

# HB0023S01 compared with HB0023

{Omitted text} shows text that was in HB0023 but was omitted in HB0023S01

inserted text shows text that was not in HB0023 but was inserted into HB0023S01

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## Insurance Modifications

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Evan J. Vickers

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### LONG TITLE

#### General Description:

This bill amends provisions relating to insurance.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the circumstances under which a public agency insurance mutual or a reserve fund is exempt from the Insurance Code;
- ▶ amends provisions related to dual licensing;
- ▶ amends provisions relating to money appropriated from the Captive Insurance Restricted Account;
- ▶ clarifies that an insurer does not need to file a certification that a non-English policy is in compliance with relevant laws;
- ▶ aligns state law with federal rules relating to preexisting condition limitations;
- ▶ limits the scope by which the Insurance Department can issue a waiver for a license;
- ▶

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clarifies that the commissioner may take an action against a licensee if the licensee fails to pay a final judgment within 60 days;

- 23 ▶ adds additional reporting requirements for a licensee against whom a judgment has been entered;
- 25 ▶ changes the reporting period for agency title insurance producers;
- 26 ▶ amends provisions relating to captive insurance companies;
- 27 ▶ reduces the minimum capital requirement for an association captive insurance company;
- 28 ▶ allows a captive insurance company to be formed as a not-for-profit organization;
- 29 ▶ clarifies that officers of a captive insurance company must be separate individuals;
- 30 ▶ amends provisions relating to insurance investments;
- 31 ▶ amends requirements relating to a sponsored captive insurance company's business;
- 32 ▶ amends the grounds under which the commissioner may revoke the certificate of authority of a captive insurance company; {and}
- 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 insurance contracts;
- 34 ▶ provides a transition period for existing small employer stop-loss insurance contracts; and
- 34 ▶ makes technical and conforming changes.

### 36 Money Appropriated in this Bill:

37 None

38 None

### 41 AMENDS:

42 **31A-1-103** , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of Utah 2024, Chapter 120

43 **31A-2-201** , as last amended by Laws of Utah 2018, Chapter 200 , as last amended by Laws of Utah 2018, Chapter 200

44 **31A-2-402** , as last amended by Laws of Utah 2015, Chapter 330 , as last amended by Laws of Utah 2015, Chapter 330

45 **31A-2-404** , as last amended by Laws of Utah 2016, Chapter 193 , as last amended by Laws of Utah 2016, Chapter 193

46 **31A-3-304** , as last amended by Laws of Utah 2023, Chapter 194 , as last amended by Laws of Utah 2023, Chapter 194

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- 47 **31A-21-112** , as enacted by Laws of Utah 2013, Chapter 443 , as enacted by Laws of Utah 2013,  
Chapter 443
- 48 **31A-21-303** , as last amended by Laws of Utah 2022, Chapter 198 , as last amended by Laws of  
Utah 2022, Chapter 198
- 49 **31A-22-407** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 50 **31A-22-509** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 51 **31A-22-511** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 52 **31A-22-512** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 53 **31A-22-514** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 53 ~~**31A-22-605.1** , as last amended by Laws of Utah 2019, Chapter 193 , as last amended by  
Laws of Utah 2019, Chapter 193~~
- 54 **31A-22-614** , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws  
of Utah 2024, Chapter 120
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- 55 **31A-22-701** , as last amended by Laws of Utah 2021, Chapter 252 , as last amended by Laws of  
Utah 2021, Chapter 252
- 56 **31A-23a-105** , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of  
Utah 2024, Chapter 120
- 57 **31A-23a-109** , as last amended by Laws of Utah 2018, Chapter 319 , as last amended by Laws of  
Utah 2018, Chapter 319
- 58 **31A-23a-111** , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of  
Utah 2024, Chapter 120
- 59 **31A-23a-119** , as enacted by Laws of Utah 2024, Chapter 120 , as enacted by Laws of Utah 2024,  
Chapter 120
- 60 **31A-23a-415** , as last amended by Laws of Utah 2023, Chapter 194 , as last amended by Laws of  
Utah 2023, Chapter 194
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- 31A-26-202 , as last amended by Laws of Utah 2018, Chapter 462 , as last amended by Laws of Utah 2018, Chapter 462
- 62 31A-37-102 , as last amended by Laws of Utah 2023, Chapter 194 , as last amended by Laws of Utah 2023, Chapter 194
- 63 31A-37-104 , as last amended by Laws of Utah 2008, Chapter 302 , as last amended by Laws of Utah 2008, Chapter 302
- 64 31A-37-201 , as last amended by Laws of Utah 2019, Chapter 193 , as last amended by Laws of Utah 2019, Chapter 193
- 65 31A-37-202 , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of Utah 2024, Chapter 120
- 66 31A-37-204 , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of Utah 2024, Chapter 120
- 67 31A-37-301 , as last amended by Laws of Utah 2019, Chapter 193 , as last amended by Laws of Utah 2019, Chapter 193
- 68 31A-37-302 , as last amended by Laws of Utah 2015, Chapter 244 , as last amended by Laws of Utah 2015, Chapter 244
- 69 31A-37-303 , as last amended by Laws of Utah 2021, Chapter 252 , as last amended by Laws of Utah 2021, Chapter 252
- 70 31A-37-401 , as last amended by Laws of Utah 2019, Chapter 193 , as last amended by Laws of Utah 2019, Chapter 193
- 71 31A-37-402 , as last amended by Laws of Utah 2015, Chapter 244 , as last amended by Laws of Utah 2015, Chapter 244
- 72 31A-37-403 , as last amended by Laws of Utah 2015, Chapter 244 , as last amended by Laws of Utah 2015, Chapter 244
- 73 31A-37-404 , as last amended by Laws of Utah 2015, Chapter 244 , as last amended by Laws of Utah 2015, Chapter 244
- 74 31A-37-501 , as last amended by Laws of Utah 2019, Chapter 193 , as last amended by Laws of Utah 2019, Chapter 193
- 75 31A-37-505 , as last amended by Laws of Utah 2015, Chapter 244 , as last amended by Laws of Utah 2015, Chapter 244
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31A-37-701 , as last amended by Laws of Utah 2021, Chapter 252 , as last amended by Laws of Utah 2021, Chapter 252

77 31A-37a-205 , as last amended by Laws of Utah 2011, Chapter 297 , as last amended by Laws of Utah 2011, Chapter 297

78 **31A-43-301 , as last amended by Laws of Utah 2015, Chapter 244 , as last amended by Laws of Utah 2015, Chapter 244**

79 **61-2g-502** , as last amended by Laws of Utah 2020, Chapter 72 , 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 , 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.**

84 (1) This title does not apply to:

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

86 (i) with an individual client; and

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

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

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

94 (d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

97 (e) legal assistance by employee organizations to their members in matters relating to employment;

99 (f) death, accident, health, or disability benefits provided to [~~a person~~] an individual by an organization or [~~its~~] the organization's affiliate if:

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- 101 (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had  
[its] the organization's principal place of business in Utah for at least five years;
- 104 (ii) the [~~person~~] individual is not an employee of the organization; and
- 105 (iii)
- . (A) substantially all the [~~person's~~] individual's time in the organization is spent providing voluntary services:
- 107 (I) in furtherance of the organization's purposes;
- 108 (II) for a designated period of time; and
- 109 (III) for which no compensation, other than expenses, is paid; or
- 110 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months;  
or
- 112 (g) a prepaid contract of limited duration that provides for scheduled maintenance only.
- 113 (2)
- . (a) This title restricts otherwise legitimate business activity.
- 114 (b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.
- 116 (3) Except as otherwise expressly provided, this title does not apply to:
- 117 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal  
Employee Retirement Income Security Act of 1974, as amended;
- 119 (b) ocean marine insurance;
- 120 (c) death, accident, health, or disability benefits provided by an organization that:
- 121 (i) has as the organization's principal purpose to achieve charitable, educational, social, or religious  
objectives rather than to provide death, accident, health, or disability benefits;
- 124 (ii) does not incur a legal obligation to pay a specified amount;
- 125 (iii) does not create reasonable expectations of receiving a specified amount on the part of an insured  
person; and
- 127 (iv) is not a health care sharing ministry that provides that a participant make a contribution to pay  
another participant's qualified expenses with no assumption of risk or promise to pay.
- 130 (d) other business specified in rules adopted by the commissioner on a finding that:
- 131 (i) the transaction of the business in this state does not require regulation for the protection of the  
interests of the residents of this state; or
- 133 (ii) it would be impracticable to require compliance with this title;

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- 134 (e) except as provided in Subsection (4), a transaction independently procured through negotiations  
under Section 31A-15-104;
- 136 (f) self-insurance;
- 137 (g) reinsurance;
- 138 (h) subject to Subsection (5), an employee or labor union group insurance policy covering risks in this  
state or an employee or labor union blanket insurance policy covering risks in this state, if:
- 141 (i) the policyholder exists primarily for purposes other than to procure insurance;
- 142 (ii) the policyholder:
- 143 (A) is not a resident of this state;
- 144 (B) is not a domestic corporation; or
- 145 (C) does not have the policyholder's principal office in this state;
- 146 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 147 (iv) on request of the commissioner, the insurer files with the department a copy of the policy and a  
copy of each form or certificate; and
- 149 (v)
- . (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the  
insurer were authorized to do business in this state; and
- 152 (B) the insurer provides the commissioner with the security the commissioner considers necessary for  
the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;
- 155 (i) to the extent provided in Subsection (6):
- 156 (i) a manufacturer's or seller's warranty; and
- 157 (ii) a manufacturer's or seller's service contract;
- 158 (j) except to the extent provided in Subsection (7), a public agency insurance mutual;
- 159 (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset  
protection waiver; or
- 161 (l) a health care sharing ministry, if the health care sharing ministry:
- 162 (i) provides to each participant upon enrollment and annually thereafter a written statement of  
nationwide data from the preceding calendar year that lists the total dollar amount of contributions  
provided to participants toward qualified expenses; and
- 166 (ii) includes a written disclaimer, titled "Notice", on or with each application and all guideline materials  
that states:

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- 168 (A) the health care sharing ministry is not an insurance company;
- 169 (B) nothing the health care sharing ministry offers or provides is an insurance policy, including the health care sharing ministry's guidelines or plan of operations;
- 172 (C) participation in the health care sharing ministry is entirely voluntary and no participant is compelled by law to contribute to another participant's expenses;
- 174 (D) participation in the health care sharing ministry or subscription to any of the health care sharing ministry's services is not insurance; and
- 176 (E) each participant is always personally responsible for the participant's expenses regardless of whether the participant receives payment for the expenses through the health care sharing ministry or whether this health care sharing ministry continues to operate.
- 180 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.
- 182 (5)
- . (a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.
- 186 (b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:
- 189 (i) the insurer to be authorized to do business in this state; or
- 190 (ii) that any of the insurer's transactions be subject to this title.
- 191 (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.
- 193 (6)
- . (a) As used in Subsection (3)(i) and this Subsection (6):
- 194 (i) [~~manufacturer's~~] "Manufacturer's or seller's service contract" means a service contract:
- 196 (A) made available by:
- 197 (I) a manufacturer of a product;
- 198 (II) a seller of a product; or
- 199 (III) an affiliate of a manufacturer or seller of a product;
- 200 (B) made available:



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

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- 231 (D) the product is not a motor vehicle; and
- 232 (E) the product is not the subject of a home warranty service contract.
- 233 (d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:
- 237 (i) at the time of the purchase of the product; or
- 238 (ii) at a time other than the time of the purchase of the product.
- 239 (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~~[-]~~
- 241 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
- 242 (ii) ~~for the purpose of providing for the political subdivisions or public agencies:~~
- 243 (A) ~~subject to Subsection (7)(b), insurance coverage; or~~
- 244 (B) ~~risk management.~~
- 247 (B) that issues an insurance policy, subject to Subsection (7)(b), or provides risk management, to a political subdivision or public agency in the state under Title 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 63G-7-703.
- 245 (b) ~~Notwithstanding Subsection (7)(a)(ii)(A), a~~ A public agency insurance mutual or reserve fund may not provide health insurance unless the public agency insurance mutual provides the health insurance using:
- 248 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
- 249 (ii) an admitted insurer; or
- 250 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.
- 252 (c) ~~[Except for this Subsection (7), a]~~ A public agency insurance mutual or a reserve fund is exempt from this title~~[-]~~ ~~except~~ as provided in the provisions in Sections 31A-3-301 and 31A-3-303 describing the surplus lines tax that are applicable to a policyholder.

