing additional disciplinary or other action authorized under:
- 1124 (a) this title; or
- 1125 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
- 1126 Administrative Rulemaking Act.
- 1127 (4) A line of authority issued under this chapter remains in force until:
- 1128 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;
- 1129 (b) the supporting license type:
- 1130 (i) is revoked or suspended under Subsection (5);
- 1131 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
- 1132 administrative action;
- 1133 (iii) lapses under Section 31A-23a-113; or
- 1134 (iv) is voluntarily surrendered; or
- 1135 (c) the licensee dies or is adjudicated incompetent as defined under:
- 1136 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 1137 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
- 1138 Minors.
- 1139 (5)(a) If the commissioner makes a finding under Subsection (5)(b), as part of an
- 1140 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act,
- 1141 the commissioner may:
- 1142 (i) revoke:
- 1143 (A) a license; or
- 1144 (B) a line of authority;
- 1145 (ii) suspend for a specified period of 12 months or less:
- 1146 (A) a license; or
- 1147 (B) a line of authority;
- 1148 (iii) limit in whole or in part:
- 1149 (A) a license; or

- 1150 (B) a line of authority;
- 1151 (iv) deny a license application;
- 1152 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- 1153 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and
- 1154 Subsection (5)(a)(v).
- 1155 (b) The commissioner may take an action described in Subsection (5)(a) if the
- 1156 commissioner finds that the licensee or license applicant:
- 1157 (i) is unqualified for a license or line of authority under Section 31A-23a-104,
- 1158 31A-23a-105, or 31A-23a-107;
- 1159 (ii) violates:
- 1160 (A) an insurance statute;
- 1161 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 1162 (C) an order that is valid under Subsection 31A-2-201(4);
- 1163 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or
- 1164 other delinquency proceedings in any state;
- 1165 (iv) is more than 60 days past due on ~~[an enforceable]~~ a final judgment;
- 1166 (v) fails to meet the same good faith obligations in claims settlement that is required
- 1167 of admitted insurers;
- 1168 (vi) is affiliated with and under the same general management or interlocking
- 1169 directorate or ownership as another insurance producer that transacts business in
- 1170 this state without a license;
- 1171 (vii) refuses:
- 1172 (A) to be examined; or
- 1173 (B) to produce ~~[its]~~ the licensee's or license applicant's accounts, records, and files
- 1174 for examination;
- 1175 (viii) has an officer who refuses to:
- 1176 (A) give information with respect to the insurance producer's affairs; or
- 1177 (B) perform any other legal obligation as to an examination;
- 1178 (ix) provides information in the license application that is:
- 1179 (A) incorrect;
- 1180 (B) misleading;
- 1181 (C) incomplete; or
- 1182 (D) materially untrue;
- 1183 (x) violates an insurance law, valid rule, or valid order of another regulatory agency

- 1184 in any jurisdiction;
- 1185 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 1186 (xii) improperly withholds, misappropriates, or converts money or properties
- 1187 received in the course of doing insurance business;
- 1188 (xiii) intentionally misrepresents the terms of an actual or proposed:
- 1189 (A) insurance contract;
- 1190 (B) application for insurance; or
- 1191 (C) life settlement;
- 1192 (xiv) has been convicted of, or has entered a plea in abeyance as defined in Section
- 1193 77-2a-1 to:
- 1194 (A) a felony; or
- 1195 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- 1196 (xv) admits or is found to have committed an [~~insurance~~]unfair trade practice or
- 1197 fraud;
- 1198 (xvi) in the conduct of business in this state or elsewhere:
- 1199 (A) uses fraudulent, coercive, or dishonest practices; or
- 1200 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- 1201 (xvii) has had an insurance license or other professional or occupational license, or an
- 1202 equivalent to an insurance license or registration, or other professional or
- 1203 occupational license or registration:
- 1204 (A) denied;
- 1205 (B) suspended;
- 1206 (C) revoked; or
- 1207 (D) surrendered to resolve an administrative action;
- 1208 (xviii) forges another's name to:
- 1209 (A) an application for insurance; or
- 1210 (B) a document related to an insurance transaction;
- 1211 (xix) improperly uses notes or another reference material to complete an examination
- 1212 for an insurance license;
- 1213 (xx) knowingly accepts insurance business from an individual who is not licensed;
- 1214 (xxi) fails to comply with an administrative or court order imposing a child support
- 1215 obligation;
- 1216 (xxii) fails to[~~;~~]
- 1217 [~~(A) pay state income tax; or~~]

- 1218 [~~B~~] comply with an administrative or court order directing payment of state
1219 income tax;
- 1220 (xxiii) has been convicted of violating the federal Violent Crime Control and Law
1221 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written
1222 consent to engage in the business of insurance or participate in such business as
1223 required by 18 U.S.C. Sec. 1033;
- 1224 (xxiv) engages in a method or practice in the conduct of business that endangers the
1225 legitimate interests of customers and the public; or
- 1226 (xxv) has been convicted of any criminal felony involving dishonesty or breach of
1227 trust and has not obtained written consent to engage in the business of insurance
1228 or participate in such business as required by 18 U.S.C. Sec. 1033.
- 1229 (c) For purposes of this section, if a license is held by an agency, both the agency itself
1230 and any individual designated under the license are considered to be the holders of
1231 the license.
- 1232 (d) If an individual designated under the agency license commits an act or fails to
1233 perform a duty that is a ground for suspending, revoking, or limiting the individual's
1234 license, the commissioner may suspend, revoke, or limit the license of:
- 1235 (i) the individual;
- 1236 (ii) the agency, if the agency:
- 1237 (A) is reckless or negligent in its supervision of the individual; or
- 1238 (B) knowingly participates in the act or failure to act that is the ground for
1239 suspending, revoking, or limiting the license; or
- 1240 (iii)(A) the individual; and
- 1241 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- 1242 (6) A licensee under this chapter is subject to the penalties for acting as a licensee without a
1243 license if:
- 1244 (a) the licensee's license is:
- 1245 (i) revoked;
- 1246 (ii) suspended;
- 1247 (iii) limited;
- 1248 (iv) surrendered in lieu of administrative action;
- 1249 (v) lapsed; or
- 1250 (vi) voluntarily surrendered; and
- 1251 (b) the licensee:

- 1252 (i) continues to act as a licensee; or
 1253 (ii) violates the terms of the license limitation.
- 1254 (7) A licensee under this chapter shall immediately report to the commissioner:
 1255 (a) a revocation, suspension, or limitation of the person's license in another state, the
 1256 District of Columbia, or a territory of the United States;
 1257 (b) the imposition of a disciplinary sanction imposed on that person by another state, the
 1258 District of Columbia, or a territory of the United States; or
 1259 (c) a judgment or injunction entered against that person on the basis of conduct
 1260 involving:
 1261 (i) fraud;
 1262 (ii) deceit;
 1263 (iii) misrepresentation; [~~or~~]
 1264 (iv) a violation of an insurance law or rule[-] ; or
 1265 (v) payment of money.
- 1266 (8)(a) An order revoking a license under Subsection (5) or an agreement to surrender a
 1267 license in lieu of administrative action may specify a time, not to exceed five years,
 1268 within which the former licensee may not apply for a new license.
 1269 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the
 1270 former licensee may not apply for a new license for five years from the day on which
 1271 the order or agreement is made without the express approval by the commissioner.
- 1272 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a
 1273 license issued under this part if[~~so~~] ordered by a court.
- 1274 (10) The commissioner shall [~~by rule prescribe~~] provide the license renewal and
 1275 reinstatement procedures by rule made in accordance with Title 63G, Chapter 3, Utah
 1276 Administrative Rulemaking Act.
- 1277 Section 19. Section **31A-23a-119** is amended to read:
 1278 **31A-23a-119 . Special requirements for agency title insurance producers.**
- 1279 (1) As used in this section:
 1280 (a) "Applicable percentage" means:
 1281 (i) on [~~February~~] January 1, 2024, through [~~January~~] December 31, ~~Ĥ~~→ [2025]
 1281a 2024 ← ~~Ĥ~~, 2.5%;
 1282 (ii) on [~~February~~] January 1, 2025, through [~~January~~] December 31, ~~Ĥ~~→ [2026]
 1282a 2025 ← ~~Ĥ~~, 3%;
 1283 (iii) on [~~February~~] January 1, 2026, through [~~January~~] December 31, ~~Ĥ~~→ [2027]

- 1283a **2026** ←**H** , 3.5%;
- 1284 (iv) on [~~February~~] January 1, 2027, through [~~January~~] December 31, **H**→ [**2028**]
- 1284a **2027** ←**H** , 4%; and
- 1285 (v) on [~~February~~] January 1, 2028, through [~~January~~] December 31, **H**→ [**2029**]
- 1285a **2028** ←**H** , 4.5%.
- 1286 (b) "Sufficient capital and net worth" means:
- 1287 (i) for a new title entity:
- 1288 (A) \$100,000 for the first five years after becoming a new agency title insurance
- 1289 producer; or
- 1290 (B) after the first five years after becoming a new agency title insurance producer,
- 1291 the greater of \$50,000, or on [~~February~~] January 1 of each year, an amount
- 1292 equal to 5% of the title entity's average annual gross revenue over the
- 1293 preceding two calendar years, up to \$150,000; or
- 1294 (ii) for a title entity licensed before May 14, 2019:
- 1295 (A) for the time period beginning on [~~February~~] January 1, 2020, and ending on [~~January~~] December 31, 2029, the lesser of an amount equal to the applicable
- 1296 percentage of the title entity's average annual gross revenue over the two
- 1297 calendar years immediately preceding the [~~February~~] January 1 on which the
- 1298 applicable percentage applies or \$150,000; and
- 1299 (B) beginning on [~~February~~] January 1, 2029, the greater of \$50,000 or an amount
- 1300 equal to 5% of the title entity's average annual gross revenue over the
- 1301 preceding two calendar years, up to \$150,000.
- 1302
- 1303 (2) Before May 1 of each year, each agency title insurance producer shall submit a report to
- 1304 the commissioner containing proof satisfactory to the commissioner that the agency title
- 1305 insurance producer had sufficient capital and net worth for the preceding calendar year.
- 1306 Section 20. Section **31A-23a-415** is amended to read:
- 1307 **31A-23a-415 . Assessment on agency title insurance producers or title insurers --**
- 1308 **Account created.**
- 1309 (1) For purposes of this section:
- 1310 (a) "Premium" is as described in Subsection 59-9-101(3).
- 1311 (b) "Title insurer" means a person:
- 1312 (i) making any contract or policy of title insurance as:
- 1313 (A) insurer;
- 1314 (B) guarantor; or

- 1315 (C) surety;
- 1316 (ii) proposing to make any contract or policy of title insurance as:
- 1317 (A) insurer;
- 1318 (B) guarantor; or
- 1319 (C) surety; or
- 1320 (iii) transacting or proposing to transact any phase of title insurance, including:
- 1321 (A) soliciting;
- 1322 (B) negotiating preliminary to execution;
- 1323 (C) executing of a contract of title insurance;
- 1324 (D) insuring; and
- 1325 (E) transacting matters subsequent to the execution of the contract and arising out
- 1326 of the contract.
- 1327 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or
- 1328 personal property located in Utah, an owner of real or personal property, the holders
- 1329 of liens or encumbrances on that property, or others interested in the property against
- 1330 loss or damage suffered by reason of:
- 1331 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the
- 1332 property; or
- 1333 (ii) invalidity or unenforceability of any liens or encumbrances on the property.
- 1334 (2)(a) The commissioner may assess each title insurer, each individual title insurance
- 1335 producer who is not an employee of a title insurer or who is not designated by an
- 1336 agency title insurance producer, and each agency title insurance producer an annual
- 1337 assessment:
- 1338 [~~(i) determined by the Title and Escrow Commission;~~
- 1339 [~~(A) after consultation with the commissioner; and~~
- 1340 [~~(B)~~] (i) in accordance with this Subsection (2); and
- 1341 (ii) to be used for the purposes described in Subsection (3).
- 1342 (b) An agency title insurance producer and individual title insurance producer who is not
- 1343 an employee of a title insurer or who is not designated by an agency title insurance
- 1344 producer shall be assessed up to:
- 1345 (i) \$250 for the first office in each county in which the agency title insurance
- 1346 producer or individual title insurance producer maintains an office; and
- 1347 (ii) \$150 for each additional office the agency title insurance producer or individual
- 1348 title insurance producer maintains in the county described in Subsection (2)(b)(i).

