

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Insurance Investment Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Don L. Ipson
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill repeals and reenacts provisions relating to insurance investments.

Highlighted Provisions:

This bill:

- ▶ repeals the existing chapter dealing with insurance investments;
- ▶ defines terms;
- ▶ establishes a minimum financial security benchmark for insurers;
- ▶ describes the authorized investments an insurer may make;
- ▶ establishes prudence evaluation criteria;
- ▶ requires that an insurer establish and follow a written investment policy;
- ▶ describes the authorized classes of investments an insurer may make;
- ▶ establishes the limitation of classes of investments;
- ▶ requires that an insurer doing business in different currencies have securities in each currency that meet the requirements of this chapter;
- ▶ prohibits an insurer from making certain types of investments;
- ▶ establishes the effect of investment restrictions on insurers;
- ▶ provides insurers guidelines for the required reports and replies under this chapter;
- ▶ authorizes the commissioner to retain experts when analyzing an insurer's investments;
- ▶ authorizes the commissioner to issue orders regarding an insurer's investment practices;
- ▶ describes how a commissioner should conduct an administrative hearing under this chapter;
- ▶ exempts an investment policy subject to this chapter from the definition of "record" under the Government Records Access and Management Act;
- ▶ provides the circumstances under which this chapter prevails over any conflicting statute

- 62 (1) "Derivative instrument" means an asset appropriately reported in Schedule DB or a
63 Schedule DC of an insurer's statutory financial statement or successor schedules, in
64 accordance with applicable annual statement instructions or statutory accounting
65 guidelines.
- 66 (2) "Derivative transaction" means a transaction involving the use of one or more derivative
67 instruments.
- 68 (3) "Income generation" means a derivative transaction involving the writing of covered
69 options, caps, or floors that is intended to generate income or enhance return.
- 70 (4) "Lower grade investment" means a rated credit instrument or debt-like preferred stock
71 rated 4, 5, or 6 by the Securities Valuation Office of the NAIC or any successor office.
- 72 (5) "Medium grade investment" means a rated credit instrument or debt-like preferred stock
73 rated 3 by the Securities Valuation Office of the NAIC or any successor office.
- 74 (6) "Minimum asset requirement" means the sum of an insurer's liabilities and the insurer's
75 minimum financial security benchmark.
- 76 (7) "Minimum financial security benchmark" means the amount of financial security an
77 insurer is required to have under Section 31A-18-102.
- 78 (8) "Modern Portfolio Theory" means a mathematical framework for assembling a portfolio
79 of assets to maximize the expected return for a given level of risk, taking into
80 consideration a portfolio's overall risk and return.
- 81 (9) "NAIC" means the National Association of Insurance Commissioners.
- 82 (10) "Replication" means a derivative transaction in which at least one derivative
83 instrument is used to modify the cash flow characteristics of one or more investments
84 held by an insurer so that the aggregate cash flow of the derivative instruments and
85 investments reproduce the cash flow of another investment that has a higher risk-based
86 capital charge than the risk-based capital charge of the original investment or
87 investments.
- 88 (11) "Securities valuation office listed mutual fund" means a money market mutual fund or
89 short-term bond fund that:
- 90 (a) is registered with the United States Securities and Exchange Commission under the
91 Investment Company Act of 1940; and
- 92 (b) the NAIC's Securities Valuation Office deems eligible for special reserve and
93 reporting treatment other than as common stock.
- 94 Section 2. Section **31A-18-102** is repealed and reenacted to read:
95 **31A-18-102 . Minimum financial security benchmark.**

- 96 (1) Except as provided in Subsections (2) and (3), the commissioner shall set a minimum
97 financial security benchmark for an insurer that is the greater of:
- 98 (a) the authorized control level risk-based capital applicable to the insurer as set forth in
99 Sections 31A-17-601 through 31A-17-613; or
- 100 (b) the minimum capital or minimum surplus required by statute or regulation for
101 maintenance of an insurer's certificate of authority.
- 102 (2) If an insurer falls below three and one-half times the authorized control level risk capital
103 applicable to the insurer, the commissioner may issue an order, in accordance with the
104 factors described in Subsection (5)(b), specifying a minimum financial security
105 benchmark to apply to the insurer provided the financial security benchmark is at least
106 the applicable amount described in Subsection (1).
- 107 (3) The commissioner may establish by rule a minimum financial security benchmark that
108 is a multiple of authorized control level risk-based capital to apply to any class of
109 insurers provided the amount established by the regulation is at least the greater of the
110 applicable amount described in Subsection (1).
- 111 (4) The commissioner, when setting an insurer's minimum financial security benchmark as
112 described in Subsection (1), shall set the minimum financial security benchmark at an
113 amount that will provide reasonable security against contingencies affecting the insurer's
114 financial position that are not fully covered by reserves or by reinsurance.
- 115 (5) In setting an insurer's minimum financial security benchmark as described in Subsection
116 (1), the commissioner shall consider:
- 117 (a) the risks of:
- 118 (i) increases in the frequency or severity of losses beyond the levels contemplated by
119 the rates charged;
- 120 (ii) increases in expenses beyond those contemplated by the rates charged;
- 121 (iii) decreases in the value of or the return on invested assets below the expected
122 values or returns in the insurer's investment plan;
- 123 (iv) changes in economic conditions that would modify the insurer's assessment of
124 the need for liquidity and force untimely sale of assets or prevent timely
125 investments;
- 126 (v) currency devaluation to which the insurer may be subject; and
- 127 (vi) any other contingencies the commissioner identifies that may affect the insurer's
128 operations; and
- 129 (b) the following factors:

- 130 (i) the most reliable information available regarding the magnitude of the risks
131 described in Subsection (5)(a);
- 132 (ii) the extent to which the risks in Subsection (5)(a) are related and whether any
133 dependency is direct or inverse;
- 134 (iii) the insurer's recent history of profits or losses;
- 135 (iv) the extent of the insurer's protections against the contingencies in other ways than
136 the establishment of surplus, including:
- 137 (A) redundancy of premiums;
- 138 (B) adjustability of contracts under the insurer's terms;
- 139 (C) investment valuation reserves, whether voluntary or mandatory;
- 140 (D) appropriate reinsurance;
- 141 (E) the use of conservative actuarial assumptions to provide a margin of security;
- 142 (F) reserve adjustments in recognition of previous rate inadequacies;
- 143 (G) contingency or catastrophe reserves;
- 144 (H) diversification of assets; and
- 145 (I) underwriting risks;
- 146 (v) independent judgment of the soundness of the insurer's operations, as evidenced
147 by the ratings of reliable professional financial reporting services; and
- 148 (vi) any other factors the commissioner deems relevant.

149 Section 3. Section **31A-18-103** is repealed and reenacted to read:

150 **31A-18-103 . Authorized investments.**

- 151 (1) Subject to the provisions of this chapter, an insurer may, to the same extent as any other
152 person under the laws of this state and the United States:
- 153 (a) loan or invest the insurer's funds; and
- 154 (b) buy, sell, hold title to, possess, occupy, pledge, convey, manage, protect, insure, and
155 deal with the insurer's investments, property, and other assets.
- 156 (2) The board of directors, in handling an insurer's investments, shall:
- 157 (a) exercise the judgment and care of a reasonable person in the management of a similar
158 enterprise, not in the context of speculating, but in the context of the permanent
159 disposition of the insurer's funds;
- 160 (b) consider the probable income of an investment as well as the probable security of the
161 insurer's capital;
- 162 (c) ensure the insurer's investments are of sufficient value, liquidity, and diversity for the
163 insurer to meet the insurer's outstanding obligations based on reasonable assumptions

- 164 regarding new business production for the insurer's current lines of business; and
 165 (d) consider the prudence evaluation criteria described in Section 31A-18-105.
 166 (3) An insurer shall establish and implement internal controls and procedures that ensure:
 167 (a) compliance with the insurer's investment policies;
 168 (b) the insurer's investment staff and any consultant the insurer uses are reputable and
 169 capable;
 170 (c) a periodic evaluation and monitoring process occurs for assessing the effectiveness
 171 of investment policy and strategies;
 172 (d) the insurer's management's performance is assessed based on the stated objectives
 173 within the investment policy;
 174 (e) the insurer undertakes appropriate analyses of the degree to which asset cash flows
 175 adequately meet liability cash flows under different economic environments; and
 176 (f) the insurer conducts the analyses described in Subsection (3)(e) at least annually and
 177 makes specific reference to economic conditions.

178 Section 4. Section **31A-18-105** is repealed and reenacted to read:

179 **31A-18-105 . Prudence evaluation criteria.**

- 180 (1) An insurer shall consider the following factors to determine whether an investment
 181 portfolio or investment policy is prudent:
 182 (a) general economic conditions;
 183 (b) the possible effect of inflation or deflation;
 184 (c) the expected tax consequences of investment decisions or strategies;
 185 (d) the fairness or reasonableness of the terms of an investment considering the
 186 investment's:
 187 (i) probable risk and reward characteristics; and
 188 (ii) relationship to the investment portfolio as a whole;
 189 (e) the extent of the diversification of the insurer's investments among:
 190 (i) individual investments;
 191 (ii) classes of investments;
 192 (iii) industry concentrations;
 193 (iv) dates of maturity; and
 194 (v) geographic areas;
 195 (f) the quality and liquidity of investments in the insurer's affiliates;
 196 (g) the investment exposure to:
 197 (i) liquidity risk;