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- 254 ~~{(i) when providing health insurance as described in Subsection (7)(b); and}~~  
255 ~~{(ii) as provided in the provisions in Sections 31A-3-301 and 31A-3-303 describing the surplus lines~~  
~~tax that are applicable to a policyholder.}~~
- 257 (d) A public agency insurance mutual is considered~~[to be]~~ a governmental entity and political  
subdivision of the state with all of the rights, privileges, and immunities of a governmental entity  
or political subdivision of the state including all the rights and 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.**
- 263 (1) The commissioner shall administer and enforce this title.  
264 (2) The commissioner has all powers specifically granted, and all further powers that are reasonable and  
necessary to enable the commissioner to perform the duties imposed by this title.  
267 (3)  
. [(a)] The commissioner may make rules to implement the provisions of this title according to the  
procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  
270 [(b) ~~In addition to the notice requirements of Section 63G-3-301, the commissioner shall provide notice~~  
~~under Section 31A-2-303 of hearings concerning insurance department rules.~~]
- 272 (4)  
. (a)  
. (i) The commissioner shall issue prohibitory, mandatory, and other orders as necessary to secure  
compliance with this title.~~{ }~~  
274 (ii) An order by the commissioner is not effective unless the order:  
275 [(i)] (A) is in writing; and  
276 [(ii)] (B) is signed by the commissioner or under the commissioner's authority.  
277 (b) On request of any person ~~[whø]~~ that would be affected by an order under Subsection (4)(a), the  
commissioner may issue a declaratory order to clarify the person's rights or duties.
- 280 (5)  
. (a) The commissioner may hold informal adjudicative proceedings and public meetings, for the purpose  
of:  
282 (i) investigation;  
283 (ii) ascertainment of public sentiment; or

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- 284 (iii) informing the public.
- 285 (b) An effective rule or order may not result from informal hearings and meetings unless the  
requirement of a hearing under this section is satisfied.
- 287 (6) The commissioner shall inquire into violations of this title and may conduct any examinations  
and investigations of insurance matters, in addition to examinations and investigations expressly  
authorized, that the commissioner considers proper to determine:
- 290 (a) whether or not any person has violated any provision of this title; or
- 291 (b) to secure information useful in the lawful administration of this title.
- 292 (7) The commissioner shall ensure that any training or certification required of a public official or  
public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G,  
Chapter 22, State Training and Certification Requirements, if the training or certification is required:
- 296 (a) under this title;
- 297 (b) by the department; or
- 298 (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.**
- As used in this part:
- 302 (1) "Commission" means the Title and Escrow Commission created in Section 31A-2-403.
- 303 (2) "Concurrence" means the entities given a concurring role must jointly agree for the action to be  
taken.
- 305 [~~(3) "Dual licensed title licensee" means a title licensee who holds:~~]
- 306 [~~(a) an individual title insurance producer license as a title licensee; and]~~
- 307 [~~(b) a license or certificate under:~~]
- 308 [~~(i) Title 61, Chapter 2e, Utah Residential Mortgage Practices and Licensing Act;]~~
- 309 [~~(ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or]~~
- 310 [~~(iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.]~~
- 311 [~~(4)~~] (3) "Real Estate Commission" means the Real Estate Commission created in Section 61-2f-103.
- 313 [~~(5)~~] (4) "Title insurance matter" means a matter related to:
- 314 (a) title insurance;
- 315 (b) an escrow conducted by an individual title insurance producer or agency title insurance producer;
- 317 (c) licensing, examination, and continuing education of an applicant to be a title licensee; or

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319 (d) conduct of a title licensee.

320 [(6)] (5) "Title licensee" means a person licensed under this title as:

321 (a) an agency title insurance producer with a title insurance line of authority;

322 (b) an individual title insurance producer with:

323 (i) a general title insurance line of authority; or

324 (ii) a specific category of authority for title insurance; or

325 (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.**

328 (1)

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

331 (b)

. (i) The commissioner may impose a penalty:

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

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

335 (C) that is enforced by the commissioner.

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

340 (c)

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

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

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

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

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- 350 (ii) the commission shall review the report submitted by the commissioner under this Subsection (1)(d);  
and
- 352 (A) concur with the report[;] ; or[;]
- 353 [(A)] (B) provide a reason for not concurring with the report[;] and
- 354 [(B)] provide recommendations to the commissioner.
- 355 (e) When this title requires concurrence between the commissioner and commission under Subsection  
(2), (3), or (4):
- 357 (i) the commission shall report to and update the commissioner on a regular basis related to that title  
insurance matter; and
- 359 (ii) the commissioner shall review a report submitted by the commission under this Subsection (1)(e)  
and concur with the report or:
- 361 (A) provide a reason for not concurring with the report; and
- 362 (B) provide recommendations to the commission.
- 363 (2) The commission shall:
- 364 (a) subject to Subsection (4), make rules for the administration of the provisions in this title related to  
title insurance matters including rules related to:
- 366 (i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;
- 368 (ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;
- 370 (iii) continuing education requirements of Section 31A-23a-202; and
- 371 (iv) standards of conduct for a title licensee;
- 372 (b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or  
31A-26-203;
- 374 [~~(e) in accordance with Section 31A-3-103, establish, with the concurrence of the commissioner, the  
fees imposed by this title on a title licensee;~~]
- 376 [~~(d) in accordance with Section 31A-23a-415 determine, after consulting with the commissioner, the  
assessment on a title insurer as defined in Section 31A-23a-415;~~]
- 378 [(e)] (c) with the concurrence of the commissioner, approve a continuing education program required by  
Section 31A-23a-202;
- 380 [(f)] (d) on a regular basis advise the commissioner of the most critical matters affecting the title  
insurance industry and request the commissioner to direct the department's investigative resources to  
investigate and enforce those matters;

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- 383 [~~(g)~~] (e) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation  
conducted by the commissioner's test administrator;
- 385 [~~(h)~~] (f) advise the commissioner on matters affecting the commissioner's budget related to title  
insurance; and
- 387 [~~(i)~~] (g) perform other duties as provided in this title.
- 388 (3) The commission may make rules establishing an examination for a license that will satisfy Section  
31A-23a-204:
- 390 (a) after consultation with the commissioner's test administrator; and
- 391 (b) subject to Subsection (4).
- 392 (4)
- . (a) The commission may make a rule under this title only:
- 393 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 394 (ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the  
commissioner has final authority; and
- 396 (iii) if at the time the commission files [~~its~~] the commission's proposed rule and rule analysis with  
the Office of Administrative Rules in accordance with Section 63G-3-301, the commission  
provides the Real Estate Commission that same information.
- 400 (b) The commission may not make a rule regarding adjudicative procedures.
- 401 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative  
procedures.
- 403 (5)
- . (a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to  
the commission.
- 405 (b) The information required to be reported under this Subsection (5):
- 406 (i) may not identify a person; and
- 407 (ii) shall include:
- 408 (A) the number of complaints the commissioner receives with regard to transactions involving title  
insurance or a title licensee during the calendar year immediately proceeding the report;
- 411 (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
- 412 (C) for each complaint described in Subsection (5)(b)(ii)(A):
- 413 (I) any action taken by the commissioner with regard to the complaint; and

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414 (II) the time-period beginning the day on which a complaint is made and ending the day on which the  
commissioner determines it will take no further action with regard to the complaint.

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

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

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

421 (1) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

422 (2) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or

423 (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 Restricted  
Account.**

427 (1)

. (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew  
a certificate of authority.

429 (b) The commissioner shall:

430 (i) determine the annual fee [~~pursuant to~~] in accordance with Section 31A-3-103; and

431 (ii) consider whether the annual fee is competitive with fees imposed by other states on captive  
insurance companies.

433 (2) A captive insurance company that fails to pay the fee required by this section is subject to the  
relevant sanctions of this title.

435 (3)

. (a) A captive insurance company that pays one of the following fees is exempt from Title 59, Chapter 7,  
Corporate Franchise and Income Taxes, and Title 59, Chapter 9, Taxation of Admitted Insurers:

438 (i) a fee under this section;

439 (ii) a fee under Chapter 37, Captive Insurance Companies Act; or

440 (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

442 (b) The state or a county, city, or town within the state may not levy or collect an occupation tax or  
other fee or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance  
company.

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- (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.
- 447 (4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June 1 of each year.
- 449 (5)
- . (a) ~~[Money received pursuant to]~~ The commissioner shall deposit money received from a fee described in Subsection (3)(a) [shall be deposited] into the Captive Insurance Restricted Account.
- 452 (b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."
- 454 (c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).
- 456 (d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:
- 459 (i) administer and enforce:
- 460 (A) Chapter 37, Captive Insurance Companies Act; and
- 461 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and
- 462 (ii) promote the captive insurance industry in Utah.
- 463 (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of ~~[the following]~~ the legislative appropriation for the fiscal year that just ended shall be treated as free revenue in the General Fund~~[-]~~ .
- 467 ~~[(i) for fiscal year 2018-2019 and subsequent fiscal years, in excess of \$1,600,000;]~~
- 468 ~~[(ii) for fiscal year 2019-2020 and subsequent fiscal years, in excess of \$1,450,000; and]~~
- 469 ~~[(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.**
- 472 (1) An insurer may conduct a transaction in a language other than English through an employee or agent acting as interpreter or through an interpreter provided by the customer.
- 475 (2)
- . (a) An insurer may provide a customer an insurance policy, endorsement, rider, or explanatory or advertising material in a language other than English.~~[-]~~

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- 477 (b) If there is a dispute or complaint regarding the insurance policy, endorsement, rider, or explanatory  
or advertising material, the English language version of the insurance coverage shall control the  
resolution of the dispute or complaint.
- 480 (3)
- . (a) A non-English language policy delivered or issued for delivery in this state is [~~considered to be~~  
]in compliance with this title if the insurer certifies that the policy is translated from an English  
language policy that complies with this title.
- 483 (b) An insurer is not required to file with the commissioner the certification described in Subsection (3)  
(a).
- 485 (4) If an insurance policy, endorsement, or rider is provided in a language other than English, [~~it~~] the  
insurance policy, endorsement, or rider shall be accompanied by:
- 487 (a) the corresponding English language version; and
- 488 (b) a disclaimer in both English and the other language that states that the foreign language version is  
provided only as an accommodation or courtesy to the customer and the English language version  
shall control the resolution of any dispute or complaint.
- 492 (5) An insurer is not required to file with the commissioner a form in a language other than English.
- 503 Section 8. Section **31A-21-303** is amended to read:
- 504 **31A-21-303. Cancellation, issuance, and renewal.**
- 496 (1)
- . (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this  
section applies to all policies of insurance:
- 498 (i) except for:
- 499 (A) life insurance;
- 500 (B) accident and health insurance; and
- 501 (C) annuities; and
- 502 (ii) if the policies of insurance are issued on forms that are subject to filing under Subsection  
31A-21-201(1).
- 504 (b) A policy may provide terms more favorable to insureds than this section requires.
- 505 (c) The commissioner may by rule totally or partially exempt from this section classes of insurance  
policies in which the insureds do not need protection against arbitrary or unannounced termination.
- 508

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

510 (2)

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

511 (i) material misrepresentation;

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

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

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

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

520 (A) the named insured; or

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

522 (b)

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

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

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

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

529 (A) nonpayment of a premium when due; or

530 (B) [~~on~~] grounds [~~defined in Subsection (2)(a)~~].

531 (c)

. (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

534 (ii) Cancellation for nonpayment of premium of a personal lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to the policyholder.

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- (iii) Cancellation for nonpayment of premium of a commercial lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to:
- 540 (A) the policyholder;
- 541 (B) each assignee of the policyholder, if the assignee is named in the policy; and
- 542 (C) each loss payee or mortgagee or lienholder under property insurance of the policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.
- 544 (iv) An insurer shall deliver or send by first-class mail a copy of the notice of cancellation for nonpayment of premium described in Subsection (2)(c)(iii) to an agent of record of the policyholder on or before the day on which the insurer provides the notice to the policyholder.
- 548 (d)
- . (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.
- 550 (ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.
- 552 (e)
- . (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days on the day on which the written notice of cancellation is mailed or delivered.
- 555 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the day on which a written notice of cancellation is delivered to the insured.
- 558 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.
- 562 (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).
- 564 (3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days before an anniversary date.
- 567 (4)
- . (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:
- 569 (i) on the terms then being applied by the insurer to similar risks; and

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- 570 (ii)
- . (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or
- 572 (B) for one year if the agreed term is longer than one year.
- 573 (b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:
- 575 (i) at least 30 days before the day on which the policy expires or completes an anniversary, the insurer delivers or sends by first-class mail a notice of intention not to renew the policy beyond the agreed expiration or anniversary date to the policyholder at the policyholder's last-known address;
- 579 (ii) ~~not~~ no more than 45 ~~not~~ but no less than 14 days before the day on which the renewal premium is due, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:
- 582 (A) the renewal premium;
- 583 (B) how the renewal premium may be paid, including the due date for payment of the renewal premium;
- 585 (C) that failure to pay the renewal premium extinguishes the policyholder's right to renewal; and
- 587 (D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or first-class mailing of a written notice to the policyholder that the policyholder has failed to pay the premium when due;
- 591 (iii) the policyholder has:
- 592 (A) accepted replacement coverage; or
- 593 (B) requested or agreed to nonrenewal; or
- 594 (iv) the policy is expressly designated as nonrenewable.
- 595 (c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:
- 597 (i) references a policy coverage; and
- 598 (ii) does not result in the insured requesting payment of a claim.
- 599 (d) Failure to renew under this Subsection (4) is subject to Subsection (5).
- 600 (e)
- . (i)
- .