- 1349 (c) A title insurer shall be assessed up to:
- 1350 (i) \$250 for the first office in each county in which the title insurer maintains an
- 1351 office;
- 1352 (ii) \$150 for each additional office the title insurer maintains in the county described
- 1353 in Subsection (2)(c)(i); and
- 1354 (iii) an amount calculated by:
- 1355 (A) aggregating the assessments imposed on:
- 1356 (I) agency title insurance producers and individual title insurance producers
- 1357 under Subsection (2)(b); and
- 1358 (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);
- 1359 (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the
- 1360 total costs and expenses determined under Subsection (2)(d); and
- 1361 (C) multiplying:
- 1362 (I) the amount calculated under Subsection (2)(c)(iii)(B); and
- 1363 (II) the percentage of total premiums for title insurance on Utah risk that are
- 1364 premiums of the title insurer.
- 1365 (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, during the
- 1366 first quarter of each fiscal year the Title and Escrow Commission shall approve the
- 1367 amount of costs and expenses described under Subsection (3) for the prior fiscal year
- 1368 that will be covered by the assessment.
- 1369 (e)(i) An individual licensed to practice law in Utah is exempt from the requirements
- 1370 of this Subsection (2) if that person issues 12 or less policies during a 12-month
- 1371 period.
- 1372 (ii) In determining the number of policies issued by an individual licensed to practice
- 1373 law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to
- 1374 more than one party to the same closing, the individual is considered to have
- 1375 issued only one policy.
- 1376 (3)(a) Money received by the state under this section shall be deposited into the Title
- 1377 Licensee Enforcement Restricted Account.
- 1378 (b) There is created in the General Fund a restricted account known as the "Title
- 1379 Licensee Enforcement Restricted Account."
- 1380 (c) The Title Licensee Enforcement Restricted Account shall consist of the money
- 1381 received by the state under this section.
- 1382 (d) The commissioner shall administer the Title Licensee Enforcement Restricted

1383 Account. Subject to appropriations by the Legislature, the commissioner shall use
 1384 the money deposited into the Title Licensee Enforcement Restricted Account only to
 1385 pay for a cost or expense incurred by the department in the administration,
 1386 investigation, and enforcement of laws governing individual title insurance
 1387 producers, agency title insurance producers, or title insurers.

1388 (e) An appropriation from the Title Licensee Enforcement Restricted Account is
 1389 nonlapsing.

1390 (4) The assessment imposed by this section shall be in addition to any premium assessment
 1391 imposed under Subsection 59-9-101(3).

1392 Section 21. Section **31A-26-202** is amended to read:

1393 **31A-26-202 . Application for license.**

1394 (1)(a) The application for a license as an independent adjuster or public adjuster shall be:

1395 (i) made to the commissioner on forms and in a manner the commissioner [~~prescribes~~]
 1396 requires; and

1397 (ii) except as provided in Subsection (4), accompanied by the applicable fee, which is
 1398 not refunded if the application is denied.

1399 (b) The application shall provide:

1400 (i) information about the applicant's identity, including:

1401 (A) the applicant's:

1402 (I) Social Security number; or

1403 (II) federal employer identification number;

1404 (B) the applicant's personal history, experience, education, and business record;

1405 (C) if the applicant is a natural person, whether the applicant is 18 years [~~of age~~]
 1406 old or older; and

1407 (D) whether the applicant has committed an act that is a ground for denial,
 1408 suspension, or revocation as set forth in Section [~~31A-25-208~~] 31A-26-213; and

1409 (ii) any other information as the commissioner reasonably requires.

1410 (2) The commissioner may require documents reasonably necessary to verify the
 1411 information contained in the application.

1412 (3) An applicant's Social Security number contained in an application filed under this
 1413 section is a private record under Section 63G-2-302.

1414 (4) The following individuals are exempt from paying a license fee:

1415 (a) an individual serving in the armed forces of the United States while the individual is
 1416 stationed within this state, if:

- 1417 (i) the individual holds a valid license to practice the regulated occupation or
 1418 profession issued by any other state or jurisdiction recognized by the department;
 1419 and
 1420 (ii) the license is current and the individual is in good standing in the state or
 1421 jurisdiction of licensure; and
 1422 (b) the spouse of an individual serving in the armed forces of the United States while the
 1423 individual is stationed within this state, if:
 1424 (i) the spouse holds a valid license to practice the regulated occupation or profession
 1425 issued by any other state or jurisdiction recognized by the department; and
 1426 (ii) the license is current and the spouse is in good standing in the state or jurisdiction
 1427 of licensure.

1428 Section 22. Section **31A-37-102** is amended to read:

1429 **31A-37-102 . Definitions.**

1430 As used in this chapter:

- 1431 (1)(a) "Affiliated company" means a business entity that because of common ownership,
 1432 control, operation, or management is in the same corporate or limited liability
 1433 company system as:
 1434 (i) a parent;
 1435 (ii) an industrial insured; or
 1436 (iii) a member organization.
 1437 (b) "Affiliated company" does not include a business entity for which the commissioner
 1438 issues an order finding that the business entity is not an affiliated company.
 1439 (2) "Agency captive" means a captive insurer that:
 1440 (a) is owned by one or more business entities that are licensed in any state as insurance
 1441 producers or managing general agents; and
 1442 (b) only insures risks on policies placed through the captive insurer's owners.
 1443 [~~(2)~~] (3) "Alien captive insurance company" means an insurer:
 1444 (a) formed to write insurance business for a parent or affiliate of the insurer; and
 1445 (b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory
 1446 or regulatory standards:
 1447 (i) on a business entity transacting the business of insurance in the alien or foreign
 1448 jurisdiction; and
 1449 (ii) in a form acceptable to the commissioner.
 1450 [~~(3)~~] (4) "Applicant captive insurance company" means an entity that has submitted an

- 1451 application for a certificate of authority for a captive insurance company, unless the
1452 application has been denied or withdrawn.
- 1453 ~~[(4)]~~ (5) "Association" means a legal association of two or more persons that meets the
1454 following requirements:
- 1455 (a) the persons are exposed to similar or related liability because of related, similar, or
1456 common business trade, products, services, premises, or operations; and
- 1457 (b)(i) the association or the association's member organizations:
- 1458 (A) own, control, or hold ~~[with]~~ power to vote all of the outstanding voting
1459 securities of an association captive insurance company incorporated as a stock
1460 insurer;
- 1461 (B) have complete voting control over an association captive insurance company
1462 incorporated as a mutual insurer; or
- 1463 (C) have complete voting control over an association captive insurance company
1464 formed as a limited liability company; or
- 1465 (ii) the association's member organizations collectively constitute all of the
1466 subscribers of an association captive insurance company formed as a reciprocal
1467 insurer.
- 1468 ~~[(5)]~~ (6) "Association captive insurance company" means a business entity that insures risks
1469 of:
- 1470 (a) a member organization of the association;
- 1471 (b) an affiliate of a member organization of the association; and
- 1472 (c) the association.
- 1473 ~~[(6)]~~ (7) "Branch business" means an insurance business transacted by a branch captive
1474 insurance company in this state.
- 1475 ~~[(7)]~~ (8) "Branch captive insurance company" means an alien captive insurance company
1476 that has a certificate of authority from the commissioner to transact the business of
1477 insurance in this state through a captive insurance company that is domiciled outside of
1478 this state.
- 1479 ~~[(8)]~~ (9) "Branch operation" means a business operation of a branch captive insurance
1480 company in this state.
- 1481 ~~[(9)]~~ (10)(a) "Captive insurance company" means the same as that term is defined in
1482 Section 31A-1-301.
- 1483 (b) "Captive insurance company" includes any of the following formed or holding a
1484 certificate of authority under this chapter:

- 1485 (i) an agency captive insurance company;
 1486 ~~[(+)]~~ (ii) a branch captive insurance company;
 1487 (iii) a pooling captive insurance company;
 1488 ~~[(+)]~~ (iv) a pure captive insurance company;
 1489 ~~[(+)]~~ (v) an association captive insurance company;
 1490 ~~[(+)]~~ (vi) a sponsored captive insurance company;
 1491 ~~[(+)]~~ (vii) an industrial insured captive insurance company, including an industrial
 1492 insured captive insurance company formed as a risk retention group captive in this
 1493 state pursuant to the provisions of the Federal Liability Risk Retention Act of
 1494 1986;
 1495 ~~[(+)]~~ (viii) a special purpose captive insurance company; or
 1496 ~~[(+)]~~ (ix) a special purpose financial captive insurance company.
- 1497 (11)(a) "Cell" means a separate account for one or more participants formed and
 1498 operating under the authority of a sponsored captive insurance company to write
 1499 insurance coverage as described in this title.
- 1500 (b) "Cell" includes an account formed as either:
 1501 (i) an incorporated cell; or
 1502 (ii) a protected cell.
- 1503 ~~[(+)]~~ (12) "Commissioner" means Utah's Insurance Commissioner or the commissioner's
 1504 designee.
- 1505 ~~[(+)]~~ (13) "Common ownership and control" means that two or more captive insurance
 1506 companies are owned or controlled by the same person or group of persons as follows:
 1507 (a) in the case of a captive insurance company that is a stock corporation, the direct or
 1508 indirect ownership of 80% or more of the outstanding voting stock of the stock
 1509 corporation;
 1510 (b) in the case of a captive insurance company that is a mutual corporation, the direct or
 1511 indirect ownership of 80% or more of the surplus and the voting power of the mutual
 1512 corporation;
 1513 (c) in the case of a captive insurance company that is a limited liability company, the
 1514 direct or indirect ownership by the same member or members of 80% or more of the
 1515 membership interests in the limited liability company; or
 1516 (d) in the case of a sponsored captive insurance company, a ~~protected~~-cell is a separate
 1517 captive insurance company owned and controlled by the ~~protected~~-cell's participant,
 1518 only if:

- 1519 (i) the participant is the only participant with respect to the [~~protected~~]cell; and
- 1520 (ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored
- 1521 captive insurance company through common ownership and control.
- 1522 [~~(12)~~] (14) "Consolidated debt to total capital ratio" means the ratio of Subsection [~~(12)(a)~~]
- 1523 (14)(a) to (b).
- 1524 (a) This Subsection [~~(12)(a)~~] (14)(a) is an amount equal to the sum of all debts and
- 1525 hybrid capital instruments including:
- 1526 (i) all borrowings from depository institutions;
- 1527 (ii) all senior debt;
- 1528 (iii) all subordinated debts;
- 1529 (iv) all trust preferred shares; and
- 1530 (v) all other hybrid capital instruments that are not included in the determination of
- 1531 consolidated GAAP net worth issued and outstanding.
- 1532 (b) This Subsection [~~(12)(b)~~] (14)(b) is an amount equal to the sum of:
- 1533 (i) total capital consisting of all debts and hybrid capital instruments as described in
- 1534 Subsection [~~(12)(a)~~] (14)(a); and
- 1535 (ii) shareholders' equity determined in accordance with generally accepted accounting
- 1536 principles for reporting to the United States Securities and Exchange Commission.
- 1537 [~~(13)~~] (15) "Consolidated GAAP net worth" means the consolidated shareholders' or
- 1538 members' equity determined in accordance with generally accepted accounting
- 1539 principles for reporting to the United States Securities and Exchange Commission.
- 1540 [~~(14)~~] (16) "Controlled unaffiliated business" means a business entity:
- 1541 (a)(i) in the case of a pure captive insurance company, that is not in the corporate or
- 1542 limited liability company system of a parent or the parent's affiliate; or
- 1543 (ii) in the case of an industrial insured captive insurance company, that is not in the
- 1544 corporate or limited liability company system of an industrial insured or an
- 1545 affiliated company of the industrial insured;
- 1546 (b)(i) in the case of a pure captive insurance company, that has a contractual
- 1547 relationship with a parent or affiliate; or
- 1548 (ii) in the case of an industrial insured captive insurance company, that has a
- 1549 contractual relationship with an industrial insured or an affiliated company of the
- 1550 industrial insured; and
- 1551 (c) whose risks that are or will be insured by a pure captive insurance company, an
- 1552 industrial insured captive insurance company, or both, are managed in accordance

- 1553 with Subsection 31A-37-106(1)(j) by:
- 1554 (i)(A) a pure captive insurance company; or
- 1555 (B) an industrial insured captive insurance company; or
- 1556 (ii) a parent or affiliate of:
- 1557 (A) a pure captive insurance company; or
- 1558 (B) an industrial insured captive insurance company.
- 1559 ~~[(15)]~~ (17) "Criminal act" means an act for which a person receives a verdict or finding of
- 1560 guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
- 1561 ~~[(16)]~~ (18) "Establisher" means a person who establishes a business entity or a trust.
- 1562 ~~[(17)]~~ (19) "Governing body" means the persons who hold the ultimate authority to direct
- 1563 and manage the affairs of an entity.
- 1564 (20) "Incorporated cell" means a separate account:
- 1565 (a) established and maintained by a sponsored captive insurance company for a
- 1566 participant; and
- 1567 (b) that has been organized as a corporation, a limited liability company, or a
- 1568 not-for-profit organization.
- 1569 ~~[(18)]~~ (21) "Industrial insured" means an insured:
- 1570 (a) that produces insurance:
- 1571 (i) by the services of a full-time employee acting as a risk manager or insurance
- 1572 manager; or
- 1573 (ii) using the services of a regularly and continuously qualified insurance consultant;
- 1574 (b) whose aggregate annual premiums for insurance on all risks total at least \$25,000;
- 1575 and
- 1576 (c) that has at least 25 full-time employees.
- 1577 ~~[(19)]~~ (22) "Industrial insured captive insurance company" means a business entity that:
- 1578 (a) insures risks of the industrial insureds that comprise the industrial insured group; and
- 1579 (b) may insure the risks of:
- 1580 (i) an affiliated company of an industrial insured; or
- 1581 (ii) a controlled unaffiliated business of:
- 1582 (A) an industrial insured; or
- 1583 (B) an affiliated company of an industrial insured.
- 1584 ~~[(20)]~~ (23) "Industrial insured group" means:
- 1585 (a) a group of industrial insureds that collectively:
- 1586 (i) own, control, or hold with power to vote all of the outstanding voting securities of

- 1587 an industrial insured captive insurance company incorporated or organized as a
 1588 limited liability company as a stock insurer; or
- 1589 (ii) have complete voting control over an industrial insured captive insurance
 1590 company incorporated or organized as a limited liability company as a mutual
 1591 insurer;
- 1592 (b) a group that is:
- 1593 (i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec.
 1594 3901 et seq., as amended, as a corporation or other limited liability association;
 1595 and
- 1596 (ii) taxable under this title as a:
- 1597 (A) stock corporation; or
 1598 (B) mutual insurer; or
- 1599 (c) a group that has complete voting control over an industrial captive insurance
 1600 company formed as a limited liability company.
- 1601 ~~[(21)]~~ (24) "Member organization" means a person that belongs to an association.
- 1602 ~~[(22)]~~ (25) "Parent" means a person that directly or indirectly owns, controls, or holds with
 1603 power to vote more than 50% of the outstanding securities of an organization.
- 1604 ~~[(23)]~~ (26) "Participant" means an entity that is insured by a sponsored captive insurance
 1605 company:
- 1606 (a) if the losses of the participant are limited through a participant contract to the assets
 1607 of a protected cell; and
- 1608 (b)(i) the entity is permitted to be a participant under Section 31A-37-403; or
 1609 (ii) the entity is an affiliate of an entity permitted to be a participant under Section
 1610 31A-37-403.
- 1611 ~~[(24)]~~ (27) "Participant contract" means a contract by which a sponsored captive insurance
 1612 company:
- 1613 (a) insures the risks of a participant; and
 1614 (b) limits the losses of the participant to the assets of a protected cell.
- 1615 (28) "Pooling captive" means a captive insurer organized for the purpose of establishing a
 1616 risk-sharing arrangement between other captive insurers.
- 1617 ~~[(25)]~~ (29) "Protected cell" means a separate account:
- 1618 (a) established and maintained by a sponsored captive insurance company for ~~one~~ a
 1619 participant[-]; and
- 1620 (b) that has not been organized as an entity including a corporation, a limited liability

1621 company, or a not-for-profit organization.

1622 [(26)] (30) "Pure captive insurance company" means a business entity that insures risks of a
1623 parent ~~[or affiliate]~~ , affiliate, or controlled unaffiliated business of the business entity.

1624 [(27)] (31) "Special purpose financial captive insurance company" means the same as that
1625 term is defined in Section 31A-37a-102.

1626 [(28)] (32) "Sponsor" means an entity that:

1627 (a) meets the requirements of Section 31A-37-402; and

1628 (b) is approved by the commissioner to:

1629 (i) provide all or part of the capital and surplus in an amount:

1630 (A) required by ~~[applicable law in an amount of not less than \$350,000, which~~
1631 ~~amount the commissioner may increase by order if the commissioner considers~~
1632 ~~it necessary]~~ Section 31A-37-204; or

1633 (B) greater than the amount required by Section 31A-37-204, if, by order, the
1634 commissioner deems the increase necessary; and

1635 (ii) organize and operate a sponsored captive insurance company.

1636 [(29)] (33) "Sponsored captive insurance company" means a captive insurance company:

1637 (a) in which the minimum capital and surplus required by applicable law is provided by
1638 one or more sponsors or participants;

1639 (b) that is formed or holding a certificate of authority under this chapter;

1640 (c) that insures the risks of a separate participant through the contract; and

1641 (d) that segregates each participant's liability through one or more ~~[protected]~~ cells.

1642 [(30)] (34) "Treasury rates" means the United States Treasury strip asked yield as published
1643 in the Wall Street Journal as of a balance sheet date.

1644 Section 23. Section **31A-37-104** is amended to read:

1645 **31A-37-104 . Applicability of reorganization, receivership, and injunction**
1646 **authority.**

1647 (1) Except as provided in Chapter 37a, Special Purpose Financial Captive Insurance
1648 Company Act, and Subsection (2), Chapter 27a, Insurer Receivership Act, applies to a
1649 captive insurance company formed or holding a certificate of authority under this
1650 chapter.

1651 (2) In the case of a sponsored captive insurance company:

1652 (a) the assets of a ~~[protected]~~ cell may not be used to pay an expense or claim other than
1653 one attributable to the ~~[protected]~~ cell; and

1654 (b) the capital and surplus of the sponsored captive insurance company:

- 1655 (i) shall at all times be available to pay:
- 1656 (A) an expense of the sponsored captive insurance company; or
- 1657 (B) a claim against the sponsored captive insurance company; and
- 1658 (ii) may not be used to pay an expense or claim attributable to a ~~protected~~ cell.
- 1659 Section 24. Section **31A-37-201** is amended to read:
- 1660 **31A-37-201 . Certificate of authority.**
- 1661 (1) The commissioner may issue a certificate of authority to act as an insurer in this state to
- 1662 a captive insurance company that meets the requirements of this chapter.
- 1663 (2) To conduct insurance business in this state, a captive insurance company shall:
- 1664 (a) obtain from the commissioner a certificate of authority authorizing ~~it~~ the captive
- 1665 insurance company to conduct insurance business in this state;
- 1666 (b) ~~hold at least once each year in the state a meeting of the governing body;~~
- 1667 (i) hold a meeting of the governing body:
- 1668 (A) at least once each year;
- 1669 (B) at which a quorum is present;
- 1670 (C) in the state; and
- 1671 (D) at which at least one out-of-state individual is physically present; or
- 1672 (ii) become a member of the Utah Captive Insurance Association at the highest level
- 1673 of membership;
- 1674 (c) maintain in this state:
- 1675 (i) the principal place of business of the captive insurance company; or
- 1676 (ii) in the case of a branch captive insurance company, the principal place of business
- 1677 for the branch operations of the branch captive insurance company; and
- 1678 (d) except as provided in Subsection (3), appoint a resident registered agent to accept
- 1679 service of process and to otherwise act on behalf of the captive insurance company in
- 1680 the state.
- 1681 (3) In the case of a captive insurance company formed as a corporation, if the registered
- 1682 agent cannot with reasonable diligence be found at the registered office of the captive
- 1683 insurance company, the commissioner is the agent of the captive insurance company
- 1684 upon whom process, notice, or demand may be served.
- 1685 (4)(a) Before receiving a certificate of authority, an applicant captive insurance company
- 1686 shall file with the commissioner:
- 1687 (i) a certified copy of the captive insurance company's organizational charter;
- 1688 (ii) a statement under oath of the captive insurance company's president and secretary