- 198 (ii) credit and default risk;
199 (iii) systemic risk;
200 (iv) interest rate risk;
201 (v) call, prepayment, and extension risk;
202 (vi) exchange rate risk; and
203 (vii) foreign sovereign risk;
204 (h) the amount of the insurer's:
205 (i) assets;
206 (ii) capital and surplus;
207 (iii) premium writings;
208 (iv) insurance in force; and
209 (v) other appropriate characteristics;
210 (i) the insurer's reported liabilities;
211 (j) the matching of the expected cash flows of the insurer's assets and liabilities;
212 (k) the risk of adverse changes in the insurer's assets and liabilities; and
213 (l) the adequacy of the insurer's capital and surplus to secure the risks and liabilities of
214 the insurer.
215 (2) The commissioner shall consider the factors described in Subsection (1) before making
216 a determination that an insurer's investment portfolio or investment policy is not prudent.
217 Section 5. Section **31A-18-106** is repealed and reenacted to read:
218 **31A-18-106 . Insurer investment policy.**
219 (1) An insurer shall establish and follow a written investment policy for exchanging,
220 holding, selling, or managing an investment.
221 (2) An insurer's board of directors shall review the written investment policy described in
222 Subsection (1) at least once annually.
223 (3) The insurer shall include, in the written investment policy described in Subsection (1),
224 at least the following:
225 (a) policies, procedures, and controls covering all aspects of the investing functions;
226 (b) quantified goals and objectives regarding the composition of classes of investments,
227 including maximum internal limits;
228 (c) a method for periodic evaluation of the investment portfolio regarding the investment
229 portfolio's risk and reward characteristics;
230 (d) professional standards for the individuals making day-to-day investment decisions to
231 ensure that those individuals make those decisions in an ethical and capable manner;

- 232 (e) the types of investments an insurer will make and avoid, based on:
 233 (i) the investments' risk and reward characteristics; and
 234 (ii) the insurer's level of experience with the investments;
 235 (f) the relationship of classes of investments to the insurer's insurance products and
 236 liabilities;
 237 (g) the manner in which the insurer intends to implement the prudence evaluation
 238 criteria described in Section 31A-18-105; and
 239 (h) the level of risk appropriate for the insurer given the level of capitalization and
 240 expertise available to the insurer.

241 (4) Nothing in this section precludes an insurer from the use of modern portfolio theory to
 242 manage the insurer's investments.

243 Section 6. Section **31A-18-107** is repealed and reenacted to read:

244 **31A-18-107 . Protection against currency fluctuations.**

245 (1) An insurer that, in the ordinary course of business, makes payments in more than one
 246 currency shall have an investment in securities:

- 247 (a) in each of the currencies with which the insurer makes payments; and
 248 (b) in an amount that, independent of all other investments, meets the requirements of
 249 this chapter as applied separately to the insurer's obligation in each currency.

250 (2) The commissioner may exempt an insurer, or a class of insurers, from the requirement
 251 described in Subsection (1), if the commissioner determines the obligations an insurer or
 252 class of insurers maintains in other currencies are small enough that there is not a
 253 significant risk to the financial security of the insurer or the class of insurers from
 254 substantial fluctuation in relative currency values.

255 Section 7. Section **31A-18-108** is repealed and reenacted to read:

256 **31A-18-108 . Prohibited investments.**

257 (1) As used in this section, "government insurer" means a governmental entity that is
 258 authorized by statute or rule to provide an arrangement, contract, or plan:

- 259 (a) for the transfer of a risk or risks from one or more persons to one or more other
 260 persons; or
 261 (b) for the distribution of a risk or risks among a group of persons that includes the
 262 person seeking to distribute that person's risk.

263 (2) An insurer may not:

- 264 (a) invest in:
 265 (i) an investment prohibited by a department rule or statute of this state;

- 266 (ii) securities issued by a corporation if one or more of the insurer's officers or
267 directors owns, directly or indirectly, a majority of the corporation's stock with
268 voting power;
- 269 (iii) securities issued by an insolvent corporation; or
270 (iv) any instrument or security that the commissioner finds is designed to evade a
271 limitation or prohibition in this chapter; or
- 272 (b) use a derivative instrument for:
- 273 (i) replication; or
274 (ii) any purpose other than hedging or income generation.
- 275 (3) A government insurer may not invest public funds in an investment where the sole
276 purpose of the investment is a purpose other than maximizing the risk-adjusted return on
277 the investment.
- 278 (4) The commissioner shall allow an insurer a reasonable time, not to exceed five years, to
279 divest of prohibited investments if:
- 280 (a) the insurer demonstrates the investment was not prohibited at the time the insurer
281 made the investment;
- 282 (b) the insurer made a good faith mistake in making the investment; or
283 (c) the commissioner determines that the sale of the investment is contrary to the
284 interests of insureds, creditors, or the general public.
- 285 Section 8. Section **31A-18-109** is enacted to read:
- 286 **31A-18-109 . Effect of investment restrictions.**
- 287 (1)(a) An insurer may count an invested asset towards the satisfaction of the minimum
288 asset requirement only to the extent that the insurer invests the invested asset in
289 compliance with this chapter, applicable department rules, and orders issued by the
290 commissioner in compliance with this chapter.
- 291 (b) An insurer may count assets other than invested assets towards the satisfaction of the
292 minimum asset requirement at admitted annual statement value.
- 293 (2) An investment held as an admitted asset by an insurer and that qualified under this
294 chapter as an admitted asset on May 7, 2025, remains an admitted asset under this
295 chapter.
- 296 (3) For purposes of Subsection (1), an insurer may count assets that would not otherwise
297 qualify under this chapter if an insurer acquires the assets in the bona fide enforcement
298 of creditors' rights or in a bona fide workout or settlement of disputed claims for five
299 years after acquisition of the asset.