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- (A) If the policy is a personal lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (4)(b)(ii)(D) and ends when the premium is paid, coverage exists and premiums are due.
- 604 (B) If the policy is a commercial lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (2)(c)(iii) and ends when the premium is paid, coverage exists and premiums are due.
- 608 (ii)
- . (A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal lines policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.
- 611 (B) If after receiving the notice required under Subsection (2)(c)(iii), a commercial lines policyholder fails to pay the renewal premium within the 10 days before the day on which cancellation for nonpayment is effective, the coverage is extinguished as of the day on which the renewal premium is originally due.
- 616 (iii) Delivery of the notice required by Subsection (2)(c)(iii), (2)(c)(iv), or (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.
- 618 (iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if:
- 619 (A) the insurer provides notice of the extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer than 45 days, before the day on which the renewal payment is due; and
- 622 (B) the policy is a personal lines policy.
- 623 (v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less.
- 625 (5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:
- 627 (a) in the case of a motor vehicle insurance policy:
- 628 (i) a claim from the insured that:
- 629 (A) results from an accident in which:
- 630 (I) the insured is not at fault; and
- 631 (II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years [~~of~~ age] old or older; and
- 633 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;
- 635 (ii) a single traffic violation by an insured that:

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- 636 (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;
- 637 (B) is not in excess of 10 miles per hour over the speed limit;
- 638 (C) is not a traffic violation under[~~;~~]
- 639 [~~(F)~~] Section 41-6a-601, 41-6a-604, or 41-6a-605;
- 640 [~~(H)~~ Section 41-6a-604; ~~or~~]
- 641 [~~(H)~~ Section 41-6a-605;]
- 642 (D) is not a violation by an insured driver who is younger than 21 years [~~of age~~] old; and
- 644 (E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; or
- 646 (iii) a claim for damage that:
- 647 (A) results solely from[~~;~~] wind, hail, lightning, or an earthquake;
- 648 [~~(F)~~ wind;]
- 649 [~~(H)~~ hail;]
- 650 [~~(H)~~ lightning; ~~or~~]
- 651 [~~(IV)~~ an earthquake;]
- 652 (B) is not preventable by the exercise of reasonable care; and
- 653 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; [~~and~~] or
- 655 (b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:
- 657 (i) results solely from[~~;~~] wind, hail, or lightning;
- 658 [~~(A)~~ wind;]
- 659 [~~(B)~~ hail; ~~or~~]
- 660 [~~(C)~~ lightning;]
- 661 (ii) is not preventable by the exercise of reasonable care; and
- 662 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.
- 664 (6)
- . (a)
- . (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days before the day on which the previous policy expires.

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- 669 (ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the  
policyholder, the new terms or rates do not take effect until 30 days after the day on which the  
insurer delivers or sends by first-class mail the notice, in which case the policyholder may elect  
to cancel the renewal policy at any time during the 30-day period.
- 674 (iii) Return premiums or additional premium charges shall be calculated proportionately on the  
basis that the old rates apply.
- 676 (b) Except as provided in Subsection (6)(c), Subsection (6)(a) does not apply if the only change in terms  
that is adverse to the policyholder is:
- 678 (i) a rate increase generally applicable to the class of business to which the policy belongs;
- 680 (ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk  
insured against; or
- 682 (iii) a policy form change made to make the form consistent with Utah law.
- 683 (c) Subsections (6)(b)(i) and (ii) do not apply to a rate increase of 25% or more on a commercial policy.
- 685 (7)
- . (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable  
precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail  
or deliver that information within 10 working days [~~after receipt of~~] after the day on which the  
insurer receives a written request by the policyholder.
- 690 (b) A notice under Subsection (2)(c) is not effective unless [it] the notice contains information about the  
policyholder's right to make the request.
- 692 (8)
- . (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle  
insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle  
Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a  
lienholder if the insurer has been provided the name and mailing address of the lienholder.
- 697 (b) An insurer shall provide the notice described in Subsection (8)(a) to the lienholder by first-class  
mail or, if agreed by the parties, any electronic means of communication.
- 699 (c) A lienholder shall provide a current physical address of notification or an electronic address of  
notification to an insurer that is required to make a notification under Subsection (8)(a).
- 702 (9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the  
insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under



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Subsection (2)(c) or (4)(b)(i) may not be effective unless the notice contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

- 707 (10) There is no liability on the part of, and no cause of action against, any insurer, ~~[its]~~ the insurer's  
authorized representatives, agents, employees, or any other person furnishing to the insurer  
information relating to the reasons for cancellation or nonrenewal or for any statement made or  
information given ~~[by them]~~ by an insurer, the insurer's authorized representative, agent, employee,  
or any other person in complying or enabling the insurer to comply with this section unless actual  
malice is proved by clear and convincing evidence.
- 714 (11) This section does not alter any common law right of contract rescission for material  
misrepresentation.
- 716 (12) If a person is required to pay a premium in accordance with this section:
- 717 (a) the person may make the payment using:
- 718 (i) the United States Postal Service;
- 719 (ii) a delivery service the commissioner describes or designates by rule made in accordance with Title  
63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 721 (iii) electronic means; and
- 722 (b) the payment is ~~[considered to be]~~ made:
- 723 (i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date on  
which the payment is postmarked;
- 725 (ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the date on  
which the delivery service records or marks the payment as having been received by the delivery  
service; or
- 728 (iii) for a payment that is made using the method described in Subsection (12)(a)(iii), 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.**
- 732 (1)
- . (a) Except as provided under Subsection (2), ~~[life insurance policies, other than group policies,]~~ an  
individual life insurance policy shall be reinstated upon written application made within three years,  
or within two years in the case of ~~[policies]~~ an individual life insurance policy with ~~[face amounts]~~ a  
face amount under \$5,000, from the date of premium default.

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- 737 (b) ~~[The]~~ An applicant described in Subsection (1)(a) shall
- 738 (i) produce evidence of insurability satisfactory to the insurer~~[-]~~ ;
- 739 (ii) pay all premiums in arrears~~[-]~~ ; and
- 740 (iii) pay or reinstate any other indebtedness to the insurer upon the policy, all with interest~~[-]~~ ;
- 742 (A) compounded annually, at a rate not exceeding the rate set by the policy for policy loans  
compounded annually~~[-]~~ ; or
- 744 (B) ~~[If]~~ if no rate is set in the policy, the commissioner shall adopt a rule ~~[which]~~ that sets the rate the  
same as under Section 31A-22-402.
- 746 (2) Subsection (1) does not apply if any of these conditions exist:
- 747 (a) ~~[The]~~ the policy has been surrendered for its cash surrender value~~[-]~~ ;
- 748 (b) ~~[The]~~ the policy's cash surrender value has been exhausted~~[-]~~ ; or
- 749 (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.**
- 752 (1) A policy may be issued to a group other than those specified under Sections  
~~[31A-22-502]~~ 31A-22-501 through 31A-22-508, if specifically authorized by the commissioner and  
if granting the permission is not contrary to public policy.~~[-]~~
- 755 (2)
- 756 . (a) The commissioner may not grant permission to issue these types of policies unless the insurer  
demonstrates to the commissioner's satisfaction that the proposed group ~~[would]~~ will:
- 758 (i) be actuarially sound~~[-]~~ ;
- 759 (ii) ~~[would]~~ result in economies of acquisition and administration ~~[which]~~ that justify a group  
rate~~[-]~~ ; and~~[-would]~~
- 761 (iii) not present hazards of adverse selection.
- 762 (b) The policyholders shall pay the premiums for the policy ~~[shall be paid by the policyholder, either  
from the policyholder's funds or]~~ from funds contributed by:
- 764 (i) the policyholder;
- 765 (ii) ~~[by]~~ the covered [persons,] person; or~~[-from both.-]~~
- 766 (iii) both the policyholder and the covered person.
- 767 (c) Premiums for the policy and any contributions by or on behalf of the insured persons shall be  
reasonable in relation to the benefits provided.

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

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

- 771 (1) ~~[Any]~~ A group life policy issued under Sections 31A-22-502 through 31A-22-505 or Section  
31A-22-509 may insure ~~[the employees or members against loss due to the death of their spouses  
and dependent children, or any classes of the employees or members]~~ any class of employee or  
member and the spouse and dependent children of an employee or member against loss due to death.
- 776 (2) The policyholder shall pay the premiums for the insurance ~~[shall be paid by the policyholder]~~ from  
funds contributed by ~~[the person to whom the policy has been issued, from funds contributed by the  
covered persons, or from both.]~~ :
- 779 (a) the policyholder;
- 780 (b) the covered person; or
- 781 (c) both the policyholder and the covered person.
- 782 (3) Except as provided under Section 31A-22-512, a policy on which no part of the premium for the  
~~[dependent's]~~ dependent coverage is contributed by the covered ~~[persons]~~ person shall insure ~~[all  
insured persons]~~ each eligible person, including ~~[their spouses-]~~ 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.**

- 788 (1) An insurer may exclude or limit the coverage under a group life insurance policy on any person,  
including a group member's dependent, as to whom the evidence of individual insurability is not  
satisfactory to the insurer.
- 791 (2) The group life insurance policy shall contain a provision setting forth the conditions, if any, under  
which the insurer reserves the right to require a person eligible for insurance to furnish satisfactory  
evidence to the insurer of the individual insurability as a condition 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.**

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

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- (2) ~~[This]~~ The provision described in Subsection (1) shall [also] state that no statement made by [any] a person insured under the policy relating to [his] the person's insurability may be used:
- 803 (a) in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force, prior to the contest, for a period of two years during the person's lifetime~~[, nor may the statement be used]~~ ; or
- 806 (b) unless [it] the statement is [contained in a written instrument signed by him.] in writing and signed by the person.
- 808 (3) ~~[This type of provision does not preclude]~~ Nothing in this section precludes the assertion of defenses based upon provisions in the policy which relate to eligibility for coverage.
- 810 ~~{Section 14. Section 31A-22-605.1 is amended to read: }~~
- 811 **31A-22-605.1. Preexisting condition limitations.**
- 812 (1) Any provision dealing with preexisting conditions shall be consistent with this section, Section 31A-22-609, and rules adopted by the commissioner.
- 814 (2) Except as provided in this section, an insurer that elects to use an application form without questions concerning the insured's health or medical treatment history shall provide coverage under the policy for any loss ~~[which]~~ that occurs more than 12 months after the effective date of coverage due to a preexisting condition ~~[which]~~ that is not specifically excluded from coverage.
- 819 (3)
- . (a) An insurer that issues a specified disease policy may not deny a claim for loss due to a preexisting condition that occurs more than six months after the effective date of coverage.
- 822 (b) A specified disease policy may impose a preexisting condition exclusion only if the exclusion relates to a preexisting condition ~~[which]~~ that first manifested itself within six months prior to the effective date of coverage or ~~[which]~~ that was diagnosed by a physician at any time ~~[prior to]~~ before the effective date of coverage.
- 826 (4)
- . (a) Except as otherwise provided in this section, a health benefit plan may impose a preexisting condition exclusion only if:
- 828 (i) the exclusion relates to a preexisting condition for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date from an individual licensed or similarly authorized to provide those services under state law and operating within the scope of practice authorized by state law;

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- 833 (ii) the exclusion period ends no later than 12 months after the enrollment date, or in the case of a  
late enrollee, 18 months after the enrollment date; and
- 835 (iii) the exclusion period is reduced by the number of days of creditable coverage the enrollee has  
as of the enrollment date, in accordance with Subsection (4)(b).
- 837 (b)
- . (i) The amount of creditable coverage allowed under Subsection (4)(a)(iii) is determined by counting all  
the days on which the individual has one or more types of creditable coverage.
- 840 (ii) Days of creditable coverage that occur before a significant break in coverage are not required to be  
counted.
- 842 (A) Days in a waiting period or affiliation period [~~are~~] may not be taken into account in determining  
whether a significant break in coverage has occurred.
- 844 (B) For an individual who elects federal COBRA continuation coverage during the second election  
period provided under the federal Trade Act of 2002, the days between the [~~date~~] day on which the  
individual lost group health plan coverage and the first day of the second COBRA election period  
are not taken into account in determining whether a significant break in coverage has occurred.
- 850 (c) A group health benefit plan may not impose a preexisting condition exclusion relating to pregnancy.
- 852 (d)
- . (i) An insurer imposing a preexisting condition exclusion shall provide a written general notice of  
preexisting condition exclusion as part of any written application materials.
- 855 (ii) The general notice under this subsection shall include:
- 856 (A) a description of the existence and terms of any preexisting condition exclusion under the plan,  
including the six-month period ending on the enrollment date, the maximum preexisting condition  
exclusion period, and how the insurer will reduce the maximum preexisting condition exclusion  
period by creditable coverage;
- 861 (B) a description of the rights of individuals:
- 862 (I) to demonstrate creditable coverage, including any applicable waiting periods, through a certificate of  
creditable coverage or through other means; and
- 865 (II) to request a certificate of creditable coverage from a prior plan;
- 866 (C) a statement that the current plan will assist in obtaining a certificate of creditable coverage from any  
prior plan or issuer if necessary; and
- 868

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- (D) a person to contact, and an address and telephone number for the person, for obtaining additional information or assistance regarding the preexisting condition exclusion.
- 871 (e) An insurer may not impose any limit on the amount of time that an individual has to present a certificate or other evidence of creditable coverage.
- 873 (f) This Subsection (4) does not preclude application of any waiting period applicable to all new enrollees under the plan.
- 875 (5)
- . (a) If a short-term limited duration health insurance policy provides for an extension or renewal of the policy, the insurer may not exclude coverage for a loss due to a preexisting condition [~~for a period greater than 12 months~~] following the original effective date of the coverage, unless the insurer specifically and expressly excludes the preexisting condition in the terms of the policy or certificate.
- 880 (b)
- . (i) An insurer that includes a preexisting condition exclusion in a short-term limited duration health insurance policy in accordance with this subsection shall provide a written general notice of the preexisting condition exclusion as part of any written application materials.
- 884 (ii) A written general notice described in [~~this subsection~~] Subsection (5)(b)(i) shall[~~:~~]
- 885 [~~(A)~~] include a description of the existence and terms of any preexisting condition exclusion under the policy, including the maximum preexisting exclusion period[~~; and~~] .
- 887 [~~(B) state that the exclusion period ends no later than 12 months after the original effective date of the 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 a claim notice requirement less favorable to the insured, or an insured's network provider, than one which requires written notice of the claim within 20 days after the occurrence or commencement of any loss covered by the policy. The policy shall 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, an insurer may require periodic notices that the insured continues to have a disability, unless the insured is legally incapacitated. The insured's, or the insured's network provider's, delay in giving that notice does

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not impair the insured's, the insured's network provider's, or beneficiary's right to any indemnity which would otherwise have accrued during the six months preceding the date on which that notice is actually given.