- 1689 or their equivalents showing the captive insurance company's financial condition;
1690 and
- 1691 (iii) any other statement or document required by the commissioner under Section
1692 31A-37-106.
- 1693 (b) In addition to the information required under Subsection (4)(a), an applicant captive
1694 insurance company shall file with the commissioner evidence of:
- 1695 (i) the amount and liquidity of the assets of the applicant captive insurance company
1696 relative to the risks to be assumed by the applicant captive insurance company;
- 1697 (ii) the adequacy of the expertise, experience, and character of the person who will
1698 manage the applicant captive insurance company;
- 1699 (iii) the overall soundness of the plan of operation of the applicant captive insurance
1700 company;
- 1701 (iv) the adequacy of the loss prevention programs for the prospective insureds of the
1702 applicant captive insurance company as the commissioner deems necessary; and
- 1703 (v) any other factor the commissioner:
- 1704 (A) adopts by rule under Section 31A-37-106; and
- 1705 (B) considers relevant in ascertaining whether the applicant captive insurance
1706 company will be able to meet the policy obligations of the applicant captive
1707 insurance company.
- 1708 (c) In addition to the information required by Subsections (4)(a) and (b), an applicant
1709 sponsored captive insurance company shall file with the commissioner:
- 1710 (i) a business plan at the level of detail required by the commissioner under Section
1711 31A-37-106 demonstrating:
- 1712 (A) the manner in which the applicant sponsored captive insurance company will
1713 account for the losses and expenses of each [protected] cell; and
- 1714 (B) the manner in which the applicant sponsored captive insurance company will
1715 report to the commissioner the financial history, including losses and expenses,
1716 of each [protected] cell;
- 1717 (ii) a statement acknowledging that the applicant sponsored captive insurance
1718 company will make all financial records of the applicant sponsored captive
1719 insurance company, including records pertaining to a [protected] cell, available for
1720 inspection or examination by the commissioner;
- 1721 (iii) a contract or sample contract between the applicant sponsored captive insurance
1722 company and a participant; and

- 1723 (iv) evidence that expenses will be allocated to each [~~protected~~] cell in an equitable
1724 manner.
- 1725 (5)(a) Information submitted [~~pursuant to~~] in accordance with this section is classified as
1726 a protected record under Title 63G, Chapter 2, Government Records Access and
1727 Management Act.
- 1728 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and
1729 Management Act, the commissioner may disclose information submitted [~~pursuant to~~]
1730 in accordance with this section to a public official having jurisdiction over the
1731 regulation of insurance in another state if:
- 1732 (i) the public official receiving the information agrees in writing to maintain the
1733 confidentiality of the information; and
- 1734 (ii) the laws of the state in which the public official serves require the information to
1735 be confidential.
- 1736 (c) This Subsection (5) does not apply to information provided by an industrial insured
1737 captive insurance company insuring the risks of an industrial insured group.
- 1738 (6)(a) A captive insurance company shall pay to the department the following
1739 nonrefundable fees established by the department under Sections 31A-3-103,
1740 31A-3-304, and 63J-1-504:
- 1741 (i) a fee for examining, investigating, and processing, by a department employee, of
1742 an application for a certificate of authority made by an applicant captive insurance
1743 company;
- 1744 (ii) a fee for obtaining a certificate of authority for the year the captive insurance
1745 company is issued a certificate of authority by the department; and
- 1746 (iii) a certificate of authority renewal fee, assessed annually.
- 1747 (b) The commissioner may:
- 1748 (i) assign a department employee or retain legal, financial, or examination services
1749 from outside the department to perform the services described in:
- 1750 (A) Subsection (6)(a); and
1751 (B) Section 31A-37-502; and
- 1752 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the
1753 applicant captive insurance company.
- 1754 (7) If the commissioner is satisfied that the documents and statements filed by the applicant
1755 captive insurance company comply with this chapter, the commissioner may grant a
1756 certificate of authority authorizing the company to do insurance business in this state.

- 1757 (8) A certificate of authority granted under this section expires annually and shall be
1758 renewed by July 1 of each year.
- 1759 Section 25. Section **31A-37-202** is amended to read:
- 1760 **31A-37-202 . Permissive areas of insurance.**
- 1761 (1) Except as provided in Subsections (2) and (3), a captive insurance company may not
1762 directly insure a risk other than the risk of the captive insurance company's parent or
1763 affiliated company.
- 1764 (2) In addition to the risks described in Subsection (1), an association captive insurance
1765 company may insure the risk of:
- 1766 (a) a member organization of the association captive insurance company's association; or
1767 (b) an affiliate of a member organization of the association captive insurance company's
1768 association.
- 1769 (3) The following may insure a risk of a controlled unaffiliated business:
- 1770 (a) an industrial insured captive insurance company;
1771 (b) ~~[a protected cell]~~ an association captive insurance company;
1772 (c) a pure captive insurance company; or
1773 (d) a sponsored captive insurance company and the sponsored captive insurance
1774 company's cells.
- 1775 (4) To the extent allowed by a captive insurance company's organizational charter, a captive
1776 insurance company may provide any type of insurance described in this title, except:
- 1777 (a) workers' compensation insurance;
1778 (b) personal motor vehicle insurance;
1779 (c) homeowners' insurance; and
1780 (d) any component of the types of insurance described in Subsections (4)(a) through (c).
- 1781 (5) A captive insurance company may not provide coverage for:
- 1782 (a) a wager or gaming risk;
1783 (b) loss of an election; or
1784 (c) the ~~[penal]~~ punitive consequences of a crime.
- 1785 (6) Unless the punitive damages award arises out of a criminal act of an insured, a captive
1786 insurance company may provide coverage for punitive damages awarded, including
1787 through adjudication or compromise, against the captive insurance company's:
- 1788 (a) parent; or
1789 (b) affiliated company.
- 1790 (7) Notwithstanding Subsection (4), if approved by the commissioner:

- 1791 (a) a captive insurance company may insure as a reimbursement a limited layer or
 1792 deductible of workers' compensation coverage; and
 1793 (b) an association captive insurance company that satisfies the requirements of this
 1794 chapter may provide homeowners' insurance.

1795 Section 26. Section **31A-37-204** is amended to read:

1796 **31A-37-204 . Paid-in capital -- Other capital.**

1797 (1) For purposes of this section, "marketable securities" means:

1798 (a) a bond or other evidence of indebtedness of a governmental unit in the United States
 1799 or Canada or any instrumentality of the United States or Canada; or

1800 (b) securities:

1801 (i) traded on one or more of the following exchanges in the United States:

1802 (A) New York;

1803 (B) American; or

1804 (C) NASDAQ;

1805 (ii) when no particular security, or a substantially related security, applied toward the
 1806 required minimum capital and surplus requirement of Subsection (2) represents
 1807 more than 50% of the minimum capital and surplus requirement; and

1808 (iii) when no group of up to four particular securities, consolidating substantially
 1809 related securities, applied toward the required minimum capital and surplus
 1810 requirement of Subsection (2) represents more than 90% of the minimum capital
 1811 and surplus requirement.

1812 ~~[(1)]~~ (2)(a) The commissioner may not issue a certificate of authority to a company
 1813 described in Subsection ~~[(1)(e)]~~ (2)(c) unless the company possesses and ~~[thereafter]~~
 1814 maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

1815 (i) in the case of a pure captive insurance company:

1816 (A) except as provided in Subsection ~~[(1)(a)(i)(B)]~~ (2)(a)(i)(B), not less than
 1817 \$250,000; or

1818 (B) if the pure captive insurance company is not acting as a pool that facilitates
 1819 risk distribution for other captive insurers, an amount that is the greater of:

1820 (I) not less than 20% of the company's total aggregate risk; or

1821 (II) \$50,000;

1822 (ii) in the case of an association captive insurance company, not less than ~~[\$750,000]~~
 1823 \$500,000;

1824 (iii) in the case of an industrial insured captive insurance company incorporated as a

- 1825 stock insurer, not less than \$700,000;
- 1826 (iv) in the case of a sponsored captive insurance company, not less than \$250,000 of
- 1827 which a minimum of \$50,000 is provided by the sponsor; or
- 1828 (v) in the case of a special purpose captive insurance company, an amount
- 1829 determined by the commissioner after giving due consideration to the company's
- 1830 business plan, feasibility study, and pro-formas, including the nature of the risks
- 1831 to be insured.
- 1832 (b) The paid-in capital and surplus required under this Subsection [~~(1)~~] (2) may be in the
- 1833 form of:
- 1834 (i)(A) cash; or
- 1835 (B) cash equivalent;
- 1836 (ii) an irrevocable letter of credit:
- 1837 (A) issued by:
- 1838 (I) a bank chartered by this state;
- 1839 (II) a member bank of the Federal Reserve System; or
- 1840 (III) a member bank of the Federal Deposit Insurance Corporation;
- 1841 (B) approved by the commissioner;
- 1842 (iii) marketable securities as determined by Subsection [~~(5)~~] (1); or
- 1843 (iv) some other thing of value approved by the commissioner, for a period not to
- 1844 exceed 45 days, to facilitate the formation of a captive insurance company in this
- 1845 state pursuant to an approved plan of liquidation and reorganization of another
- 1846 captive insurance company or alien captive insurance company in another
- 1847 jurisdiction.
- 1848 (c) This Subsection [~~(1)~~] (2) applies to:
- 1849 (i) a pure captive insurance company;
- 1850 (ii) a sponsored captive insurance company;
- 1851 (iii) a special purpose captive insurance company;
- 1852 (iv) an association captive insurance company; or
- 1853 (v) an industrial insured captive insurance company.
- 1854 [~~(2)~~] (3)(a) The commissioner may, under Section 31A-37-106, prescribe additional
- 1855 capital based on the type, volume, and nature of insurance business transacted.
- 1856 (b) The capital prescribed by the commissioner under this Subsection [~~(2)~~] (3) may be in
- 1857 the form of:
- 1858 (i) cash;

- 1859 (ii) an irrevocable letter of credit issued by:
- 1860 (A) a bank chartered by this state; or
- 1861 (B) a member bank of the Federal Reserve System; or
- 1862 (iii) marketable securities as determined by Subsection ~~[(5)]~~ (1).
- 1863 ~~[(3)]~~ (4)(a) Except as provided in Subsection ~~[(3)](e)]~~ (4)(c), a branch captive insurance
- 1864 company, as security for the payment of liabilities attributable to branch operations,
- 1865 shall, through ~~[its]~~ the branch captive insurance company's branch operations,
- 1866 establish and maintain a trust fund:
- 1867 (i) funded by an irrevocable letter of credit or other acceptable asset; and
- 1868 (ii) in the United States for the benefit of:
- 1869 (A) United States policyholders; and
- 1870 (B) United States ceding insurers under:
- 1871 (I) insurance policies issued; or
- 1872 (II) reinsurance contracts issued or assumed.
- 1873 (b) The amount of the security required under this Subsection ~~[(3)]~~ (4) shall be no less
- 1874 than:
- 1875 (i) the capital and surplus required by this chapter; and
- 1876 (ii) the reserves on the insurance policies or reinsurance contracts, including:
- 1877 (A) reserves for losses;
- 1878 (B) allocated loss adjustment expenses;
- 1879 (C) incurred but not reported losses; and
- 1880 (D) unearned premiums with regard to business written through branch operations.
- 1881 (c) Notwithstanding the other provisions of this Subsection ~~[(3)]~~ (4):
- 1882 (i) the commissioner may permit a branch captive insurance company that is required
- 1883 to post security for loss reserves on branch business by ~~[its]~~ the branch captive
- 1884 insurance company's reinsurer to reduce the funds in the trust account required by
- 1885 this section by the same amount as the security posted if the security remains
- 1886 posted with the reinsurer; and
- 1887 (ii) a branch captive insurance company that is the result of the licensure of an alien
- 1888 captive insurance company that is not formed in an alien jurisdiction is not subject
- 1889 to the requirements of this Subsection ~~[(3)]~~ (4).
- 1890 ~~[(4)]~~ (5)(a) A captive insurance company may not pay the following without the prior
- 1891 approval of the commissioner:
- 1892 (i) a dividend out of capital or surplus~~[in excess of the limits under Section~~