300 Section 9. Section **31A-18-110** is repealed and reenacted to read:

301 **31A-18-110 . Authorized classes of investments.**

302 An insurer may count the following classes of investments for the purposes stated in
303 Section 31A-18-109, whether the insurer makes these investments directly or as a participant
304 in a partnership, joint venture, or limited liability company:

305 (1) cash in the direct possession of the insurer or on deposit with a financial institution
306 regulated by a federal or state agency;

307 (2) a bond, debt-like preferred stock, and other evidence of indebtedness to:

308 (a) a government unit in the United States or Canada;

309 (b) an instrumentality of a government unit in the United States or Canada; or

310 (c) a private business entity domiciled in the United States or Canada, including
311 asset-backed securities and mutual funds listed by the Securities Valuation Office of
312 the NAIC;

313 (3) a loan secured by:

314 (a) a mortgage, trust deed, or other security interest in real property located in the United
315 States or Canada; or

316 (b) insurance against default issued by:

317 (i) a government insurance corporation of the United States or Canada; or

318 (ii) an insurer authorized to do business in this state;

319 (4)(a) common stock, equity-like preferred stock, or equity interests in any United States
320 or Canadian business entity; or

321 (b) a share of mutual funds registered with the Securities and Exchange Commission of
322 the United States under the Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1
323 et seq., other than any mutual fund listed by the Securities Valuation Office of the
324 NAIC;

325 (5) real property necessary for the convenient transaction of the insurer's business;

326 (6) real property, including the fixtures, furniture, furnishings, and equipment pertaining to
327 the real property that:

328 (a) is located in the United States or Canada; and

329 (b) produces, or after suitable improvement can reasonably be expected to produce
330 substantial income;

331 (7) a loan, security, or other investment described in Subsections (1) through (6) in a
332 country other than the United States or Canada;

333 (8) a bond or other evidence of indebtedness to an international development organization

- 334 of which the United States is a member;
335 (9) a loan upon the security of the insurer's own policies:
336 (a) in an amount that is adequately secured by the policies; and
337 (b) that does not exceed the surrender values of the policies;
338 (10) tangible personal property under contract of sale or lease with a contractual payment
339 that may be reasonably expected to return the principal of, and provide earnings on, the
340 investments within the tangible personal property's anticipated useful life;
341 (11) a loan secured by a pledged security or evidence of debt eligible for investment under
342 this section;
343 (12) other investments the commissioner authorizes by rule; and
344 (13) for an investment not otherwise permitted by this section, and not specifically
345 prohibited by statute, the lesser of:
346 (a) excess surplus as that term is defined in Section 31A-1-301; or
347 (b) 5% of the first \$500,000,000 of the insurer's admitted assets plus 10% of the insurer's
348 admitted assets exceeding \$500,000,000.

349 Section 10. Section **31A-18-111** is enacted to read:

350 **31A-18-111 . Limitations generally applicable.**

- 351 (1) For purposes of determining compliance with Section 31A-18-109:
352 (a) securities of a single issuer and the single issuer's affiliates, other than the
353 government of the United States and subsidiaries authorized under Section
354 31A-16-102.5, may not exceed:
355 (i) 5% of admitted assets; or
356 (ii) 10% of admitted assets, if the securities are secured by real property and the
357 insurer demonstrates a prudent investment policy regarding the investments
358 described in Section 31A-18-105; and
359 (b) investments in the voting securities of a depository institution, or any company that
360 controls a depository institution, may not exceed 5% of the insurer's admitted assets.
361 (2) For purposes of Section 31A-18-109, the following limitations on classes of investments
362 apply:
363 (a) for an investment authorized under Subsection 31A-18-110(2), and an investment
364 authorized by Subsection 31A-18-110(7) that is a type of investment described in
365 Subsection 31A-18-110(2), the aggregate amount of:
366 (i) medium and lower grade investments may not exceed 20% of the insurer's
367 admitted assets;

- 368 (ii) lower grade investments may not exceed 10% of the insurer's admitted assets;
369 (iii) investments rated 5 or 6 by the Securities Valuation Office of the NAIC, may not
370 exceed 5% of the insurer's admitted assets;
371 (iv) investments rated 6 by the Securities Valuation Office of the NAIC, may not
372 exceed 1% of the insurer's admitted assets; or
373 (v) medium and lower grade investments that receive, as cash income, less than the
374 equivalent yield for Treasury issues with a comparative average life, may not
375 exceed 1% of the insurer's admitted assets;
- 376 (b) for an investment authorized under Subsection 31A-18-110(3):
377 (i) 50% of admitted assets, if the insurer is a life insurer; and
378 (ii) 25% of admitted assets if the insurer is a non-life insurer;
- 379 (c) for an investment authorized under Subsection 31A-18-110(4), other than
380 subsidiaries of the type authorized in Section 31A-16-102.5:
381 (i) 20% of admitted assets, if the insurer is a life insurer; and
382 (ii) 35% of admitted assets, if the insurer is a non-life insurer;
- 383 (d) for an investment authorized under Subsection 31A-18-110(5), 10% of admitted
384 assets;
- 385 (e) for an investment authorized under Subsection 31A-18-110(6):
386 (i) 20% of admitted assets, if the insurer is a life insurer; and
387 (ii) 10% of admitted assets, if the insurer is a non-life insurer;
- 388 (f) for an investment authorized under Subsection 31A-18-110(7), 20% of admitted
389 assets;
- 390 (g) for an investment authorized under Subsection 31A-18-110(8), 2% of admitted
391 assets;
- 392 (h) for an investment authorized under Subsection 31A-18-110(10), 2% of admitted
393 assets; and
- 394 (i) for an investment authorized under Subsection 31A-18-110(11), that is considered an
395 investment in a kind of security or evidence of debt pledged, the investment is subject
396 to the class limitations applicable to the pledged security or evidence of debt.
- 397 (3) For purposes of determining compliance with the limitations of this section, the
398 admitted portion of assets of subsidiaries under Section 31A-15-102.5 are deemed to be
399 owned directly by the insurer and any other investors in proportion to the market value,
400 or, if there is no market, the reasonable value of the investors' interest in the subsidiaries.
- 401 (4) To the extent an investment exceeds the limitations described in Subsections (1) and (2),