- 834 (3) An accident and health insurance policy may not contain a time limit on proof of loss which is more  
restrictive to the insured, or the insured's network provider, than a provision requiring written proof  
of loss, delivered to the insurer, within the following time:
- 838 (a) for a claim where periodic payments are contingent upon continuing loss, within [~~120~~] 180 days  
after the termination of the period for which the insurer is liable; or
- 840 (b) for any other claim, within [~~120~~] 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 effective at  
the time of payment. If no valid beneficiary designation exists, the indemnity is paid to the  
insured's estate. Any other accrued indemnities unpaid at 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 approving  
the policy form, are permitted. Payment made in good faith and in 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 account of  
hospital, nursing, medical, or surgical services may, at the insurer's option, 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.**

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

892 (a) a group:

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

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

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

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

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- 900 (ii) the group is actuarially sound;
- 901 (iii) formation of the proposed group may result in economies of scale in acquisition, administrative, marketing, and brokerage costs;
- 903 (iv) the insurance policy, insurance certificate, or other indicia of coverage that will be offered to the proposed group is substantially equivalent to insurance policies that are otherwise available to similar groups;
- 906 (v) the group would not present hazards of adverse selection;
- 907 (vi) the premiums for the insurance policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided; and
- 909 (vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance; or
- 911 (c) a postsecondary educational institution covering students, upon a finding that:
- 912 (i) the policy provides standards for financial soundness;
- 913 (ii) the policy protects the students covered;
- 914 (iii) the policy provides for the establishment of a financially viable alternative to traditional health care plans;
- 916 (iv) authorization is not contrary to the public interest;
- 917 (v) the policy would not present hazards of adverse selection; and
- 918 (vi) the premiums for the policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided.
- 920 (2) A blanket insurance policy offering accident and health insurance:
- 921 (a) covers a defined class of persons;
- 922 (b) may not be offered or underwritten on an individual basis;
- 923 (c) shall cover only a group that is:
- 924 (i) actuarially sound; and
- 925 (ii) formed and maintained in good faith for a purpose other than obtaining insurance; and
- 927 (d) may be issued only to:
- 928 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as policyholder, covering persons who may become passengers as defined by reference to the person's travel status;
- 931 (ii) an employer, as policyholder, covering any group of employees, dependents, or guests, as defined by reference to specified hazards incident to any activities of the policyholder;
- 934



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- (iii) an institution of learning, including a school district, a school jurisdictional unit, or the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering students, teachers, or employees;
- 937 (iv) a religious, charitable, recreational, educational, or civic organization, or branch of one of those organizations, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities sponsored or supervised by the policyholder;
- 941 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering members, campers, employees, officials, or supervisors;
- 943 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer organization, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to activities sponsored, supervised, or participated in by the policyholder;
- 947 (vii) a newspaper or other publisher, as policyholder, covering [its] a newspaper's or publisher's carriers;
- 949 (viii) a labor union, as a policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder;
- 952 (ix) an association that has a constitution and bylaws covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; or
- 955 (x) any other class of risks that, in the judgment of the commissioner, may be properly eligible for a blanket insurance policy offering accident and health insurance.
- 958 (3) The judgment of the commissioner may be exercised on the basis of:
- 959 (a) individual risks;
- 960 (b) a class of risks; or
- 961 (c) both risks described in Subsections(3)(a) and (b).
- 962 (4) A group insurance policy offering accident and health insurance issued to a group authorized under Subsection 31A-22-504(1)(b)(ii) is subject to the provisions of Section 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 and renewal.**
- 968 (1)
- . (a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:
- 970 (i) a producer;

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- 971 (ii) a surplus lines producer;
- 972 (iii) a limited line producer;
- 973 (iv) a consultant;
- 974 (v) a managing general agent; or
- 975 (vi) a reinsurance intermediary.
- 976 (b) The commissioner shall issue or renew a license [~~under~~] described in Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:
- 979 (i) satisfies the application requirements under Section 31A-23a-104;
- 980 (ii) satisfies the character requirements under Section 31A-23a-107;
- 981 (iii) satisfies applicable continuing education requirements under Section 31A-23a-202;
- 983 (iv) satisfies applicable examination requirements under Section 31A-23a-108;
- 984 (v) satisfies applicable training period requirements under Section 31A-23a-203;
- 985 (vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:
- 987 (A) is in compliance with Section 31A-23a-203.5; and
- 988 (B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;
- 990 (vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;
- 992 (viii) if a nonresident:
- 993 (A) complies with Section 31A-23a-109; and
- 994 (B) holds an active similar license in that person's home state;
- 995 (ix) if an applicant for an individual title insurance producer or agency title insurance producer license, satisfies the requirements of Section 31A-23a-204;
- 997 (x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and
- 999 (xi) pays the applicable fees under Section 31A-3-103.
- 1000 (2)
- . (a) This Subsection (2) applies to the following persons:
- 1001 (i) an applicant for a pending:

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- 1002 (A) individual or agency producer license;
- 1003 (B) surplus lines producer license;
- 1004 (C) limited line producer license;
- 1005 (D) consultant license;
- 1006 (E) managing general agent license; or
- 1007 (F) reinsurance intermediary license; or
- 1008 (ii) a licensed:
- 1009 (A) individual or agency producer;
- 1010 (B) surplus lines producer;
- 1011 (C) limited line producer;
- 1012 (D) consultant;
- 1013 (E) managing general agent; or
- 1014 (F) reinsurance intermediary.
- 1015 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 1016 (i) an administrative action taken against the person, including a denial of a new or renewal license application:
- 1018 (A) in another jurisdiction; or
- 1019 (B) by another regulatory agency in this state;
- 1020 (ii) a criminal prosecution taken against the person in any jurisdiction; and
- 1021 (iii) a civil action filed against the person in any jurisdiction if the action involves conduct related to a professional or occupational license, certification, authorization, or registration, regardless of whether the person held the license, certification, authorization, or registration.
- 1025 (c) The report required by Subsection (2)(b) shall:
- 1026 (i) be filed:
- 1027 (A) at the time the person files the application for an individual or agency license; and
- 1029 (B) for an action or prosecution that occurs on or after the day on which the person files the application:
- 1031 (I) for an administrative action, within 30 days of the final disposition of the administrative action; or
- 1033 (II) for a criminal prosecution or civil action, within 30 days of the initial appearance before a court; and
- 1035 (ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

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- 1037 (3)
- 1038 . (a) The department may require ~~[a person]~~ an individual applying for a license or for consent to engage
- 1039 in the business of insurance to submit to a criminal background check as a condition of receiving a
- 1040 license or consent.
- 1041 (b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:
- 1042 (i) submit a fingerprint card in a form acceptable to the department; and
- 1043 (ii) consent to a fingerprint background check by:
- 1044 (A) the Utah Bureau of Criminal Identification; and
- 1045 (B) the Federal Bureau of Investigation.
- 1046 (c) For ~~[a person]~~ an individual who submits a fingerprint card and consents to a fingerprint background
- 1047 check under Subsection (3)(b), the department may request:
- 1048 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of
- 1049 Criminal Identification, from the Bureau of Criminal Identification; and
- 1050 (ii) complete Federal Bureau of Investigation criminal background checks through the national criminal
- 1051 history system.
- 1052 (d) ~~[Information]~~ The department shall use information obtained by the department from the review of
- 1053 criminal history records received under this Subsection (3) ~~[shall be used by the department]~~ for the
- 1054 purposes of:
- 1055 (i) determining if ~~[a person]~~ an individual satisfies the character requirements under Section
- 1056 31A-23a-107 for issuance or renewal of a license;
- 1057 (ii) determining if ~~[a person]~~ an individual has failed to maintain the character requirements under
- 1058 Section 31A-23a-107; and
- 1059 (iii) preventing ~~[a person]~~ an individual who violates the federal Violent Crime Control and Law
- 1060 Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the
- 1061 state.
- 1062 (e) If the department requests the criminal background information, the department shall:
- 1063 (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in
- 1064 providing the department criminal background information under Subsection (3)(c)(i);
- 1065 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation
- 1066 in providing the department criminal background information under Subsection (3)(c)(ii); and
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- (iii) charge the [person] individual applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).
- 1073 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:
- 1076 (a) insurance producer;
- 1077 (b) surplus lines producer;
- 1078 (c) limited line producer;
- 1079 (d) consultant;
- 1080 (e) managing general agent; or
- 1081 (f) reinsurance intermediary.
- 1082 (5)
- . (a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:
- 1085 (i) fails to satisfy the requirements as set forth in this section; or
- 1086 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111.
- 1088 (b) This Subsection (5) applies to the following licenses:
- 1089 (i) producer;
- 1090 (ii) surplus lines producer;
- 1091 (iii) limited line producer;
- 1092 (iv) consultant;
- 1093 (v) managing general agent; or
- 1094 (vi) reinsurance intermediary.
- 1095 [~~(6) Notwithstanding the other provisions of this section, the commissioner may:]~~
- 1096 [~~(a) issue a license to an applicant for a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission; and]~~
- 1098 [~~(b) renew a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission.]~~
- 1063 Section 17. Section **31A-23a-109** is amended to read:

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- 1064           **31A-23a-109. Nonresident jurisdictional agreement.**
- 1102   (1)
- (a) If a nonresident license applicant has a valid producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license from the nonresident license applicant's home state or designated home state and the conditions of Subsection (1)(b) are met, the commissioner shall:
- 1107       (i) waive the license requirements for a license under this [~~chapter~~] section; and
- 1108       (ii) issue the nonresident license applicant a nonresident license.
- 1109   (b) Subsection (1)(a) applies if:
- 1110       (i) the nonresident license applicant:
- 1111           (A) is licensed in the nonresident license applicant's home state or designated home state at the time the nonresident license applicant applies for a nonresident producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license;
- 1115           (B) has submitted the proper request for licensure;
- 1116           (C) has submitted to the commissioner:
- 1117               (I) the application for licensure that the nonresident license applicant submitted to the applicant's home state or designated home state; or
- 1119               (II) a completed uniform application; and
- 1120           (D) has paid the applicable fees under Section 31A-3-103; and
- 1121       (ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing.
- 1123   (2) A nonresident applicant applying under Subsection (1) shall in addition to complying with all license requirements for a license under this chapter execute, in a form acceptable to the commissioner, an agreement to be subject to the jurisdiction of the Utah commissioner and courts on any matter related to the applicant's insurance activities in this state, on the basis of:
- 1128       (a) service of process under Sections 31A-2-309 and 31A-2-310; or
- 1129       (b) service authorized:
- 1130           (i) in the Utah Rules of Civil Procedure; or
- 1131           (ii) under Section 78B-3-206.
- 1132   (3) The commissioner may verify a producer's licensing status through the producer database maintained by:

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- 1134 (a) the National Association of Insurance Commissioners; or
- 1135 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.
- 1136 (4) The commissioner may not assess a greater fee for an insurance license or related service to a person not residing in this state solely on the fact that the person does not 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 otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**
- 1142 (1) A license type issued under this chapter remains in force until:
- 1143 (a) revoked or suspended under Subsection (5);
- 1144 (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- 1146 (c) the licensee dies or is adjudicated incompetent as defined under:
- 1147 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 1148 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
- 1150 (d) lapsed under Section 31A-23a-113; or
- 1151 (e) voluntarily surrendered.
- 1152 (2) The following may be reinstated within one year after the day on which the license is no longer in force:
- 1154 (a) a lapsed license; or
- 1155 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.
- 1158 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:
- 1161 (a) this title; or
- 1162 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1164 (4) A line of authority issued under this chapter remains in force until:
- 1165 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;
- 1166 (b) the supporting license type:
- 1167 (i) is revoked or suspended under Subsection (5);
- 1168