- 1893 16-10a-640]; or
- 1894 (ii) a distribution with respect to capital or surplus~~[in excess of the limits under~~
- 1895 Section 16-10a-640].
- 1896 (b) The commissioner shall condition approval of an ongoing plan for the payment of
- 1897 dividends or other distributions on the retention, at the time of each payment, of
- 1898 capital or surplus~~[in excess of:]~~ .
- 1899 [(i) amounts specified by the commissioner under Section 31A-37-106; or]
- 1900 [(ii) determined in accordance with formulas approved by the commissioner under
- 1901 Section 31A-37-106.]
- 1902 [(5) For purposes of this section, marketable securities means:]
- 1903 [(a) a bond or other evidence of indebtedness of a governmental unit in the United States
- 1904 or Canada or any instrumentality of the United States or Canada; or]
- 1905 [(b) securities:]
- 1906 [(i) traded on one or more of the following exchanges in the United States:]
- 1907 [(A) New York;]
- 1908 [(B) American; or]
- 1909 [(C) NASDAQ;]
- 1910 [(ii) when no particular security, or a substantially related security, applied toward
- 1911 the required minimum capital and surplus requirement of Subsection (1)
- 1912 represents more than 50% of the minimum capital and surplus requirement; and]
- 1913 [(iii) when no group of up to four particular securities, consolidating substantially
- 1914 related securities, applied toward the required minimum capital and surplus
- 1915 requirement of Subsection (1) represents more than 90% of the minimum capital
- 1916 and surplus requirement.]
- 1917 (6) Notwithstanding Subsection [(5)] (1), to protect the solvency and liquidity of a captive
- 1918 insurance company, the commissioner may reject the application of specific assets or
- 1919 amounts of specific assets to satisfying the requirement of Subsection [(1)] (2).
- 1920 Section 27. Section **31A-37-301** is amended to read:
- 1921 **31A-37-301 . Formation.**
- 1922 (1) A captive insurance company, other than a branch captive insurance company, may [be
- 1923 formed] form as a corporation~~[or]~~ , a limited liability company~~[:]~~ , or a not-for-profit
- 1924 organization.
- 1925 (2) The capital of a captive insurance company shall be held by:
- 1926 (a) the interest holders of the captive insurance company; or

- 1927 (b) a governing body elected by:
- 1928 (i) the insureds;
- 1929 (ii) one or more affiliates; or
- 1930 (iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).
- 1931 (3) A captive insurance company formed in this state shall have at least one establisher who
- 1932 is an individual and a resident of the state.
- 1933 (4)(a) An applicant captive insurance company's establishers shall obtain a certificate of
- 1934 public good from the commissioner before filing [its] the applicant captive insurance
- 1935 company's governing documents with the Division of Corporations and Commercial
- 1936 Code.
- 1937 (b) In considering a request for a certificate under Subsection (4)(a), the commissioner
- 1938 shall consider:
- 1939 (i) the character, reputation, financial standing, and purposes of the establishers;
- 1940 (ii) the character, reputation, financial responsibility, insurance experience, and
- 1941 business qualifications of the principal officers or members of the governing body;
- 1942 (iii) any information in:
- 1943 (A) the application for a certificate of authority; or
- 1944 (B) the department's files; and
- 1945 (iv) other aspects that the commissioner considers advisable.
- 1946 (5)(a) Except as otherwise provided in this title, the governing body of a captive
- 1947 insurance company shall consist of at least three individuals as members, at least one
- 1948 of whom is a resident of the state.
- 1949 (b) One-third of the members of the governing body of a captive insurance company
- 1950 constitutes a quorum of the governing body.
- 1951 (6) A captive insurance company shall have at least three separate individuals as principal
- 1952 officers with duties comparable to those of president, treasurer, and secretary.
- 1953 (7)(a)(i) A captive insurance company formed as a corporation is subject to the
- 1954 provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and
- 1955 this chapter.
- 1956 (ii) If a conflict exists between a provision of Title 16, Chapter 10a, Utah Revised
- 1957 Business Corporation Act, and a provision of this chapter, this chapter controls.
- 1958 (b) A captive insurance company formed as a limited liability company is subject to the
- 1959 provisions of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company
- 1960 Act, and this chapter. If a conflict exists between a provision of Title 48, Chapter 3a,

1961 Utah Revised Uniform Limited Liability Company Act, and a provision of this
1962 chapter, this chapter controls.

1963 (c) Except as provided in Subsection (7)(d), the provisions of this title that govern a
1964 merger, consolidation, conversion, mutualization, and redomestication apply to a
1965 captive insurance company in carrying out any of the transactions described in those
1966 provisions.

1967 (d) Notwithstanding Subsection (7)(c), the commissioner may waive or modify the
1968 requirements for public notice and hearing in accordance with rules adopted under
1969 Section 31A-37-106.

1970 (e) If a notice of public hearing is required, but no one requests a hearing, the
1971 commissioner may cancel the public hearing.

1972 Section 28. Section **31A-37-302** is amended to read:

1973 **31A-37-302 . Investment requirements.**

1974 (1)(a) Except as provided in Subsection (1)(b), [~~an association~~] a captive insurance
1975 company [~~-, a sponsored captive insurance company,~~] and an industrial insured [~~group~~]
1976 captive insurance company shall comply with the investment requirements contained
1977 in this title.

1978 (b) Notwithstanding Subsection (1)(a) and any other provision of this title, the
1979 commissioner may approve the use of alternative reliable methods of valuation and
1980 rating under Section 31A-37-106 for[~~;~~]

1981 [~~(i) an association captive insurance company;~~]

1982 [~~(ii) a sponsored captive insurance company; or~~]

1983 [~~(iii) an industrial insured group~~] a captive insurance company or an industrial
1984 insured captive insurance company.

1985 (2)(a) Except as provided in Subsection (2)(b), a pure captive insurance company or
1986 industrial insured captive insurance company is not subject to any restrictions on
1987 allowable investments [~~contained in this title~~] described in Section 31A-18-108.

1988 (b) [~~Notwithstanding Subsection (2)(a), the commissioner may, under Section~~
1989 ~~31A-37-106,~~] Under Section 31A-37-106, the commissioner may prohibit or limit an
1990 investment that threatens the solvency or liquidity of[~~;~~]

1991 [~~(i) a pure captive insurance company; or~~]

1992 [~~(ii) an industrial insured captive insurance company~~] a captive insurance company or
1993 industrial insured captive insurance company.

1994 (3)(a)(i) Except as provided in Subsection (3)(a)(ii), a captive insurance company

- 1995 may not make loans to:
- 1996 (A) the parent company of the captive insurance company; or
- 1997 (B) an affiliate of the captive insurance company.
- 1998 (ii) ~~[Notwithstanding Subsection (3)(a)(i), a]~~ A pure captive insurance company and
- 1999 an incorporated cell of a sponsored captive insurance company may make loans to:
- 2000 (A) the parent company of the pure captive insurance company or incorporated
- 2001 cell of a sponsored captive insurance company; or
- 2002 (B) an affiliate of the pure captive insurance company or incorporated cell of a
- 2003 sponsored captive insurance company.
- 2004 (b) A loan under Subsection (3)(a):
- 2005 (i) may be made only on the prior written approval of the commissioner and, when
- 2006 applicable, the sponsor for an incorporated cell; and
- 2007 (ii) shall be evidenced by a note in a form approved by the commissioner and, when
- 2008 applicable, the sponsor for an incorporated cell.
- 2009 (c) A pure captive insurance company may not make a loan from the paid-in capital
- 2010 required under Subsection ~~[31A-37-204(1)]~~ 31A-37-204(2).
- 2011 (4) If a captive insurer has excess surplus above the minimum capital required by Section
- 2012 31A-37-204, the captive insurer may invest the captive insurer's excess surplus in a
- 2013 manner inconsistent with the authorized classes of investments described in Section
- 2014 31A-18-110.
- 2015 (5) Nothing in this section empowers a captive insurer to make an investment that is illegal
- 2016 or otherwise prohibited by this title.
- 2017 Section 29. Section **31A-37-303** is amended to read:
- 2018 **31A-37-303 . Reinsurance.**
- 2019 (1)(a) A captive insurance company may cede risks to any insurance company approved
- 2020 by the commissioner.
- 2021 (b) Except as provided in Subsection (1)(c), a captive insurance company may provide
- 2022 reinsurance on risks ceded by any other insurer with prior approval of the
- 2023 commissioner.
- 2024 (c) A captive insurance company may not provide reinsurance on a punitive damages
- 2025 risk ceded by an insurer, unless the punitive damages risk is the risk of the captive
- 2026 insurance company's:
- 2027 (i) parent;
- 2028 (ii) affiliated company; or

2029 (iii) controlled unaffiliated business.

2030 (2) To facilitate the risk distribution of captive insurance companies participating in a
 2031 pooling arrangement, a captive insurance company licensed to operate as a pooling
 2032 captive insurance company may directly insure a risk that any pooling participant's
 2033 captive insurance company could otherwise directly insure in accordance with Section
 2034 31A-37-202.

2035 [(2)] (3)(a) A captive insurance company may take credit for reserves on risks or portions
 2036 of risks ceded to reinsurers if the captive insurance company complies with:

2037 (i) Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4; or

2038 (ii) other requirements as the commissioner may establish by rule made in
 2039 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2040 (b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1,
 2041 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection [(2)(a)(ii)]

2042 (3)(a)(ii), a captive insurance company may not take credit for:

2043 (i) reserves on risks ceded to a reinsurer; or

2044 (ii) portions of risks ceded to a reinsurer.

2045 Section 30. Section **31A-37-401** is amended to read:

2046 **31A-37-401 . Sponsored captive insurance companies -- Formation.**

2047 (1) One or more sponsors may form a sponsored captive insurance company under this
 2048 chapter.