- 402 the insurer may assign the excess to the investment class authorized in Subsection
403 31A-18-110(13), until that limit is exhausted.
- 404 (5) If the commissioner determines necessary to get a proper evaluation of an insurer's
405 investment portfolio, the commissioner may require that an investment in a mutual fund,
406 pooled investment vehicle, or other investment company be treated, for purposes of this
407 chapter, as if the investor directly owned the investor's proportional share of the assets
408 owned by the mutual fund, pooled investment vehicle, or investment company.
- 409 (6) Unless otherwise specified, an investment limitation computed on the basis of an
410 insurer's admitted assets or capital and surplus is the amount the insurer stated on the
411 insurer's statutory balance sheet that the insurer most recently filed with the
412 commissioner.

413 Section 11. Section **31A-18-112** is enacted to read:

414 **31A-18-112 . Reports and replies.**

- 415 (1) The commissioner may require:
- 416 (a) any of the following from a person subject to regulation under this chapter:
- 417 (i) statements, reports, and responses to or other information gathered from
418 questionnaires issued by the commissioner;
- 419 (ii) evidence corroborating any statement, report, or response provided in accordance
420 with Subsection (1)(a)(i), in a form that the commissioner designates and at
421 reasonable intervals that the commissioner chooses; and
- 422 (iii) a full explanation of the programming of any data storage or communication
423 system that the person subject to regulation uses; and
- 424 (b) that a person subject to regulation under this chapter make information from any
425 book, record, electronic data processing system, computer, or any other information
426 storage system the person subject to regulation uses available to the commissioner at
427 a reasonable time and in a reasonable manner.
- 428 (2)(a) The commissioner may provide forms for a statement, report, or response
429 described in Subsection (1) and specify how to execute or certify the statement,
430 report, or response.
- 431 (b) The commissioner shall ensure that forms for a statement, report, or response
432 required by Subsection (1) are consistent, to the extent practicable, with forms
433 required by other jurisdictions.
- 434 (3) The commissioner may provide reasonable minimum standards and techniques of
435 accounting and data handling to ensure:

- 436 (a) timely and reliable information exist; and
437 (b) the commissioner's access to the information described in Subsection (3)(a).
438 (4) The following shall reply promptly, in writing or in another reasonable manner, to a
439 written inquiry from the commissioner in which the commissioner requests a reply:
440 (a) an officer of an insurer;
441 (b) a manager or general agent of an insurer subject to this chapter;
442 (c) an individual controlling or having a contract under which the person has a right to
443 control the insurer, whether exclusively or otherwise; or
444 (d) an individual with executive authority over or in charge of any segment of the
445 insurer's affairs.
446 (5) The commissioner may require that any communication made to the commissioner
447 under this section be verified.
448 (6) A person making a communication to the commissioner, or to an expert or consultant
449 retained by the commissioner, required by this chapter is not subject to damages for the
450 communication in the absence of actual malice.
451 (7) Notwithstanding Subsection (6), the commissioner may bring an action against any
452 person that provides information required under this chapter that is not truthful or
453 accurate.

454 Section 12. Section **31A-18-113** is enacted to read:

455 **31A-18-113 . Retention of experts.**

- 456 (1) The commissioner may retain, if the commissioner deems necessary to assist in
457 reviewing the insurer's investments, experts including:
458 (a) attorneys;
459 (b) actuaries;
460 (c) accountants; and
461 (d) investment specialists.
462 (2) The commissioner shall:
463 (a) direct and maintain control of the individuals retained under Subsection (1); and
464 (b) ensure that the individuals described in Subsection (1) operate in solely an advisory
465 capacity for the commissioner.