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- (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- 1170 (iii) lapses under Section 31A-23a-113; or
- 1171 (iv) is voluntarily surrendered; or
- 1172 (c) the licensee dies or is adjudicated incompetent as defined under:
- 1173 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 1174 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.
- 1176 (5)
- . (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:
- 1179 (i) revoke:
- 1180 (A) a license; or
- 1181 (B) a line of authority;
- 1182 (ii) suspend for a specified period of 12 months or less:
- 1183 (A) a license; or
- 1184 (B) a line of authority;
- 1185 (iii) limit in whole or in part:
- 1186 (A) a license; or
- 1187 (B) a line of authority;
- 1188 (iv) deny a license application;
- 1189 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- 1190 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).
- 1192 (b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:
- 1194 (i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;
- 1196 (ii) violates:
- 1197 (A) an insurance statute;
- 1198 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 1199 (C) an order that is valid under Subsection 31A-2-201(4);
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- (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;
- 1202 (iv) is more than 60 days past due on [~~an enforceable~~] a final judgment;
- 1203 (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;
- 1205 (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;
- 1208 (vii) refuses:
  - 1209 (A) to be examined; or
  - 1210 (B) to produce [~~its~~] the licensee's or license applicant's accounts, records, and files for examination;
- 1212 (viii) has an officer who refuses to:
  - 1213 (A) give information with respect to the insurance producer's affairs; or
  - 1214 (B) perform any other legal obligation as to an examination;
- 1215 (ix) provides information in the license application that is:
  - 1216 (A) incorrect;
  - 1217 (B) misleading;
  - 1218 (C) incomplete; or
  - 1219 (D) materially untrue;
- 1220 (x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;
- 1222 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 1223 (xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;
- 1225 (xiii) intentionally misrepresents the terms of an actual or proposed:
  - 1226 (A) insurance contract;
  - 1227 (B) application for insurance; or
  - 1228 (C) life settlement;
- 1229 (xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:
  - 1231 (A) a felony; or
  - 1232 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- 1233 (xv) admits or is found to have committed an [~~insurance~~]unfair trade practice or fraud;
- 1235 (xvi) in the conduct of business in this state or elsewhere;

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- 1236 (A) uses fraudulent, coercive, or dishonest practices; or
- 1237 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- 1238 (xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:
- 1241 (A) denied;
- 1242 (B) suspended;
- 1243 (C) revoked; or
- 1244 (D) surrendered to resolve an administrative action;
- 1245 (xviii) forges another's name to:
- 1246 (A) an application for insurance; or
- 1247 (B) a document related to an insurance transaction;
- 1248 (xix) improperly uses notes or another reference material to complete an examination for an insurance license;
- 1250 (xx) knowingly accepts insurance business from an individual who is not licensed;
- 1251 (xxi) fails to comply with an administrative or court order imposing a child support obligation;
- 1253 (xxii) fails to[=]
- 1254 [~~(A)~~ pay state income tax; or]
- 1255 [~~(B)~~] comply with an administrative or court order directing payment of state income tax;
- 1256 (xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;
- 1260 (xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or
- 1262 (xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.
- 1265 (c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.
- 1268 (d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

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- 1271 (i) the individual;
- 1272 (ii) the agency, if the agency:
- 1273 (A) is reckless or negligent in its supervision of the individual; or
- 1274 (B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
- 1276 (iii)
- . (A) the individual; and
- 1277 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- 1278 (6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:
- 1280 (a) the licensee's license is:
- 1281 (i) revoked;
- 1282 (ii) suspended;
- 1283 (iii) limited;
- 1284 (iv) surrendered in lieu of administrative action;
- 1285 (v) lapsed; or
- 1286 (vi) voluntarily surrendered; and
- 1287 (b) the licensee:
- 1288 (i) continues to act as a licensee; or
- 1289 (ii) violates the terms of the license limitation.
- 1290 (7) A licensee under this chapter shall immediately report to the commissioner:
- 1291 (a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;
- 1293 (b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or
- 1295 (c) a judgment or injunction entered against that person on the basis of conduct involving:
- 1297 (i) fraud;
- 1298 (ii) deceit;
- 1299 (iii) misrepresentation; [øf]
- 1300 (iv) a violation of an insurance law or rule[:]; or
- 1301 (v) payment of money.
- 1302 (8)

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- (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.
- 1305 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.
- 1308 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if[-sø] ordered by a court.
- 1310 (10) The commissioner shall [~~by rule prescribe~~] provide the license renewal and reinstatement procedures by rule made in accordance with Title 63G, Chapter 3, Utah 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.**
- 1315 (1) As used in this section:
- 1316 (a) "Applicable percentage" means:
- 1317 (i) on [~~February~~] January 1, 2024, through [~~January~~] December 31, 2025, 2.5%;
- 1318 (ii) on [~~February~~] January 1, 2025, through [~~January~~] December 31, 2026, 3%;
- 1319 (iii) on [~~February~~] January 1, 2026, through [~~January~~] December 31, 2027, 3.5%;
- 1320 (iv) on [~~February~~] January 1, 2027, through [~~January~~] December 31, 2028, 4%; and
- 1321 (v) on [~~February~~] January 1, 2028, through [~~January~~] December 31, 2029, 4.5%.
- 1322 (b) "Sufficient capital and net worth" means:
- 1323 (i) for a new title entity:
- 1324 (A) \$100,000 for the first five years after becoming a new agency title insurance producer; or
- 1326 (B) after the first five years after becoming a new agency title insurance producer, the greater of \$50,000, or on [~~February~~] January 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000; or
- 1330 (ii) for a title entity licensed before May 14, 2019:
- 1331 (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 percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the [~~February~~] January 1 on which the applicable percentage applies or \$150,000; and

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- 1336 (B) beginning on [~~February~~] January 1, 2029, the greater of \$50,000 or an amount equal to 5% of the  
title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000.
- 1339 (2) Before May 1 of each year, each agency title insurance producer shall submit a report to the  
commissioner containing proof satisfactory to the commissioner that the agency title 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 -- Account  
created.**
- 1345 (1) For purposes of this section:
- 1346 (a) "Premium" is as described in Subsection 59-9-101(3).
- 1347 (b) "Title insurer" means a person:
- 1348 (i) making any contract or policy of title insurance as:
- 1349 (A) insurer;
- 1350 (B) guarantor; or
- 1351 (C) surety;
- 1352 (ii) proposing to make any contract or policy of title insurance as:
- 1353 (A) insurer;
- 1354 (B) guarantor; or
- 1355 (C) surety; or
- 1356 (iii) transacting or proposing to transact any phase of title insurance, including:
- 1357 (A) soliciting;
- 1358 (B) negotiating preliminary to execution;
- 1359 (C) executing of a contract of title insurance;
- 1360 (D) insuring; and
- 1361 (E) transacting matters subsequent to the execution of the contract and arising out of the contract.
- 1363 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property  
located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that  
property, or others interested in the property against loss or damage suffered by reason of:
- 1367 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or
- 1369 (ii) invalidity or unenforceability of any liens or encumbrances on the property.
- 1370 (2)

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- . (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:
- 1374       ~~[(i) determined by the Title and Escrow Commission:]~~
- 1375       ~~[(A) after consultation with the commissioner; and]~~
- 1376       ~~[(B)]~~ (i) in accordance with this Subsection (2); and
- 1377       (ii) to be used for the purposes described in Subsection (3).
- 1378 (b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:
- 1381 (i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and
- 1383 (ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).
- 1385 (c) A title insurer shall be assessed up to:
- 1386 (i) \$250 for the first office in each county in which the title insurer maintains an office;
- 1388 (ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and
- 1390 (iii) an amount calculated by:
- 1391 (A) aggregating the assessments imposed on:
- 1392 (I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and
- 1394 (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);
- 1395 (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and
- 1397 (C) multiplying:
- 1398 (I) the amount calculated under Subsection (2)(c)(iii)(B); and
- 1399 (II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.
- 1401

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- (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, during the first quarter of each fiscal year the Title and Escrow Commission shall approve the amount of costs and expenses described under Subsection (3) for the prior fiscal year that will be covered by the assessment.
- 1405 (e)
- . (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.
- 1408 (ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.
- 1412 (3)
- . (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.
- 1414 (b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."
- 1416 (c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.
- 1418 (d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers.
- 1424 (e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.
- 1426 (4) The assessment imposed by this section shall be in addition to any premium assessment 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.**
- 1430 (1)
- . (a) The application for a license as an independent adjuster or public adjuster shall be:
- 1431 (i) made to the commissioner on forms and in a manner the commissioner [~~prescribes~~] requires; and
- 1433 (ii) except as provided in Subsection (4), accompanied by the applicable fee, which is not refunded if the application is denied.

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- 1435 (b) The application shall provide:
- 1436 (i) information about the applicant's identity, including:
- 1437 (A) the applicant's:
- 1438 (I) Social Security number; or
- 1439 (II) federal employer identification number;
- 1440 (B) the applicant's personal history, experience, education, and business record;
- 1441 (C) if the applicant is a natural person, whether the applicant is 18 years [~~of age~~] old or older; and
- 1443 (D) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section [~~31A-25-208~~] 31A-26-213; and
- 1445 (ii) any other information as the commissioner reasonably requires.
- 1446 (2) The commissioner may require documents reasonably necessary to verify the information contained in the application.
- 1448 (3) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.
- 1450 (4) The following individuals are exempt from paying a license fee:
- 1451 (a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:
- 1453 (i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
- 1456 (ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and
- 1458 (b) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:
- 1460 (i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
- 1462 (ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.
- 1428 Section 22. Section **31A-37-102** is amended to read:
- 1429 **31A-37-102. Definitions.**
- As used in this chapter:
- 1467 (1)
- .



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- (a) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:
- 1470 (i) a parent;
- 1471 (ii) an industrial insured; or
- 1472 (iii) a member organization.
- 1473 (b) "Affiliated company" does not include a business entity for which the commissioner 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 producers or managing general agents; and
- 1442 (b) only insures risks on policies placed through the captive insurer's owners.
- 1475 ~~(2)~~ (3) "Alien captive insurance company" means an insurer:
- 1476 (a) formed to write insurance business for a parent or affiliate of the insurer; and
- 1477 (b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory or regulatory standards:
- 1479 (i) on a business entity transacting the business of insurance in the alien or foreign jurisdiction; and
- 1481 (ii) in a form acceptable to the commissioner.
- 1482 ~~(3)~~ (4) "Applicant captive insurance company" means an entity that has submitted an application for a certificate of authority for a captive insurance company, unless the application has been denied or withdrawn.
- 1485 ~~(4)~~ (5) "Association" means a legal association of two or more persons that meets the following requirements:
- 1487 (a) the persons are exposed to similar or related liability because of related, similar, or common business trade, products, services, premises, or operations; and
- 1489 (b)
- . (i) the association or the association's member organizations:
- 1490 (A) own, control, or hold [with] power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer;
- 1493 (B) have complete voting control over an association captive insurance company incorporated as a mutual insurer; or
- 1495

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- (C) have complete voting control over an association captive insurance company formed as a limited liability company; or
- 1497 (ii) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.
- 1500 ~~[(5)]~~ (6) "Association captive insurance company" means a business entity that insures risks of:
- 1501 (a) a member organization of the association;
- 1502 (b) an affiliate of a member organization of the association; and
- 1503 (c) the association.
- 1504 ~~[(6)]~~ (7) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.
- 1506 ~~[(7)]~~ (8) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a captive insurance company that is domiciled outside of this state.
- 1509 ~~[(8)]~~ (9) "Branch operation" means a business operation of a branch captive insurance company in this state.
- 1511 ~~[(9)]~~ (10)
- . (a) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.
- 1513 (b) "Captive insurance company" includes any of the following formed or holding a certificate of authority under this chapter:
- 1485 (i) an agency captive insurance company;
- 1515 ~~[(i)]~~ (ii) a branch captive insurance company;
- 1487 (iii) a pooling captive insurance company;
- 1516 ~~[(ii)]~~ (iv) a pure captive insurance company;
- 1517 ~~[(iii)]~~ (v) an association captive insurance company;
- 1518 ~~[(iv)]~~ (vi) a sponsored captive insurance company;
- 1519 ~~[(v)]~~ (vii) an industrial insured captive insurance company, including an industrial insured captive insurance company formed as a risk retention group captive in this state pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;
- 1522 ~~[(vi)]~~ (viii) a special purpose captive insurance company; or
- 1523 ~~[(vii)]~~ (ix) a special purpose financial captive insurance company.
- 1524 ~~{(10)}~~ (11)