2049 (2) A sponsored captive insurance company formed under this chapter may establish and
 2050 maintain, ~~[a protected cell]~~ with prior approval of the commissioner, a combination of
 2051 incorporated cells and protected cells to insure risks of a participant if:

2052 (a) the interest holders of a sponsored captive insurance company are limited to:

2053 (i) the participants of the sponsored captive insurance company; and

2054 (ii) the sponsors of the sponsored captive insurance company;

2055 (b) each ~~[protected]~~ cell is accounted for separately on the books and records of the
 2056 sponsored cell captive insurance company to reflect:

2057 (i) the financial condition of each ~~[individual protected]~~ cell;

2058 (ii) the results of operations of each ~~[individual protected]~~ cell;

2059 (iii) the net income or loss of each ~~[individual protected]~~ cell;

2060 (iv) the dividends or other distributions to participants of each ~~[individual protected]~~
 2061 cell; and

2062 (v) other factors that may be:

- 2063 (A) provided in the participant contract; or
- 2064 (B) required by the commissioner;
- 2065 (c) the assets of a ~~[protected]~~ cell are not chargeable with liabilities arising out of any
- 2066 other insurance business the sponsored captive insurance company may conduct;
- 2067 (d) a sale, exchange, or other transfer of assets is not made by the sponsored captive
- 2068 insurance company between or among any of the ~~[protected]~~ cells of the sponsored
- 2069 captive insurance company without the consent of the ~~[protected]~~ cells;
- 2070 (e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a [~~protected]~~
- 2071 ~~protected]~~ cell to a sponsor or participant without the commissioner's approval, which
- 2072 may not be given if the sale, exchange, transfer, dividend, or distribution would result
- 2073 in insolvency or impairment with respect to a ~~[protected]~~ cell;
- 2074 (f) a sponsored captive insurance company annually files with the commissioner
- 2075 financial reports the commissioner requires under Section 31A-37-106, including
- 2076 accounting statements detailing the financial experience of each ~~[protected]~~ cell;
- 2077 (g) a sponsored captive insurance company notifies the commissioner in writing within
- 2078 10 business days of a ~~[protected]~~ cell that is insolvent or otherwise unable to meet the
- 2079 claim or expense obligations of the ~~[protected]~~ cell;
- 2080 (h) a participant contract does not take effect without the commissioner's prior written
- 2081 approval; and
- 2082 (i) the addition of each new ~~[protected]~~ cell and withdrawal of a participant of any
- 2083 existing ~~[protected]~~ cell does not take effect without the commissioner's prior written
- 2084 approval~~;~~ and .
- 2085 ~~[(j)] (3)[(i) a protected]~~ A cell of a sponsored captive insurance company shall pay to
- 2086 the department the following nonrefundable fees established by the department
- 2087 under Sections 31A-3-103, 31A-3-304, and 63J-1-504:
- 2088 ~~[(A)] (a)~~ a fee for examining, investigating, and processing [by a department employee of]
- 2089 an application [for a certificate of authority] made by a [protected] cell to insure risks
- 2090 under the certificate of authority of a sponsored captive insurance company;
- 2091 ~~[(B)] (b)~~ a fee for obtaining a certificate to insure risks under the certificate of authority
- 2092 of a sponsored captive insurance company for the year the [protected] cell of the
- 2093 sponsored captive insurance company is issued a certificate[~~of authority~~] by the
- 2094 department; and
- 2095 ~~[(C)] (c)~~ a certificate of authority renewal fee~~;~~ and .
- 2096 ~~[(ii)] (4) [a protected]~~ A sponsor may create a cell [may be created by the sponsor] or [the

2097 ~~sponsor may create~~] a pooling insurance arrangement for the sponsor's cell participants
 2098 to provide for pooling of risks to allow for risk distribution upon written approval from
 2099 every[~~protected~~] cell under the sponsor and written approval of the commissioner.

2100 Section 31. Section **31A-37-402** is amended to read:

2101 **31A-37-402 . Sponsored captive insurance companies -- Certificate of authority**
 2102 **mandatory.**

2103 (1) A sponsor of a sponsored captive insurance company shall be:

2104 (a) an insurer authorized or approved under the laws of a state;

2105 (b) a reinsurer authorized or approved under the laws of a state;

2106 (c) a captive insurance company holding a certificate of authority under this chapter;

2107 (d) an insurance holding company that:

2108 (i) controls an insurer licensed pursuant to the laws of a state; and

2109 (ii) is subject to registration pursuant to the holding company system of laws of the
 2110 state of domicile of the insurer described in Subsection (1)(d)(i);

2111 (e) an approved captive management firm in Utah or its affiliates; or

2112 (f) another person approved by the commissioner after finding that the approval of the
 2113 person as a sponsor is not inconsistent with the purposes of this chapter.

2114 (2)(a) The business written by a sponsored captive insurance company with respect to a

2115 protected cell shall be fronted by the [~~sponsor~~] sponsored captive insurance company

2116 through a controlled unaffiliated contract or an insurer that is:

2117 (i) authorized or approved:

2118 (A) under the laws of a state; or

2119 (B) under any jurisdiction if the insurance company is a wholly owned subsidiary
 2120 of an insurance company licensed pursuant to the laws of a state;

2121 (ii) reinsured by a reinsurer authorized or approved by this state; or

2122 (iii) subject to Subsection (2)(b), secured by a trust fund:

2123 (A) in the United States;

2124 (B) for the benefit of policyholders and claimants;

2125 (C) funded by an irrevocable letter of credit or other asset acceptable to the
 2126 commissioner; and

2127 (D) held by the sponsor as provided in Subsection 31A-17-404(1).

2128 (b)(i) The amount of security provided by the trust fund described in Subsection

2129 (2)(a)(iii) may not be less than the reserves associated with the liabilities of the

2130 trust fund, including:

- 2131 (A) reserves for losses;
- 2132 (B) allocated loss adjustment expenses;
- 2133 (C) incurred but unreported losses; and
- 2134 (D) unearned premiums for business written through the participant's protected
- 2135 cell.
- 2136 (ii) The commissioner may require the sponsored captive insurance company to
- 2137 increase the funding of a trust established pursuant to this Subsection (2).
- 2138 (iii) If the form of security in the trust described in Subsection (2)(a)(iii) is a letter of
- 2139 credit, the letter of credit shall be established, issued, or confirmed by a bank that
- 2140 is:
- 2141 (A) chartered in this state;
- 2142 (B) a member of the federal reserve system; or
- 2143 (C) chartered by another state if that state-chartered bank is acceptable to the
- 2144 commissioner.
- 2145 (iv) A trust and trust instrument maintained pursuant to this Subsection (2) shall be in
- 2146 a form and upon terms approved by the commissioner.
- 2147 (3) The business written by a sponsored captive insurance company with respect to an
- 2148 incorporated cell may be:
- 2149 (a) fronted by the sponsored captive insurance company in accordance with Subsection
- 2150 (2)(a); or
- 2151 (b) with prior approval of the sponsored captive insurance company, written directly by
- 2152 the incorporated cell.
- 2153 [~~3~~] (4) A risk retention group may not be either a sponsor or a participant of a sponsored
- 2154 captive insurance company.
- 2155 Section 32. Section **31A-37-403** is amended to read:
- 2156 **31A-37-403 . Participants in sponsored captive insurance companies.**
- 2157 (1) Any of the following may be a participant in a sponsored captive insurance company
- 2158 holding a certificate of authority under this chapter:
- 2159 (a) an association;
- 2160 (b) a corporation that is for profit or nonprofit;
- 2161 (c) a limited liability company;
- 2162 (d) a partnership;
- 2163 (e) a trust; or
- 2164 (f) any other business entity.

- 2165 (2) A sponsor may be a participant in a sponsored captive insurance company.
- 2166 (3) A participant need not be:
- 2167 (a) a shareholder of the sponsored captive insurance company; or
- 2168 (b) an affiliate of the sponsored captive insurance company.
- 2169 [~~(4) A participant shall insure only the participant's own risks through a sponsored captive~~
- 2170 ~~insurance company unless otherwise approved by the commissioner.~~]
- 2171 Section 33. Section **31A-37-404** is amended to read:
- 2172 **31A-37-404 . Sponsored captive insurance companies -- Reserves opinion and**
- 2173 **discounting.**
- 2174 (1) A sponsored captive insurance company may discount [its] the sponsored captive
- 2175 insurance company's loss and loss adjustment expense reserves at treasury rates applied
- 2176 to the applicable payments projected through the use of the expected payment pattern
- 2177 associated with the reserves.
- 2178 (2)(a) A sponsored captive insurance company shall annually file with the department an
- 2179 actuarial opinion provided by an independent actuary on loss and loss adjustment
- 2180 expense reserves.
- 2181 (b) The independent actuary described in Subsection (2)(a) may not be an employee of:
- 2182 (i) the company filing the actuarial opinion; or
- 2183 (ii) an affiliate of the company filing the actuarial opinion.
- 2184 (3) The commissioner may disallow the discounting of reserves by a sponsored captive
- 2185 insurance company if the sponsored captive insurance company violates this title.
- 2186 Section 34. Section **31A-37-501** is amended to read:
- 2187 **31A-37-501 . Reports to commissioner.**
- 2188 (1) A captive insurance company is not required to make a report except those provided in
- 2189 this chapter.
- 2190 (2)(a) Before March 1 of each year, a captive insurance company shall submit to the
- 2191 commissioner a report of the financial condition of the captive insurance company,
- 2192 verified by oath of at least two individuals who are executive officers of the captive
- 2193 insurance company.
- 2194 (b) Except as provided in Section 31A-37-204, a captive insurance company shall report:
- 2195 (i) using generally accepted accounting principles, except to the extent that the
- 2196 commissioner requires, approves, or accepts the use of a statutory accounting
- 2197 principle;
- 2198 (ii) using a useful or necessary modification or adaptation to an accounting principle

- 2199 that is required, approved, or accepted by the commissioner for the type of
 2200 insurance and kind of insurer to be reported upon; and
- 2201 (iii) supplemental or additional information required by the commissioner.
- 2202 (c) Except as otherwise provided:
- 2203 (i) a licensed captive insurance company shall file the report required by Section
 2204 31A-4-113; and
- 2205 (ii) an industrial insured group shall comply with Section 31A-4-113.5.
- 2206 (3)(a) A pure captive insurance company may make written application to file the
 2207 required report on a fiscal year end that is consistent with the fiscal year of the parent
 2208 company of the pure captive insurance company.
- 2209 (b) If the commissioner grants an alternative reporting date for a pure captive insurance
 2210 company requested under Subsection (3)(a), the annual report is due 60 days after the
 2211 fiscal year end.
- 2212 (4)(a) Sixty days after the fiscal year end, a branch captive insurance company shall file
 2213 with the commissioner a copy of the reports and statements required to be filed under
 2214 the laws of the jurisdiction in which the alien captive insurance company is formed,
 2215 verified by oath by two of the alien captive insurance company's executive officers.
- 2216 (b) If the commissioner is satisfied that the annual report filed by the alien captive
 2217 insurance company in the jurisdiction in which the alien captive insurance company
 2218 is formed provides adequate information concerning the financial condition of the
 2219 alien captive insurance company, the commissioner may waive the requirement for
 2220 completion of the annual statement required for a captive insurance company under
 2221 this section with respect to business written in the alien or foreign jurisdiction.
- 2222 (c) A waiver by the commissioner under Subsection (4)(b):
- 2223 (i) shall be in writing; and
- 2224 (ii) is subject to public inspection.
- 2225 (5) Before March 1 of each year, a sponsored [~~cell~~]captive insurance company shall submit
 2226 to the commissioner a consolidated report of the financial condition of each [~~individual~~
 2227 ~~protected~~]cell, including a financial statement for each[~~protected~~] cell.
- 2228 (6)(a) A captive insurance company shall notify the commissioner in writing if there is:
- 2229 (i) a material change to the captive insurance company's most recently filed report of
 2230 financial condition; or
- 2231 (ii) an adverse material change in the financial condition of a captive insurance
 2232 company since the captive insurance company's most recently filed report of

2233 financial condition.