466 Section 13. Section **31A-18-114** is enacted to read:

467 **31A-18-114 . Commissioner's orders.**

- 468 (1) If the commissioner determines that an insurer's practices do not meet the provisions of
469 this chapter, the commissioner may order, after notification to the insurer of the

- 470 commissioner's findings, the insurer to make changes necessary to comply with the
471 provisions in this chapter.
- 472 (2) If the commissioner determines that due to the financial condition, current investment
473 practice, or current investment plan of an insurer, the interests of insureds, creditors, or
474 the general public are or may be endangered, the commissioner may:
- 475 (a) impose reasonable additional restrictions on the admissibility or valuation of
476 investments; or
- 477 (b) impose restrictions on the investment practices of an insurer, including prohibition or
478 divestment.
- 479 (3) If an insurer demonstrates that a law of a country other than the United States requires
480 the insurer to invest in an asset as a condition for doing business in that country, the
481 commissioner may count that asset towards the insurer's compliance with the minimum
482 asset requirement if the commissioner finds that counting the asset does not endanger
483 the interests of the insureds, creditors, or the general public.
- 484 (4)(a) If an insurer demonstrates the financial security of an insurer and the competence
485 of the insurer's management and advisor in a way that satisfies the commissioner, the
486 commissioner may issue an order, after a hearing, adjusting the limitations of classes
487 of investment described in Section 31A-18-111 for that insurer if the commissioner is
488 satisfied that the interests of the insureds, creditors, and the public are sufficiently
489 protected in other ways.
- 490 (b) The increase authorized by the commissioner to the amount an insurer may invest in
491 any or all asset classes may not exceed, in value, 10% of the insurer's liabilities.

492 Section 14. Section **31A-18-115** is enacted to read:

493 **31A-18-115 . Administrative hearings.**

494 An insurer may request a hearing if the insurer is directly aggrieved by the
495 commissioner issuing an order or rule or failing to comply with the provisions of this chapter.

496 Section 15. Section **31A-18-116** is enacted to read:

497 **31A-18-116 . Confidentiality of information.**

498 The investment policy, or information related to the investment policy provided to the
499 commissioner for review, is not a record under Title 63G, Chapter 2, Government Records
500 Access and Management Act, except as provided in Sections 31A-16-105 and 31A-16-107.5,
501 Chapter 27a, Part 3, Rehabilitation, and Chapter 27a, Part 4, Liquidation.

502 Section 16. Section **31A-18-117** is enacted to read:

503 **31A-18-117 . Conflicts of laws and other standards.**

- 504 (1) Except as provided in Subsection (2), the provisions of this chapter apply if there is a
 505 conflict between this chapter and another provision of state statute.
- 506 (2) Chapter 16, Insurance Holding Companies, purporting to authorize an insurer to make a
 507 particular investment, supersedes this chapter.
- 508 (3) An insurer shall value the insurer's assets in accordance with the valuation standards of
 509 the NAIC to the extent those standards remain consistent with the statutes of this state or
 510 the rules or orders of the commissioner.

511 Section 17. Section **31A-18-118** is enacted to read:

512 **31A-18-118 . Rules.**

513 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 514 commissioner may make rules interpreting and implementing the provisions of this chapter.

515 Section 18. Section **63G-2-103** is amended to read:

516 **63G-2-103 . Definitions.**

517 As used in this chapter:

- 518 (1) "Audit" means:
- 519 (a) a systematic examination of financial, management, program, and related records for
 520 the purpose of determining the fair presentation of financial statements, adequacy of
 521 internal controls, or compliance with laws and regulations; or
- 522 (b) a systematic examination of program procedures and operations for the purpose of
 523 determining their effectiveness, economy, efficiency, and compliance with statutes
 524 and regulations.
- 525 (2) "Chronological logs" mean the regular and customary summary records of law
 526 enforcement agencies and other public safety agencies that show:
- 527 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
 528 and
- 529 (b) any arrests or jail bookings made by the agency.
- 530 (3) "Classification," "classify," and their derivative forms mean determining whether a
 531 record series, record, or information within a record is public, private, controlled,
 532 protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- 533 (4)(a) "Computer program" means:
- 534 (i) a series of instructions or statements that permit the functioning of a computer
 535 system in a manner designed to provide storage, retrieval, and manipulation of
 536 data from the computer system; and
- 537 (ii) any associated documentation and source material that explain how to operate the

- 538 computer program.
- 539 (b) "Computer program" does not mean:
- 540 (i) the original data, including numbers, text, voice, graphics, and images;
- 541 (ii) analysis, compilation, and other manipulated forms of the original data produced
- 542 by use of the program; or
- 543 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
- 544 algorithms contained in the program, that would be used if the manipulated forms
- 545 of the original data were to be produced manually.
- 546 (5)(a) "Contractor" means:
- 547 (i) any person who contracts with a governmental entity to provide goods or services
- 548 directly to a governmental entity; or
- 549 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 550 (b) "Contractor" does not mean a private provider.
- 551 (6) "Controlled record" means a record containing data on individuals that is controlled as
- 552 provided by Section 63G-2-304.
- 553 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
- 554 governmental entity's familiarity with a record series or based on a governmental entity's
- 555 review of a reasonable sample of a record series, the primary classification that a
- 556 majority of records in a record series would be given if classified and the classification
- 557 that other records typically present in the record series would be given if classified.
- 558 (8) "Elected official" means each person elected to a state office, county office, municipal
- 559 office, school board or school district office, special district office, or special service
- 560 district office, but does not include judges.
- 561 (9) "Explosive" means a chemical compound, device, or mixture:
- 562 (a) commonly used or intended for the purpose of producing an explosion; and
- 563 (b) that contains oxidizing or combustive units or other ingredients in proportions,
- 564 quantities, or packing so that:
- 565 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
- 566 compound or mixture may cause a sudden generation of highly heated gases; and
- 567 (ii) the resultant gaseous pressures are capable of:
- 568 (A) producing destructive effects on contiguous objects; or
- 569 (B) causing death or serious bodily injury.
- 570 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 571 (11)(a) "Governmental entity" means:

- 572 (i) executive department agencies of the state, the offices of the governor, lieutenant
573 governor, state auditor, attorney general, and state treasurer, the Board of Pardons
574 and Parole, the Board of Examiners, the National Guard, the Career Service
575 Review Office, the State Board of Education, the Utah Board of Higher
576 Education, and the State Archives;
- 577 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
578 Analyst, Office of Legislative Research and General Counsel, the Legislature, and
579 legislative committees, except any political party, group, caucus, or rules or sifting
580 committee of the Legislature;
- 581 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
582 administrative units in the judicial branch;
- 583 (iv) any state-funded institution of higher education or public education; or
- 584 (v) any political subdivision of the state, but, if a political subdivision has adopted an
585 ordinance or a policy relating to information practices pursuant to Section
586 63G-2-701, this chapter shall apply to the political subdivision to the extent
587 specified in Section 63G-2-701 or as specified in any other section of this chapter
588 that specifically refers to political subdivisions.
- 589 (b) "Governmental entity" also means:
- 590 (i) every office, agency, board, bureau, committee, department, advisory board, or
591 commission of an entity listed in Subsection (11)(a) that is funded or established
592 by the government to carry out the public's business;
- 593 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
594 undertaking, except for the Water District Water Development Council created
595 pursuant to Section 11-13-228;
- 596 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;
- 597 (iv) an association as defined in Section 53G-7-1101;
- 598 (v) the Utah Independent Redistricting Commission; and
- 599 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
600 more law enforcement officers, as defined in Section 53-13-103.
- 601 (c) "Governmental entity" does not include the Utah Educational Savings Plan created in
602 Section 53B-8a-103.
- 603 (12) "Gross compensation" means every form of remuneration payable for a given period to
604 an individual for services provided including salaries, commissions, vacation pay,
605 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and

- 606 any similar benefit received from the individual's employer.
- 607 (13) "Individual" means a human being.
- 608 (14)(a) "Initial contact report" means an initial written or recorded report, however
609 titled, prepared by peace officers engaged in public patrol or response duties
610 describing official actions initially taken in response to either a public complaint
611 about or the discovery of an apparent violation of law, which report may describe:
- 612 (i) the date, time, location, and nature of the complaint, the incident, or offense;
 - 613 (ii) names of victims;
 - 614 (iii) the nature or general scope of the agency's initial actions taken in response to the
615 incident;
 - 616 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
 - 617 (v) the name, address, and other identifying information about any person arrested or
618 charged in connection with the incident; or
 - 619 (vi) the identity of the public safety personnel, except undercover personnel, or
620 prosecuting attorney involved in responding to the initial incident.
- 621 (b) Initial contact reports do not include follow-up or investigative reports prepared after
622 the initial contact report. However, if the information specified in Subsection (14)(a)
623 appears in follow-up or investigative reports, it may only be treated confidentially if
624 it is private, controlled, protected, or exempt from disclosure under Subsection
625 63G-2-201(3)(b).
- 626 (c) Initial contact reports do not include accident reports, as that term is described in
627 Title 41, Chapter 6a, Part 4, Accident Responsibilities.
- 628 (15) "Legislative body" means the Legislature.
- 629 (16) "Notice of compliance" means a statement confirming that a governmental entity has
630 complied with an order of the State Records Committee.
- 631 (17) "Person" means:
- 632 (a) an individual;
 - 633 (b) a nonprofit or profit corporation;
 - 634 (c) a partnership;
 - 635 (d) a sole proprietorship;
 - 636 (e) other type of business organization; or
 - 637 (f) any combination acting in concert with one another.
- 638 (18) "Personal identifying information" means the same as that term is defined in Section
639 63A-12-100.5.

- 640 (19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.
- 641 (20) "Private provider" means any person who contracts with a governmental entity to
642 provide services directly to the public.
- 643 (21) "Private record" means a record containing data on individuals that is private as
644 provided by Section 63G-2-302.
- 645 (22) "Protected record" means a record that is classified protected as provided by Section
646 63G-2-305.
- 647 (23) "Public record" means a record that is not private, controlled, or protected and that is
648 not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).
- 649 (24) "Reasonable search" means a search that is:
- 650 (a) reasonable in scope and intensity; and
- 651 (b) not unreasonably burdensome for the government entity.
- 652 (25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
653 card, tape, recording, electronic data, or other documentary material regardless of
654 physical form or characteristics:
- 655 (i) that is prepared, owned, received, or retained by a governmental entity or political
656 subdivision; and
- 657 (ii) where all of the information in the original is reproducible by photocopy or other
658 mechanical or electronic means.
- 659 (b) "Record" does not include:
- 660 (i) a personal note or personal communication prepared or received by an employee
661 or officer of a governmental entity:
- 662 (A) in a capacity other than the employee's or officer's governmental capacity; or
- 663 (B) that is unrelated to the conduct of the public's business;
- 664 (ii) a temporary draft or similar material prepared for the originator's personal use or
665 prepared by the originator for the personal use of an individual for whom the
666 originator is working;
- 667 (iii) material that is legally owned by an individual in the individual's private capacity;
- 668 (iv) material to which access is limited by the laws of copyright or patent unless the
669 copyright or patent is owned by a governmental entity or political subdivision;
- 670 (v) proprietary software;
- 671 (vi) junk mail or a commercial publication received by a governmental entity or an
672 official or employee of a governmental entity;
- 673 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections

- 674 of a library open to the public;
- 675 (viii) material that is cataloged, indexed, or inventoried and contained in the
676 collections of a library open to the public, regardless of physical form or
677 characteristics of the material;
- 678 (ix) a daily calendar ;
- 679 (x) a note prepared by the originator for the originator's own use or for the sole use of
680 an individual for whom the originator is working;
- 681 (xi) a computer program that is developed or purchased by or for any governmental
682 entity for its own use;
- 683 (xii) a note or internal memorandum prepared as part of the deliberative process by:
- 684 (A) a member of the judiciary;
- 685 (B) an administrative law judge;
- 686 (C) a member of the Board of Pardons and Parole; or
- 687 (D) a member of any other body, other than an association or appeals panel as
688 defined in Section 53G-7-1101, charged by law with performing a
689 quasi-judicial function;
- 690 (xiii) a telephone number or similar code used to access a mobile communication
691 device that is used by an employee or officer of a governmental entity, provided
692 that the employee or officer of the governmental entity has designated at least one
693 business telephone number that is a public record as provided in Section
694 63G-2-301;
- 695 (xiv) information provided by the Public Employees' Benefit and Insurance Program,
696 created in Section 49-20-103, to a county to enable the county to calculate the
697 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
- 698 (xv) information that an owner of unimproved property provides to a local entity as
699 provided in Section 11-42-205;
- 700 (xvi) a video or audio recording of an interview, or a transcript of the video or audio
701 recording, that is conducted at a Children's Justice Center established under
702 Section 67-5b-102;
- 703 (xvii) child sexual abuse material, as defined by Section 76-5b-103;
- 704 (xviii) before final disposition of an ethics complaint occurs, a video or audio
705 recording of the closed portion of a meeting or hearing of:
- 706 (A) a Senate or House Ethics Committee;
- 707 (B) the Independent Legislative Ethics Commission;

- 708 (C) the Independent Executive Branch Ethics Commission, created in Section
 709 63A-14-202; or
- 710 (D) the Political Subdivisions Ethics Review Commission established in Section
 711 63A-15-201;
- 712 (xix) confidential communication described in Section 58-60-102, 58-61-102, or
 713 58-61-702;
- 714 (xx) any item described in Subsection (25)(a) that is:
- 715 (A) described in Subsection 63G-2-305(17), (18), or (23)(b); and
- 716 (B) shared between any of the following entities:
- 717 (I) the Division of Risk Management;
- 718 (II) the Office of the Attorney General;
- 719 (III) the governor's office; or
- 720 (IV) the Legislature;[-or]
- 721 (xxi) the email address that a candidate for elective office provides to a filing officer
 722 under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv)[-]; or
- 723 (xxii) except as provided in Sections 31A-16-105, 31A-16-107.5, and 27a-3-303, an
 724 investment policy, or information related to an investment policy, provided to the
 725 insurance commissioner as described in Title 31A, Chapter 18, Investments.
- 726 (26) "Record series" means a group of records that may be treated as a unit for purposes of
 727 designation, description, management, or disposition.
- 728 (27) "Records officer" means the individual appointed by the chief administrative officer of
 729 each governmental entity, or the political subdivision to work with state archives in the
 730 care, maintenance, scheduling, designation, classification, disposal, and preservation of
 731 records.
- 732 (28) "Schedule," "scheduling," and their derivative forms mean the process of specifying
 733 the length of time each record series should be retained by a governmental entity for
 734 administrative, legal, fiscal, or historical purposes and when each record series should be
 735 transferred to the state archives or destroyed.
- 736 (29) "Sponsored research" means research, training, and other sponsored activities as
 737 defined by the federal Executive Office of the President, Office of Management and
 738 Budget:
- 739 (a) conducted:
- 740 (i) by an institution within the state system of higher education defined in Section
 741 53B-1-102; and

- 742 (ii) through an office responsible for sponsored projects or programs; and
743 (b) funded or otherwise supported by an external:
744 (i) person that is not created or controlled by the institution within the state system of
745 higher education; or
746 (ii) federal, state, or local governmental entity.
- 747 (30) "State archives" means the Division of Archives and Records Service created in
748 Section 63A-12-101.
- 749 (31) "State archivist" means the director of the state archives.
- 750 (32) "State Records Committee" means the State Records Committee created in Section
751 63G-2-501.
- 752 (33) "Summary data" means statistical records and compilations that contain data derived
753 from private, controlled, or protected information but that do not disclose private,
754 controlled, or protected information.
- 755 Section 19. **Effective date.**
- 756 This bill takes effect on May 7, 2025.