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- (a) "Cell" means a separate account for one or more participants formed and operating under the authority of a sponsored captive insurance company to write insurance coverage as described in this title.
- 1527 (b) "Cell" includes an account formed as either:
- 1528 (i) an incorporated cell; or
- 1529 (ii) a protected cell.
- 1530 [(10)] ~~{(11)}~~ (12) "Commissioner" means Utah's Insurance Commissioner or the commissioner's designee.
- 1532 [(11)] ~~{(12)}~~ (13) "Common ownership and control" means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:
- 1534 (a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;
- 1537 (b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;
- 1540 (c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or
- 1543 (d) in the case of a sponsored captive insurance company, a ~~protected~~ cell is a separate captive insurance company owned and controlled by the ~~protected~~ cell's participant, only if:
- 1546 (i) the participant is the only participant with respect to the ~~protected~~ cell; and
- 1547 (ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.
- 1549 [(12)] ~~{(13)}~~ (14) "Consolidated debt to total capital ratio" means the ratio of Subsection [(12)(a)] ~~{(13)}~~ (a) (14)(a) to (b).
- 1551 (a) This Subsection [(12)(a)] ~~{(13)(a)}~~ (14)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:
- 1553 (i) all borrowings from depository institutions;
- 1554 (ii) all senior debt;
- 1555 (iii) all subordinated debts;
- 1556 (iv) all trust preferred shares; and
- 1557

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- (v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.
- 1559 (b) This Subsection [~~(12)~~(b)] ~~{(13)(b)}~~ (14)(b) is an amount equal to the sum of:
- 1560 (i) total capital consisting of all debts and hybrid capital instruments as described in Subsection [~~(12)~~  
(a)] ~~{(13)(a)}~~ (14)(a); and
- 1562 (ii) shareholders' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.
- 1564 [~~(13)~~] ~~{(14)}~~ (15) "Consolidated GAAP net worth" means the consolidated shareholders' or members' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.
- 1567 [~~(14)~~] ~~{(15)}~~ (16) "Controlled unaffiliated business" means a business entity:
- 1568 (a)
- . (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent's affiliate; or
- 1570 (ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial insured or an affiliated company of the industrial insured;
- 1573 (b)
- . (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or
- 1575 (ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and
- 1578 (c) whose risks that are or will be insured by a pure captive insurance company, an industrial insured captive insurance company, or both, are managed in accordance with Subsection 31A-37-106(1)(j) by:
- 1581 (i)
- . (A) a pure captive insurance company; or
- 1582 (B) an industrial insured captive insurance company; or
- 1583 (ii) a parent or affiliate of:
- 1584 (A) a pure captive insurance company; or
- 1585 (B) an industrial insured captive insurance company.
- 1586

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- [(15)] ~~{(16)}~~ (17) "Criminal act" means an act for which a person receives a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
- 1588 [(16)] ~~{(17)}~~ (18) "Establisher" means a person who establishes a business entity or a trust.
- 1589 [(17)] ~~{(18)}~~ (19) "Governing body" means the persons who hold the ultimate authority to direct and manage the affairs of an entity.
- 1591 ~~{(19)}~~ (20) "Incorporated cell" means a separate account:
- 1592 (a) established and maintained by a sponsored captive insurance company for a participant; and
- 1594 (b) that has been organized as a corporation, a limited liability company, or a not-for-profit organization.
- 1596 [(18)] ~~{(20)}~~ (21) "Industrial insured" means an insured:
- 1597 (a) that produces insurance:
- 1598 (i) by the services of a full-time employee acting as a risk manager or insurance manager; or
- 1600 (ii) using the services of a regularly and continuously qualified insurance consultant;
- 1601 (b) whose aggregate annual premiums for insurance on all risks total at least \$25,000; and
- 1603 (c) that has at least 25 full-time employees.
- 1604 [(19)] ~~{(21)}~~ (22) "Industrial insured captive insurance company" means a business entity that:
- 1605 (a) insures risks of the industrial insureds that comprise the industrial insured group; and
- 1606 (b) may insure the risks of:
- 1607 (i) an affiliated company of an industrial insured; or
- 1608 (ii) a controlled unaffiliated business of:
- 1609 (A) an industrial insured; or
- 1610 (B) an affiliated company of an industrial insured.
- 1611 [(20)] ~~{(22)}~~ (23) "Industrial insured group" means:
- 1612 (a) a group of industrial insureds that collectively:
- 1613 (i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or
- 1616 (ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;
- 1619 (b) a group that is:
- 1620

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- (i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec. 3901 et seq., as amended, as a corporation or other limited liability association; and
- 1623 (ii) taxable under this title as a:
- 1624 (A) stock corporation; or
- 1625 (B) mutual insurer; or
- 1626 (c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.
- 1628 [(21)] ~~{(23)}~~ (24) "Member organization" means a person that belongs to an association.
- 1629 [(22)] ~~{(24)}~~ (25) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding securities of an organization.
- 1631 [(23)] ~~{(25)}~~ (26) "Participant" means an entity that is insured by a sponsored captive insurance company:
- 1633 (a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and
- 1635 (b)
- . (i) the entity is permitted to be a participant under Section 31A-37-403; or
- 1636 (ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.
- 1638 [(24)] ~~{(26)}~~ (27) "Participant contract" means a contract by which a sponsored captive insurance company:
- 1640 (a) insures the risks of a participant; and
- 1641 (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 risk-sharing arrangement between other captive insurers.
- 1642 [(25)] ~~{(27)}~~ (29) "Protected cell" means a separate account:
- 1643 (a) established and maintained by a sponsored captive insurance company for ~~[one]~~ a participant~~[-]~~ ; and
- 1645 (b) that has not been organized as an entity {other than} including a corporation, a limited liability company, or a not-for-profit organization.
- 1647 [(26)] ~~{(28)}~~ (30)
- . ~~{(a)}~~ "Pure captive insurance company" means a business entity that insures risks of a parent ~~[or affiliate]~~ , affiliate, or controlled unaffiliated business of the business entity.
- 1650 ~~{(b)}~~ "Pure captive insurance company" includes an agency captive or a pooling captive.

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- 1651 [(27)] {(29)} (31) "Special purpose financial captive insurance company" means the same as that term  
is defined in Section 31A-37a-102.
- 1653 [(28)] {(30)} (32) "Sponsor" means an entity that:
- 1654 (a) meets the requirements of Section 31A-37-402; and
- 1655 (b) is approved by the commissioner to:
- 1656 (i) provide all or part of the capital and surplus in an amount:
- 1657 (A) required by [~~applicable law in an amount of not less than \$350,000, which amount the  
commissioner may increase by order if the commissioner considers it necessary]~~ Section  
31A-37-204; or
- 1660 (B) greater than the amount required by Section 31A-37-204, if, by order, the commissioner deems the  
increase necessary; and
- 1662 (ii) organize and operate a sponsored captive insurance company.
- 1663 [(29)] {(31)} (33) "Sponsored captive insurance company" means a captive insurance company:
- 1664 (a) in which the minimum capital and surplus required by applicable law is provided by one or more  
sponsors or participants;
- 1666 (b) that is formed or holding a certificate of authority under this chapter;
- 1667 (c) that insures the risks of a separate participant through the contract; and
- 1668 (d) that segregates each participant's liability through one or more [~~protected~~] cells.
- 1669 [(30)] {(32)} (34) "Treasury rates" means the United States Treasury strip asked yield as published 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 authority.**
- 1674 (1) Except as provided in Chapter 37a, Special Purpose Financial Captive Insurance Company Act,  
and Subsection (2), Chapter 27a, Insurer Receivership Act, applies to a captive insurance company  
formed or holding a certificate of authority under this chapter.
- 1678 (2) In the case of a sponsored captive insurance company:
- 1679 (a) the assets of a [~~protected~~] cell may not be used to pay an expense or claim other than one  
attributable to the [~~protected~~] cell; and
- 1681 (b) the capital and surplus of the sponsored captive insurance company:
- 1682 (i) shall at all times be available to pay:
- 1683 (A) an expense of the sponsored captive insurance company; or

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- 1684 (B) a claim against the sponsored captive insurance company; and  
1685 (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.**
- 1688 (1) The commissioner may issue a certificate of authority to act as an insurer in this state to a captive insurance company that meets the requirements of this chapter.
- 1690 (2) To conduct insurance business in this state, a captive insurance company shall:
- 1691 (a) obtain from the commissioner a certificate of authority authorizing [~~it~~] the captive insurance company to conduct insurance business in this state;
- 1693 (b) [~~hold at least once each year in the state a meeting of the governing body;~~]
- 1694 (i) hold a meeting of the governing body:
- 1695 (A) at least once each year;
- 1696 (B) at which a quorum is present;
- 1697 (C) in the state; and
- 1698 (D) at which at least one out-of-state individual is physically present; or
- 1699 (ii) become a member of the Utah Captive Insurance Association at the highest level of membership;
- 1701 (c) maintain in this state:
- 1702 (i) the principal place of business of the captive insurance company; or
- 1703 (ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and
- 1705 (d) except as provided in Subsection (3), appoint a resident registered agent to accept service of process and to otherwise act on behalf of the captive insurance company in the state.
- 1708 (3) In the case of a captive insurance company formed as a corporation, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served.
- 1712 (4)
- . (a) Before receiving a certificate of authority, an applicant captive insurance company shall file with the commissioner:
- 1714 (i) a certified copy of the captive insurance company's organizational charter;
- 1715



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- (ii) a statement under oath of the captive insurance company's president and secretary or their equivalents showing the captive insurance company's financial condition; and
- 1718 (iii) any other statement or document required by the commissioner under Section 31A-37-106.
- 1720 (b) In addition to the information required under Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:
- 1722 (i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;
- 1724 (ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;
- 1726 (iii) the overall soundness of the plan of operation of the applicant captive insurance company;
- 1728 (iv) the adequacy of the loss prevention programs for the prospective insureds of the applicant captive insurance company as the commissioner deems necessary; and
- 1730 (v) any other factor the commissioner:
- 1731 (A) adopts by rule under Section 31A-37-106; and
- 1732 (B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.
- 1735 (c) In addition to the information required by Subsections (4)(a) and (b), an applicant sponsored captive insurance company shall file with the commissioner:
- 1737 (i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:
- 1739 (A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each [~~protected~~]cell; and
- 1741 (B) the manner in which the applicant sponsored captive insurance company will report to the commissioner the financial history, including losses and expenses, of each [~~protected~~]cell;
- 1744 (ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a [~~protected~~]cell, available for inspection or examination by the commissioner;
- 1748 (iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and
- 1750 (iv) evidence that expenses will be allocated to each [~~protected~~]cell in an equitable manner.
- 1752 (5)

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- . (a) Information submitted [~~pursuant to~~] in accordance with this section is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
- 1755 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted [~~pursuant to~~] in accordance with this section to a public official having jurisdiction over the regulation of insurance in another state if:
- 1759 (i) the public official receiving the information agrees in writing to maintain the confidentiality of the information; and
- 1761 (ii) the laws of the state in which the public official serves require the information to be confidential.
- 1763 (c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.
- 1765 (6)
- . (a) A captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:
- 1768 (i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by an applicant captive insurance company;
- 1771 (ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department; and
- 1773 (iii) a certificate of authority renewal fee, assessed annually.
- 1774 (b) The commissioner may:
- 1775 (i) assign a department employee or retain legal, financial, or examination services from outside the department to perform the services described in:
- 1777 (A) Subsection (6)(a); and
- 1778 (B) Section 31A-37-502; and
- 1779 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company.
- 1781 (7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in this state.
- 1784 (8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.
- 1759 Section 25. Section **31A-37-202** is amended to read:

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1760           **31A-37-202. Permissive areas of insurance.**

- 1788       (1) Except as provided in Subsections (2) and (3), a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.
- 1791       (2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:
- 1793       (a) a member organization of the association captive insurance company's association; or
- 1794       (b) an affiliate of a member organization of the association captive insurance company's association.
- 1796       (3) The following may insure a risk of a controlled unaffiliated business:
- 1797       (a) an industrial insured captive insurance company;
- 1798       (b) ~~[a-protected-cell]~~ an association captive insurance company;
- 1799       (c) a pure captive insurance company; or
- 1800       (d) a sponsored captive insurance company and the sponsored captive insurance company's cells.
- 1802       (4) To the extent allowed by a captive insurance company's organizational charter, a captive insurance company may provide any type of insurance described in this title, except:
- 1804       (a) workers' compensation insurance;
- 1805       (b) personal motor vehicle insurance;
- 1806       (c) homeowners' insurance; and
- 1807       (d) any component of the types of insurance described in Subsections (4)(a) through (c).
- 1808       (5) A captive insurance company may not provide coverage for:
- 1809       (a) a wager or gaming risk;
- 1810       (b) loss of an election; or
- 1811       (c) the ~~[penal]~~ punitive consequences of a crime.
- 1812       (6) Unless the punitive damages award arises out of a criminal act of an insured, a captive insurance company may provide coverage for punitive damages awarded, including through adjudication or compromise, against the captive insurance company's:
- 1815       (a) parent; or
- 1816       (b) affiliated company.
- 1817       (7) Notwithstanding Subsection (4), if approved by the commissioner:
- 1818       (a) a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage; and

1820

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(b) an association captive insurance company that satisfies the requirements of this 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.**

1824 (1) For purposes of this section, "marketable securities" means:

1825 (a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or

1827 (b) securities:

1828 (i) traded on one or more of the following exchanges in the United States:

1829 (A) New York;

1830 (B) American; or

1831 (C) NASDAQ;

1832 (ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (2) represents more than 50% of the minimum capital and surplus requirement; and

1835 (iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (2) represents more than 90% of the minimum capital and surplus requirement.