2234 (b) A captive insurance company shall submit a notification described in this subsection
2235 within 20 days after the day on which the captive insurance company learns of the
2236 material change.

2237 Section 35. Section **31A-37-505** is amended to read:

2238 **31A-37-505 . Suspension or revocation -- Grounds.**

2239 (1) The commissioner may suspend or revoke the certificate of authority of a captive
2240 insurance company to conduct an insurance business in this state for:

2241 (a) insolvency or impairment of capital or surplus;

2242 (b) failure to meet the requirements of Section 31A-37-204;

2243 (c) refusal or failure to submit:

2244 (i) an annual report required by Section 31A-37-501; or

2245 (ii) any other report or statement required by law or by lawful order of the
2246 commissioner;

2247 (d) failure to comply with the charter, bylaws, or other organizational document of the
2248 captive insurance company;

2249 (e) failure to submit to:

2250 (i) an examination under Section 31A-37-502; or

2251 (ii) any legal obligation relative to an examination under Section 31A-37-502;

2252 (f) refusal or failure to pay~~[the cost of examination under Section 31A-37-502;]~~ :

2253 (i) an annual fee described in Section 31A-3-304;

2254 (ii) the cost of examination described in Section 31A-37-502; or

2255 (iii) any other fee prescribed by this title;

2256 (g) use of methods that, although not otherwise specifically prohibited by law, render:

2257 (i) the operation of the captive insurance company detrimental to the public or the
2258 policyholders of the captive insurance company; or

2259 (ii) the condition of the captive insurance company unsound with respect to the
2260 public or to the policyholders of the captive insurance company; or

2261 (h) failure otherwise to comply with laws of this state.

2262 (2) Notwithstanding any other provision of this title, if the commissioner finds, upon
2263 examination, hearing, or other evidence, that a captive insurance company has
2264 committed any of the acts specified in Subsection (1), the commissioner may suspend or
2265 revoke the certificate of authority of the captive insurance company if the commissioner
2266 considers it in the best interest of the public and the policyholders of the captive

- 2267 insurance company to revoke the certificate of authority.
- 2268 Section 36. Section **31A-37-701** is amended to read:
- 2269 **31A-37-701 . Certificate of dormancy.**
- 2270 (1) In accordance with the provisions of this section, a captive insurance company, other
 2271 than a risk retention group, may apply, without fee, to the commissioner for a certificate
 2272 of dormancy.
- 2273 (2)(a) A captive insurance company, other than [~~a risk retention group~~] an industrial
 2274 insured captive insurance company or a cell of a sponsored captive insurance
 2275 company, is eligible for a certificate of dormancy if the [~~captive insurance~~] company:
 2276 (i) has ceased transacting the business of insurance, including the issuance of
 2277 insurance policies; and
 2278 (ii) has no remaining insurance liabilities or obligations associated with insurance
 2279 business transactions or insurance policies.
- 2280 (b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or
 2281 obligations for which the captive insurance company has withheld sufficient funds or
 2282 that are otherwise sufficiently secured.
- 2283 (3) Except as provided in Subsection (4), a captive insurance company that holds a
 2284 certificate of dormancy is subject to all requirements of this chapter.
- 2285 (4) A captive insurance company that holds a certificate of dormancy:
 2286 (a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus
 2287 of:
 2288 (i) in the case of a pure captive insurance company or a special purpose captive
 2289 insurance company, not less than \$25,000;
 2290 (ii) in the case of an association captive insurance company, not less than \$75,000; or
 2291 (iii) in the case of a sponsored captive insurance company, not less than \$50,000, of
 2292 which the sponsor provides at least \$20,000; and
 2293 (b) is not required to:
 2294 (i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;
 2295 (ii) maintain an active agreement with an independent auditor or actuary; or
 2296 (iii) hold an annual meeting of the captive insurance company in the state.
- 2297 (5) The commissioner may require a captive insurance company that holds a certificate of
 2298 dormancy to submit an annual audit if the commissioner determines that there are
 2299 concerns regarding the captive insurance company's solvency or liquidity.
- 2300 (6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal

2301 fee, no later than July 1 of each year, a captive insurance company shall pay an annual
 2302 dormancy renewal fee that is equal to 50% of the captive insurance's company's
 2303 certificate of authority renewal fee.

2304 [~~(7)~~] A captive insurance company may consecutively renew a certificate of dormancy no
 2305 more than five times.]

2306 Section 37. Section **31A-37a-205** is amended to read:

2307 **31A-37a-205 . Sponsored captives.**

2308 (1) In addition to the other provisions of this chapter, this section applies to a
 2309 sponsored captive insurance company under Chapter 37, Captive Insurance Companies
 2310 Act, that has a certificate of authority as a special purpose financial captive insurance
 2311 company [~~pursuant to~~] in accordance with this chapter.

2312 [~~(1)~~] (2) A sponsored captive insurance company may have a certificate of authority as a
 2313 special purpose financial captive insurance company under this chapter.

2314 [~~(2)~~] (3)(a) For purposes of a sponsored captive insurance company having a certificate
 2315 of authority as a special purpose financial captive insurance company, "general
 2316 account" means the assets and liabilities of the sponsored captive insurance company
 2317 not attributable to a [~~protected~~] cell.

2318 (b) For purposes of applying Chapter 27a, Insurer Receivership Act, to a sponsored
 2319 captive insurance company having a certificate of authority as a special purpose
 2320 financial captive insurance company, the definition of "insolvency" and "insolvent"
 2321 in Section 31A-37a-102 shall be applied separately to:

2322 (i) each [~~protected~~] cell; and

2323 (ii) the special purpose financial captive insurance company's general account.

2324 [~~(3)~~] (4)(a) A participant in a sponsored captive insurance company having a certificate
 2325 of authority as a special purpose financial captive insurance company shall be a
 2326 ceding insurer, unless approved by the commissioner before a person becomes a
 2327 participant.

2328 (b) A change in a participant in a sponsored captive insurance company having a
 2329 certificate of authority as a special purpose financial captive insurance company is
 2330 subject to prior approval by the commissioner.

2331 [~~(4)~~] (5) Notwithstanding Section 31A-37-401, a special purpose financial captive insurance
 2332 company that is a sponsored captive insurance company may issue a security to a person
 2333 not described in Section 31A-37-401 if the issuance to that person is approved by the
 2334 commissioner before the issuance of the security.

- 2335 ~~[(5)]~~ (6) Notwithstanding Section 31A-37a-302, a sponsored captive insurance company
 2336 having a certificate of authority as a special purpose financial captive insurance
 2337 company shall:
- 2338 (a) at the time of initial application for a certificate of authority as a special purpose
 2339 financial captive insurance company, possess unimpaired paid-in capital and surplus
 2340 of not less than \$500,000; and
- 2341 (b) maintain at least \$500,000 of unimpaired paid-in capital and surplus of not less than
 2342 \$500,000 during the time that it holds a certificate of authority under this chapter.
- 2343 ~~[(6)]~~ (7)(a) For purposes of a sponsored captive insurance company having a certificate
 2344 of authority as a special purpose financial captive insurance company, this
 2345 Subsection ~~[(6)]~~ (7) applies to:
- 2346 (i) a security issued by the special purpose financial captive insurance company with
 2347 respect to a ~~[protected-]~~cell; or
- 2348 (ii) a contract or obligation of the special purpose financial captive insurance
 2349 company with respect to a ~~[protected-]~~cell.
- 2350 (b) A sponsored captive insurance company having a certificate of authority as a special
 2351 purpose financial captive insurance company shall include with a security, contract,
 2352 or obligation described in Subsection ~~[(6)(a)]~~ (7)(a):
- 2353 (i) the designation of the ~~[protected-]~~cell; and
- 2354 (ii) a disclosure in a form and content satisfactory to the commissioner to the effect
 2355 that the holder of the security or a counterparty to the contract or obligation has no
 2356 right or recourse against the special purpose financial captive insurance company
 2357 and its assets other than against an asset properly attributable to the ~~[protected-]~~
 2358 cell.
- 2359 (c) Notwithstanding the requirements of this Subsection ~~[(6)]~~ (7) and subject to other
 2360 statutes or rules including this chapter and Chapter 37, Captive Insurance Companies
 2361 Act, a creditor, ceding insurer, or another person may not use a failure to include a
 2362 disclosure described in Subsection ~~[(6)(b)]~~ (7)(b), in whole or part, as the sole basis to
 2363 have recourse against:
- 2364 (i) the general account of the special purpose financial captive insurance company; or
 2365 (ii) the assets of another ~~[protected-]~~cell of the special financial captive insurance
 2366 company.
- 2367 ~~[(7)]~~ (8) In addition to Section 31A-37-401, a sponsored captive insurance company having
 2368 a certificate of authority as a special purpose financial captive insurance company is

- 2369 subject to the following with respect to a ~~[protected]~~ cell:
- 2370 (a)(i) A sponsored captive insurance company having a certificate of authority as a
 2371 special purpose financial captive insurance company shall establish a ~~[protected]~~
 2372 cell only for the purpose of insuring or reinsuring risks of one or more reinsurance
 2373 contracts with a ceding insurer with the intent of facilitating an insurance
 2374 securitization.
- 2375 (ii) Subject to Subsection ~~[(7)(a)(iii)]~~ (8)(a)(iii), a sponsored captive insurance
 2376 company having a certificate of authority as a special purpose financial captive
 2377 insurance company shall establish a separate ~~[protected]~~ cell with respect to a
 2378 ceding insurer described in Subsection ~~[(7)(a)(i)]~~ (8)(a).
- 2379 (iii) A sponsored captive insurance company having a certificate of authority as a
 2380 special purpose financial captive insurance company shall establish a separate [
 2381 ~~protected]~~ cell with respect to each reinsurance contract that is funded in whole or
 2382 in part by a separate insurance securitization transaction.
- 2383 (b) A sponsored captive insurance company having a certificate of authority as a special
 2384 purpose financial captive insurance company may not sale, exchange, or transfer an
 2385 asset by, between, or among any of ~~[its protected]~~ the sponsored captive insurance
 2386 company's cells without the prior approval of the commissioner.
- 2387 ~~[(8)]~~ (9)(a) A sponsored captive insurance company having a certificate of authority as a
 2388 special purpose financial captive insurance company shall attribute an asset or
 2389 liability to a ~~[protected]~~ cell and to the general account in accordance with the plan of
 2390 operation approved by the commissioner.
- 2391 (b) Except as provided by Subsection ~~[(8)(a)]~~ (9)(a), a sponsored captive insurance
 2392 company having a certificate of authority as a special purpose financial captive
 2393 insurance company may not attribute an asset or liability between:
- 2394 (i) ~~[its]~~ the sponsored captive insurance company's general account and a ~~[protected]~~
 2395 cell; or
- 2396 (ii) ~~[its protected]~~ the sponsored captive insurance company's cells.
- 2397 (c) A sponsored captive insurance company having a certificate of authority as a special
 2398 purpose financial captive insurance company shall attribute:
- 2399 (i) an insurance obligation, asset, or liability relating to a reinsurance contract entered
 2400 into with respect to a ~~[protected]~~ cell; and
- 2401 (ii) an insurance securitization transaction related to the obligation, asset, or liability
 2402 described in Subsection ~~[(8)(e)(i)]~~ (9)(c)(i), including a security issued by the

- 2403 special purpose financial captive insurance company as part of the insurance
 2404 securitization, to the ~~[protected]~~cell.
- 2405 (d) The following shall reflect an insurance obligation, asset, or liability relating to a
 2406 reinsurance contract and the insurance securitization transaction that are attributed to
 2407 a ~~[protected]~~cell:
- 2408 (i) a right, benefit, obligation, or a liability of a security attributable to a ~~[protected]~~
 2409 cell described in Subsection ~~[(8)(e)]~~ (9)(c);
- 2410 (ii) the performance under a reinsurance contract and the related insurance
 2411 securitization transaction; and
- 2412 (iii) a tax benefit, loss, refund, or credit allocated pursuant to a tax allocation
 2413 agreement to which the special purpose financial captive insurance company is a
 2414 party, including a payment made by or due to be made to the special purpose
 2415 financial captive insurance company pursuant to the terms of the tax allocation
 2416 agreement.
- 2417 ~~[(9)]~~ (10) In addition to Section 31A-37a-502:
- 2418 (a) Chapter 27a, Insurer Receivership Act, applies to each ~~[protected]~~cell of a sponsored
 2419 captive insurance company having a certificate of authority as a special purpose
 2420 financial captive insurance company.
- 2421 (b) A proceeding or action taken by the commissioner pursuant to Chapter 27a, Insurer
 2422 Receivership Act, with respect to a ~~[protected]~~cell of a sponsored captive insurance
 2423 company having a certificate of authority as a special purpose financial captive
 2424 insurance company may not be the sole basis for a proceeding pursuant to Chapter
 2425 27a, Insurer Receivership Act, with respect to:
- 2426 (i) another ~~[protected]~~cell of the special purpose financial captive insurance
 2427 company; or
- 2428 (ii) the special purpose financial captive insurance company's general account.
- 2429 (c)(i) Except as provided in Subsection ~~[(9)(e)(ii)]~~ (10)(c)(ii), the receiver of a special
 2430 purpose financial captive insurance company shall ensure that the assets
 2431 attributable to one ~~[protected]~~cell are not applied to the liabilities attributable to:
- 2432 (A) another ~~[protected]~~cell; or
- 2433 (B) the special purpose financial captive insurance company's general account.
- 2434 (ii) Notwithstanding Subsection ~~[(9)(e)(i)]~~ (10)(c)(i), if an asset or liability is
 2435 attributable to more than one ~~[protected]~~cell, the receiver shall deal with the asset
 2436 or liability in accordance with the terms of a relevant governing instrument or

- 2437 contract.
- 2438 (d) The insolvency of a [~~protected~~]cell of a sponsored captive insurance company
 2439 having a certificate of authority as a special purpose financial captive insurance
 2440 company may not be the sole basis for the commissioner to prohibit:
- 2441 (i) a payment by the special purpose financial captive insurance company made
 2442 pursuant to a special purpose financial captive insurance company security or
 2443 reinsurance contract with respect to another [~~protected~~]cell; or
- 2444 (ii) an action required to make a payment described in Subsection [~~(9)(d)(i)~~] (10)(d)(i).
- 2445 Section 38. Section **31A-43-301** is amended to read:
- 2446 **31A-43-301 . Stop-loss insurance standards.**
- 2447 (1) A small employer stop-loss insurance contract shall:
- 2448 (a) be issued to the small employer to provide insurance to the group health benefit plan,
 2449 not the employees of the small employer;
- 2450 (b) have a contract term with guaranteed rates for at least 12 months, without
 2451 adjustment, unless there is a change in the benefits provided under the small
 2452 employer's health plan during the contract period;
- 2453 (c) include both a specific attachment point and an aggregate attachment point in a
 2454 contract;
- 2455 (d) align stop-loss plan benefit limitations and exclusions with a small employer's health
 2456 plan benefit limitations and exclusions, including any annual or lifetime limits in the
 2457 employer's health plan;
- 2458 (e) subject to Subsection (4):
- 2459 (i) have an annual specific attachment point that is at least [~~\$10,000~~] \$30,000; and
 2460 [~~(f)~~] (ii) have an annual aggregate attachment point that may not be less than [~~85%~~]
 2461 90% of expected claims;
- 2462 [~~(g)~~] (f) pay stop-loss claims:
- 2463 (i) incurred during the contract period; and
 2464 (ii) paid within 12 months after the expiration date of the contract; and
- 2465 [~~(h)~~] (g) include provisions to cover incurred and unpaid stop-loss claims when the small
 2466 employer's stop-loss plan terminates.
- 2467 (2) A small employer stop-loss insurance contract [~~shall~~] may not:
- 2468 (a) include lasering; and
 2469 (b) pay claims directly to an individual employee, member, or participant.
- 2470 (3) A stop-loss insurer or reinsurer:

2471 (a) may enter into a small employer stop-loss insurance contract with a small employer
 2472 with 15 or more enrolled employees; and

2473 (b) may not enter into a small employer stop-loss insurance contract with a small
 2474 employer with less than 15 enrolled employees.

2475 (4) A small employer stop-loss insurance contract issued before July 1, 2025, that is
 2476 renewed with the same stop-loss insurer or reinsurer that executed that small employer
 2477 stop-loss insurance contract shall comply with Subsection (1)(e) by no later than July 1,
 2478 2027.

2479 Section 39. Section **61-2g-502** is amended to read:

2480 **61-2g-502 . Disciplinary action -- Grounds.**

2481 (1)(a) The board may order disciplinary action, with the concurrence of the division,
 2482 against a person:

2483 (i) registered, licensed, or certified under this chapter; or

2484 (ii) required to be registered, licensed, or certified under this chapter.

2485 (b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action
 2486 may include:

2487 (i) revoking, suspending, or placing a person's registration, license, or certification on
 2488 probation;

2489 (ii) denying a person's original registration, license, or certification;

2490 (iii) denying a person's renewal license, certification, or registration;

2491 (iv) in the case of denial or revocation of a registration, license, or certification,
 2492 setting a waiting period for an applicant to apply for a registration, license, or
 2493 certification under this chapter;

2494 (v) ordering remedial education;

2495 (vi) imposing a civil penalty upon a person not to exceed the greater of:

2496 (A) \$5,000 for each violation; or

2497 (B) the amount of any gain or economic benefit from a violation;

2498 (vii) issuing a cease and desist order;

2499 (viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the
 2500 board, with the concurrence of the division, finds that the person complies with
 2501 court ordered restitution; or

2502 (ix) doing any combination of Subsections (1)(b)(i) through (viii).

2503 (c)(i) If the board or division issues an order that orders a fine or educational
 2504 requirements as part of the disciplinary action against a person, including a

- 2505 stipulation and order, the board or division shall state in the order the deadline by
2506 which the person shall comply with the fine or educational requirements.
- 2507 (ii) If a person fails to comply with a stated deadline:
- 2508 (A) the person's license, certificate, or registration is automatically suspended:
- 2509 (I) beginning on the day specified in the order as the deadline for compliance;
2510 and
- 2511 (II) ending the day on which the person complies in full with the order; and
- 2512 (B) if the person fails to pay a fine required by an order, the division may begin a
2513 collection process:
- 2514 (I) established by the division by rule made in accordance with Title 63G,
2515 Chapter 3, Utah Administrative Rulemaking Act; and
- 2516 (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- 2517 (2) The following are grounds for disciplinary action under this section:
- 2518 (a) procuring or attempting to procure a registration, license, or certification under this
2519 chapter:
- 2520 (i) by fraud; or
- 2521 (ii) by making a false statement, submitting false information, or making a material
2522 misrepresentation in an application filed with the division;
- 2523 (b) paying money or attempting to pay money other than a fee provided for by this
2524 chapter to a member or employee of the division to procure a registration, license, or
2525 certification under this chapter;
- 2526 (c) an act or omission in the practice of real estate appraising that constitutes dishonesty,
2527 fraud, or misrepresentation;
- 2528 (d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of
2529 fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- 2530 (e) regardless of whether the crime is related to the appraisal business, to:
- 2531 (i) be convicted of a felony;
- 2532 (ii) be convicted of any of the following involving fraud, misrepresentation, theft, or
2533 dishonesty:
- 2534 (A) a class A misdemeanor;
- 2535 (B) a class B misdemeanor; or
- 2536 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2537 (iii) plead guilty or nolo contendere to a felony;
- 2538 (iv) plead guilty or nolo contendere to any of the following involving fraud,

- 2539 misrepresentation, theft, or dishonesty:
- 2540 (A) a class A misdemeanor:
- 2541 (B) a class B misdemeanor; or
- 2542 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2543 (v) enter into a plea in abeyance agreement involving a felony; or
- 2544 (vi) enter into a plea in abeyance agreement involving any of the following involving
- 2545 fraud, misrepresentation, theft, or dishonesty:
- 2546 (A) a class A misdemeanor:
- 2547 (B) a class B misdemeanor; or
- 2548 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2549 (f) engaging in the business of real estate appraising under an assumed or fictitious name
- 2550 not properly registered in this state;
- 2551 (g) paying a finder's fee or a referral fee to a person not licensed or certified under this
- 2552 chapter in connection with an appraisal of real estate or real property in this state;
- 2553 (h) making a false or misleading statement in:
- 2554 (i) that portion of a written appraisal report that deals with professional
- 2555 qualifications; or
- 2556 (ii) testimony concerning professional qualifications;
- 2557 (i) violating or disregarding:
- 2558 (i) this chapter;
- 2559 (ii) an order of:
- 2560 (A) the board; or
- 2561 (B) the division, in a case when the board delegates to the division the authority to
- 2562 make a decision on behalf of the board; or
- 2563 (iii) a rule issued under this chapter;
- 2564 (j) violating the confidential nature of governmental records to which a person
- 2565 registered, licensed, or certified under this chapter gained access through
- 2566 employment or engagement as an appraiser by a governmental agency;
- 2567 (k) accepting a contingent fee for performing an appraisal if in fact the fee is or was
- 2568 contingent upon:
- 2569 (i) the appraiser reporting a predetermined analysis, opinion, or conclusion;
- 2570 (ii) the analysis, opinion, conclusion, or valuation reached; or
- 2571 (iii) the consequences resulting from the appraisal assignment;
- 2572 (l) unprofessional conduct as defined by statute or rule; or

2573 [~~(m)~~ in the case of a dual licensed title licensee as defined in Section 31A-2-402:]
2574 [(i) providing a title insurance product or service without the approval required by
2575 Section 31A-2-405; or]
2576 [(ii) knowingly providing false or misleading information in the statement required
2577 by Subsection 31A-2-405(2); or]
2578 [~~(n)~~] (m) other conduct that constitutes dishonest dealing.
2579 (3) A person previously licensed, certified, or registered under this chapter remains
2580 responsible for, and is subject to disciplinary action for, an act that the person
2581 committed, while the person was licensed, certified, or registered, in violation of this
2582 chapter or an administrative rule in effect at the time that the person committed the act,
2583 regardless of whether the person is currently licensed, certified, or registered.
2584 Section 40. **Effective Date.**
2585 This bill takes effect on May 7, 2025.