1839 [(+) (2)

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

1842 (i) in the case of a pure captive insurance company:

1843 (A) except as provided in Subsection [(+) (a)(i)(B)] (2)(a)(i)(B), not less than \$250,000; or

1845 (B) if the pure captive insurance company is not acting as a pool that facilitates risk distribution for other captive insurers, an amount that is the greater of:

1847 (I) not less than 20% of the company's total aggregate risk; or

1848 (II) \$50,000;

1849 (ii) in the case of an association captive insurance company, not less than [~~\$750,000~~] \$500,000;

1851 (iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than \$700,000;

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- 1853 (iv) in the case of a sponsored captive insurance company, not less than \$250,000 of which a  
minimum of \$50,000 is provided by the sponsor; or
- 1855 (v) in the case of a special purpose captive insurance company, an amount determined by the  
commissioner after giving due consideration to the company's business plan, feasibility study,  
and pro-formas, including the nature of the risks to be insured.
- 1859 (b) The paid-in capital and surplus required under this Subsection [~~(1)~~] (2) may be in the form of:
- 1861 (i)
- . (A) cash; or
- 1862 (B) cash equivalent;
- 1863 (ii) an irrevocable letter of credit:
- 1864 (A) issued by:
- 1865 (I) a bank chartered by this state;
- 1866 (II) a member bank of the Federal Reserve System; or
- 1867 (III) a member bank of the Federal Deposit Insurance Corporation;
- 1868 (B) approved by the commissioner;
- 1869 (iii) marketable securities as determined by Subsection [~~(5)~~] (1); or
- 1870 (iv) some other thing of value approved by the commissioner, for a period not to exceed 45 days, to  
facilitate the formation of a captive insurance company in this state pursuant to an approved plan  
of liquidation and reorganization of another captive insurance company or alien captive insurance  
company in another jurisdiction.
- 1875 (c) This Subsection [~~(1)~~] (2) applies to:
- 1876 (i) a pure captive insurance company;
- 1877 (ii) a sponsored captive insurance company;
- 1878 (iii) a special purpose captive insurance company;
- 1879 (iv) an association captive insurance company; or
- 1880 (v) an industrial insured captive insurance company.
- 1881 [~~(2)~~] (3)
- . (a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type,  
volume, and nature of insurance business transacted.
- 1883 (b) The capital prescribed by the commissioner under this Subsection [~~(2)~~] (3) may be in the form of:
- 1885 (i) cash;

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- 1886 (ii) an irrevocable letter of credit issued by:
- 1887 (A) a bank chartered by this state; or
- 1888 (B) a member bank of the Federal Reserve System; or
- 1889 (iii) marketable securities as determined by Subsection [~~(5)~~] (1).
- 1890 [~~(3)~~] (4)
- . (a) Except as provided in Subsection [~~(3)~~](e) (4)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through [its] the branch captive insurance company's branch operations, establish and maintain a trust fund:
- 1894 (i) funded by an irrevocable letter of credit or other acceptable asset; and
- 1895 (ii) in the United States for the benefit of:
- 1896 (A) United States policyholders; and
- 1897 (B) United States ceding insurers under:
- 1898 (I) insurance policies issued; or
- 1899 (II) reinsurance contracts issued or assumed.
- 1900 (b) The amount of the security required under this Subsection [~~(3)~~] (4) shall be no less than:
- 1902 (i) the capital and surplus required by this chapter; and
- 1903 (ii) the reserves on the insurance policies or reinsurance contracts, including:
- 1904 (A) reserves for losses;
- 1905 (B) allocated loss adjustment expenses;
- 1906 (C) incurred but not reported losses; and
- 1907 (D) unearned premiums with regard to business written through branch operations.
- 1908 (c) Notwithstanding the other provisions of this Subsection [~~(3)~~] (4):
- 1909 (i) the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by [its] the branch captive insurance company's reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer; and
- 1914 (ii) a branch captive insurance company that is the result of the licensure of an alien captive insurance company that is not formed in an alien jurisdiction is not subject to the requirements of this Subsection [~~(3)~~] (4).
- 1917 [~~(4)~~] (5)
- .

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- (a) A captive insurance company may not pay the following without the prior approval of the commissioner:
- 1919 (i) a dividend out of capital or surplus~~[in excess of the limits under Section 16-10a-640]~~; or
- 1921 (ii) a distribution with respect to capital or surplus~~[in excess of the limits under Section 16-10a-640]~~.
- 1923 (b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus~~[in excess of:]~~ .
- 1926 ~~[(i) amounts specified by the commissioner under Section 31A-37-106; or]~~
- 1927 ~~[(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.]~~
- 1929 ~~[(5) For purposes of this section, marketable securities means:]~~
- 1930 ~~[(a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or]~~
- 1932 ~~[(b) securities:]~~
- 1933 ~~[(i) traded on one or more of the following exchanges in the United States:]~~
- 1934 ~~[(A) New York;]~~
- 1935 ~~[(B) American; or]~~
- 1936 ~~[(C) NASDAQ;]~~
- 1937 ~~[(ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 50% of the minimum capital and surplus requirement; and]~~
- 1940 ~~[(iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 90% of the minimum capital and surplus requirement.]~~
- 1943 (6) Notwithstanding Subsection ~~[(5)]~~ (1), to protect the solvency and liquidity of a captive insurance company, the commissioner may reject the application of specific assets or 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.**
- 1948 (1) A captive insurance company, other than a branch captive insurance company, may ~~[be formed]~~ form as a corporation~~[or]~~ , a limited liability company~~[-]~~ , or a not-for-profit organization.

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- 1951 (2) The capital of a captive insurance company shall be held by:
- 1952 (a) the interest holders of the captive insurance company; or
- 1953 (b) a governing body elected by:
- 1954 (i) the insureds;
- 1955 (ii) one or more affiliates; or
- 1956 (iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).
- 1957 (3) A captive insurance company formed in this state shall have at least one establisher who is an individual and a resident of the state.
- 1959 (4)
- . (a) An applicant captive insurance company's establishers shall obtain a certificate of public good from the commissioner before filing [~~its~~] the applicant captive insurance company's governing documents with the Division of Corporations and Commercial Code.
- 1963 (b) In considering a request for a certificate under Subsection (4)(a), the commissioner shall consider:
- 1965 (i) the character, reputation, financial standing, and purposes of the establishers;
- 1966 (ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the principal officers or members of the governing body;
- 1968 (iii) any information in:
- 1969 (A) the application for a certificate of authority; or
- 1970 (B) the department's files; and
- 1971 (iv) other aspects that the commissioner considers advisable.
- 1972 (5)
- . (a) Except as otherwise provided in this title, the governing body of a captive insurance company shall consist of at least three individuals as members, at least one of whom is a resident of the state.
- 1975 (b) One-third of the members of the governing body of a captive insurance company constitutes a quorum of the governing body.
- 1977 (6) A captive insurance company shall have at least three separate individuals as principal officers with duties comparable to those of president, treasurer, and secretary.
- 1979 (7)
- . (a)
- . (i) A captive insurance company formed as a corporation is subject to the provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and this chapter.



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- 1982 (ii) If a conflict exists between a provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and a provision of this chapter, this chapter controls.
- 1984 (b) A captive insurance company formed as a limited liability company is subject to the provisions of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and this chapter. If a conflict exists between a provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and a provision of this chapter, this chapter controls.
- 1989 (c) Except as provided in Subsection (7)(d), the provisions of this title that govern a merger, consolidation, conversion, mutualization, and redomestication apply to a captive insurance company in carrying out any of the transactions described in those provisions.
- 1993 (d) Notwithstanding Subsection (7)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.
- 1996 (e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.
- 1972 Section 28. Section **31A-37-302** is amended to read:
- 1973 **31A-37-302. Investment requirements.**
- 2000 (1)
- . (a) Except as provided in Subsection (1)(b), [~~an association~~] a captive insurance company[~~, a sponsored captive insurance company,~~] and an industrial insured [~~group~~] captive insurance company shall comply with the investment requirements contained in this title.
- 2004 (b) Notwithstanding Subsection (1)(a) and any other provision of this title, the commissioner may approve the use of alternative reliable methods of valuation and rating under Section 31A-37-106 for[~~:~~]
- 2007 [(i) ~~an association captive insurance company;~~]
- 2008 [(ii) ~~a sponsored captive insurance company; or~~]
- 2009 [(iii) ~~an industrial insured group~~] a captive insurance company or an industrial insured captive insurance company.
- 2011 (2)
- . (a) Except as provided in Subsection (2)(b), a pure captive insurance company or industrial insured captive insurance company is not subject to any restrictions on allowable investments [~~contained in this title~~] described in Section 31A-18-108.
- 2014

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- (b) ~~[Notwithstanding Subsection (2)(a), the commissioner may, under Section 31A-37-106,]~~ Under Section 31A-37-106, the commissioner may prohibit or limit an investment that threatens the solvency or liquidity of[:]
- 2017 [(i) ~~a pure captive insurance company; or]~~
- 2018 [(ii) ~~an industrial insured captive insurance company]~~ a captive insurance company or industrial insured captive insurance company.
- 2020 (3)
- . (a)
- . (i) Except as provided in Subsection (3)(a)(ii), a captive insurance company may not make loans to:
- 2022 (A) the parent company of the captive insurance company; or
- 2023 (B) an affiliate of the captive insurance company.
- 2024 (ii) ~~[Notwithstanding Subsection (3)(a)(i), a]~~ A pure captive insurance company and an incorporated cell of a sponsored captive insurance company may make loans to:
- 2026 (A) the parent company of the pure captive insurance company or incorporated cell of a sponsored captive insurance company; or
- 2028 (B) an affiliate of the pure captive insurance company or incorporated cell of a sponsored captive insurance company.
- 2030 (b) A loan under Subsection (3)(a):
- 2031 (i) may be made only on the prior written approval of the commissioner and, when applicable, the sponsor for an incorporated cell; and
- 2033 (ii) shall be evidenced by a note in a form approved by the commissioner and, when applicable, the sponsor for an incorporated cell.
- 2035 (c) A pure captive insurance company may not make a loan from the paid-in capital required under Subsection ~~[31A-37-204(1)]~~ 31A-37-204(2).
- 2037 (4) If a captive insurer has excess surplus above the minimum capital required by Section 31A-37-204, the captive insurer may invest the captive insurer's excess surplus in a manner inconsistent with the authorized classes of investments described in Section 31A-18-110.
- 2041 (5) Nothing in this section empowers a captive insurer to make an investment that is illegal or otherwise prohibited by this title.
- 2017 Section 29. Section **31A-37-303** is amended to read:
- 2018 **31A-37-303. Reinsurance.**

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- 2045 (1)
- . (a) A captive insurance company may cede risks to any insurance company approved by the commissioner.
- 2047 (b) Except as provided in Subsection (1)(c), a captive insurance company may provide reinsurance on risks ceded by any other insurer with prior approval of the commissioner.
- 2050 (c) A captive insurance company may not provide reinsurance on a punitive damages risk ceded by an insurer, unless the punitive damages risk is the risk of the captive insurance company's:
- 2053 (i) parent;
- 2054 (ii) affiliated company; or
- 2055 (iii) controlled unaffiliated business.
- 2056 (2) To facilitate the risk distribution of captive insurance companies participating in a pooling arrangement, a captive insurance company licensed to operate as a pooling captive insurance company may directly insure a risk that any pooling participant's captive insurance company could otherwise directly insure in accordance with Section 31A-37-202.
- 2061 [~~(2)~~] (3)
- . (a) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers if the captive insurance company complies with:
- 2063 (i) Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4; or
- 2064 (ii) other requirements as the commissioner may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2066 (b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection [~~(2)(a)(ii)~~] (3)(a)(ii), a captive insurance company may not take credit for:
- 2069 (i) reserves on risks ceded to a reinsurer; or
- 2070 (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.**
- 2073 (1) One or more sponsors may form a sponsored captive insurance company under this chapter.
- 2075 (2) A sponsored captive insurance company formed under this chapter may establish and maintain, ~~[a protected cell]~~ with prior approval of the commissioner, a combination of incorporated cells and protected cells to insure risks of a participant if:

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- 2078 (a) the interest holders of a sponsored captive insurance company are limited to:
- 2079 (i) the participants of the sponsored captive insurance company; and
- 2080 (ii) the sponsors of the sponsored captive insurance company;
- 2081 (b) each [~~protected~~]cell is accounted for separately on the books and records of the sponsored cell captive insurance company to reflect:
- 2083 (i) the financial condition of each [~~individual protected~~]cell;
- 2084 (ii) the results of operations of each [~~individual protected~~]cell;
- 2085 (iii) the net income or loss of each [~~individual protected~~]cell;
- 2086 (iv) the dividends or other distributions to participants of each [~~individual protected~~]cell; and
- 2088 (v) other factors that may be:
- 2089 (A) provided in the participant contract; or
- 2090 (B) required by the commissioner;
- 2091 (c) the assets of a [~~protected~~]cell are not chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;
- 2093 (d) a sale, exchange, or other transfer of assets is not made by the sponsored captive insurance company between or among any of the [~~protected~~]cells of the sponsored captive insurance company without the consent of the [~~protected~~]cells;
- 2096 (e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a [~~protected~~]cell to a sponsor or participant without the commissioner's approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a [~~protected~~]cell;
- 2100 (f) a sponsored captive insurance company annually files with the commissioner financial reports the commissioner requires under Section 31A-37-106, including accounting statements detailing the financial experience of each [~~protected~~]cell;
- 2103 (g) a sponsored captive insurance company notifies the commissioner in writing within 10 business days of a [~~protected~~]cell that is insolvent or otherwise unable to meet the claim or expense obligations of the [~~protected~~]cell;
- 2106 (h) a participant contract does not take effect without the commissioner's prior written approval; and
- 2108 (i) the addition of each new [~~protected~~]cell and withdrawal of a participant of any existing [~~protected~~]cell does not take effect without the commissioner's prior written approval[;and] .
- 2111 [~~(j)~~] (3)

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- . [(i) ~~a protected~~] A cell of a sponsored captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:
- 2114 [(A)] (a) a fee for examining, investigating, and processing [by a department employee of] an application [for a certificate of authority] made by a [protected] cell to insure risks under the certificate of authority of a sponsored captive insurance company;
- 2117 [(B)] (b) a fee for obtaining a certificate to insure risks under the certificate of authority of a sponsored captive insurance company for the year the [protected] cell of the sponsored captive insurance company is issued a certificate[~~of authority~~] by the department; and
- 2121 [(C)] (c) a certificate of authority renewal fee[~~; and~~] .
- 2122 [(ii)] (4) [a protected] A sponsor may create a cell [may be created by the sponsor] or [the sponsor may create] a pooling insurance arrangement for the sponsor's cell participants to provide for pooling of risks to allow for risk distribution upon written approval from 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 mandatory.**
- 2129 (1) A sponsor of a sponsored captive insurance company shall be:
- 2130 (a) an insurer authorized or approved under the laws of a state;
- 2131 (b) a reinsurer authorized or approved under the laws of a state;
- 2132 (c) a captive insurance company holding a certificate of authority under this chapter;
- 2133 (d) an insurance holding company that:
- 2134 (i) controls an insurer licensed pursuant to the laws of a state; and
- 2135 (ii) is subject to registration pursuant to the holding company system of laws of the state of domicile of the insurer described in Subsection (1)(d)(i);
- 2137 (e) an approved captive management firm in Utah or its affiliates; or
- 2138 (f) another person approved by the commissioner after finding that the approval of the person as a sponsor is not inconsistent with the purposes of this chapter.
- 2140 (2)
- . (a) The business written by a sponsored captive insurance company with respect to a protected cell shall be fronted by the [sponsor] sponsored captive insurance company through a controlled unaffiliated contract or an insurer that is:

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- 2143 (i) authorized or approved:
- 2144 (A) under the laws of a state; or
- 2145 (B) under any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance  
company licensed pursuant to the laws of a state;
- 2147 (ii) reinsured by a reinsurer authorized or approved by this state; or
- 2148 (iii) subject to Subsection (2)(b), secured by a trust fund:
- 2149 (A) in the United States;
- 2150 (B) for the benefit of policyholders and claimants;
- 2151 (C) funded by an irrevocable letter of credit or other asset acceptable to the commissioner; and
- 2153 (D) held by the sponsor as provided in Subsection 31A-17-404(1).
- 2154 (b)
- . (i) The amount of security provided by the trust fund described in Subsection (2)(a)(iii) may not be less  
than the reserves associated with the liabilities of the trust fund, including:
- 2157 (A) reserves for losses;
- 2158 (B) allocated loss adjustment expenses;
- 2159 (C) incurred but unreported losses; and
- 2160 (D) unearned premiums for business written through the participant's protected cell.
- 2162 (ii) The commissioner may require the sponsored captive insurance company to increase the funding of  
a trust established pursuant to this Subsection (2).
- 2164 (iii) If the form of security in the trust described in Subsection (2)(a)(iii) is a letter of credit, the letter of  
credit shall be established, issued, or confirmed by a bank that is:
- 2167 (A) chartered in this state;
- 2168 (B) a member of the federal reserve system; or
- 2169 (C) chartered by another state if that state-chartered bank is acceptable to the commissioner.
- 2171 (iv) A trust and trust instrument maintained pursuant to this Subsection (2) shall be in a form and upon  
terms approved by the commissioner.
- 2173 (3) The business written by a sponsored captive insurance company with respect to an incorporated cell  
may be:
- 2175 (a) fronted by the sponsored captive insurance company in accordance with Subsection (2)(a); or
- 2177 (b) with prior approval of the sponsored captive insurance company, written directly by the  
incorporated cell.

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2179 [(3)] (4) A risk retention group may not be either a sponsor or a participant of a sponsored captive  
2180 insurance company.

2155 Section 32. Section **31A-37-403** is amended to read:

2156 **31A-37-403. Participants in sponsored captive insurance companies.**

2183 (1) Any of the following may be a participant in a sponsored captive insurance company holding a  
2184 certificate of authority under this chapter:

2185 (a) an association;

2186 (b) a corporation that is for profit or nonprofit;

2187 (c) a limited liability company;

2188 (d) a partnership;

2189 (e) a trust; or

2190 (f) any other business entity.

2191 (2) A sponsor may be a participant in a sponsored captive insurance company.

2192 (3) A participant need not be:

2193 (a) a shareholder of the sponsored captive insurance company; or

2194 (b) an affiliate of the sponsored captive insurance company.

2195 [~~(4) A participant shall insure only the participant's own risks through a sponsored captive insurance  
2196 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 discounting.**

2200 (1) A sponsored captive insurance company may discount [~~its~~] the sponsored captive insurance  
2201 company's loss and loss adjustment expense reserves at treasury rates applied to the applicable  
2202 payments projected through the use of the expected payment pattern associated with the reserves.

2204 (2)

. (a) A sponsored captive insurance company shall annually file with the department an actuarial opinion  
2205 provided by an independent actuary on loss and loss adjustment expense reserves.

2207 (b) The independent actuary described in Subsection (2)(a) may not be an employee of:

2208 (i) the company filing the actuarial opinion; or

2209 (ii) an affiliate of the company filing the actuarial opinion.

2210 (3) The commissioner may disallow the discounting of reserves by a sponsored captive insurance  
2211 company if the sponsored captive insurance company violates this title.

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- 2186 Section 34. Section **31A-37-501** is amended to read:
- 2187 **31A-37-501. Reports to commissioner.**
- 2214 (1) A captive insurance company is not required to make a report except those provided in this chapter.
- 2216 (2)
- . (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of at least two individuals who are executive officers of the captive insurance company.
- 2220 (b) Except as provided in Section 31A-37-204, a captive insurance company shall report:
- 2221 (i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;
- 2224 (ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and
- 2227 (iii) supplemental or additional information required by the commissioner.
- 2228 (c) Except as otherwise provided:
- 2229 (i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and
- 2231 (ii) an industrial insured group shall comply with Section 31A-4-113.5.
- 2232 (3)
- . (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.
- 2235 (b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.
- 2238 (4)
- . (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.
- 2242 (b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the



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commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien or foreign jurisdiction.

- 2248 (c) A waiver by the commissioner under Subsection (4)(b):
- 2249 (i) shall be in writing; and
- 2250 (ii) is subject to public inspection.
- 2251 (5) Before March 1 of each year, a sponsored [~~cell~~]captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each [~~individual protected~~]cell, including a financial statement for each[~~protected~~] cell.
- 2254 (6)
- . (a) A captive insurance company shall notify the commissioner in writing if there is:
- 2255 (i) a material change to the captive insurance company's most recently filed report of financial condition; or
- 2257 (ii) an adverse material change in the financial condition of a captive insurance company since the captive insurance company's most recently filed report of financial condition.
- 2260 (b) A captive insurance company shall submit a notification described in this subsection within 20 days after the day on which the captive insurance company learns of the material change.
- 2237 Section 35. Section **31A-37-505** is amended to read:
- 2238 **31A-37-505. Suspension or revocation -- Grounds.**
- 2265 (1) The commissioner may suspend or revoke the certificate of authority of a captive insurance company to conduct an insurance business in this state for:
- 2267 (a) insolvency or impairment of capital or surplus;
- 2268 (b) failure to meet the requirements of Section 31A-37-204;
- 2269 (c) refusal or failure to submit:
- 2270 (i) an annual report required by Section 31A-37-501; or
- 2271 (ii) any other report or statement required by law or by lawful order of the commissioner;
- 2273 (d) failure to comply with the charter, bylaws, or other organizational document of the captive insurance company;
- 2275 (e) failure to submit to:
- 2276 (i) an examination under Section 31A-37-502; or
- 2277 (ii) any legal obligation relative to an examination under Section 31A-37-502;

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- 2278 (f) refusal or failure to pay ~~[the cost of examination under Section 31A-37-502;]~~ ;
- 2279 (i) an annual fee described in Section 31A-3-304;
- 2280 (ii) the cost of examination described in Section 31A-37-502; or
- 2281 (iii) any other fee prescribed by this title;
- 2282 (g) use of methods that, although not otherwise specifically prohibited by law, render:
- 2283 (i) the operation of the captive insurance company detrimental to the public or the policyholders of the captive insurance company; or
- 2285 (ii) the condition of the captive insurance company unsound with respect to the public or to the policyholders of the captive insurance company; or
- 2287 (h) failure otherwise to comply with laws of this state.
- 2288 (2) Notwithstanding any other provision of this title, if the commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed any of the acts specified in Subsection (1), the commissioner may suspend or revoke the certificate of authority of the captive insurance company if the commissioner considers it in the best interest of the public and the policyholders of the captive 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.**
- 2296 (1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group, may apply, without fee, to the commissioner for a certificate of dormancy.
- 2299 (2)
- . (a) A captive insurance company, other than ~~[a risk retention group]~~ an industrial insured captive insurance company or a cell of a sponsored captive insurance company, is eligible for a certificate of dormancy if the~~[-captive insurance]~~ company:
- 2302 (i) has ceased transacting the business of insurance, including the issuance of insurance policies;
- and
- 2304 (ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.
- 2306 (b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.
- 2309

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- (3) Except as provided in Subsection (4), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.
- 2311 (4) A captive insurance company that holds a certificate of dormancy:
- 2312 (a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:
- 2314 (i) in the case of a pure captive insurance company or a special purpose captive insurance company, not less than \$25,000;
- 2316 (ii) in the case of an association captive insurance company, not less than \$75,000; or
- 2317 (iii) in the case of a sponsored captive insurance company, not less than \$50,000, of which the sponsor provides at least \$20,000; and
- 2319 (b) is not required to:
- 2320 (i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;
- 2321 (ii) maintain an active agreement with an independent auditor or actuary; or
- 2322 (iii) hold an annual meeting of the captive insurance company in the state.
- 2323 (5) The commissioner may require a captive insurance company that holds a certificate of dormancy to submit an annual audit if the commissioner determines that there are concerns regarding the captive insurance company's solvency or liquidity.
- 2326 (6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal fee, no later than July 1 of each year, a captive insurance company shall pay an annual dormancy renewal fee that is equal to 50% of the captive insurance's company's certificate of authority renewal fee.
- 2330 [~~(7) A captive insurance company may consecutively renew a certificate of dormancy no more than five times.~~]
- 2306 Section 37. Section **31A-37a-205** is amended to read:
- 2307 **31A-37a-205. Sponsored captives.**
- 2334 (1) In addition to the other provisions of this chapter, this section applies to a sponsored captive insurance company under Chapter 37, Captive Insurance Companies Act, that has a certificate of authority as a special purpose financial captive insurance company [~~pursuant to~~] in accordance with this chapter.
- 2338 [~~(1)~~] (2) A sponsored captive insurance company may have a certificate of authority as a special purpose financial captive insurance company under this chapter.
- 2340 [~~(2)~~] (3)

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- (a) For purposes of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company, "general account" means the assets and liabilities of the sponsored captive insurance company not attributable to a [~~protected~~]cell.
- 2344 (b) For purposes of applying Chapter 27a, Insurer Receivership Act, to a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company, the definition of "insolvency" and "insolvent" in Section 31A-37a-102 shall be applied separately to:
- 2348 (i) each [~~protected~~]cell; and
- 2349 (ii) the special purpose financial captive insurance company's general account.
- 2350 [~~(3)~~] (4)
- . (a) A participant in a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall be a ceding insurer, unless approved by the commissioner before a person becomes a participant.
- 2354 (b) A change in a participant in a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company is subject to prior approval by the commissioner.
- 2357 [~~(4)~~] (5) Notwithstanding Section 31A-37-401, a special purpose financial captive insurance company that is a sponsored captive insurance company may issue a security to a person not described in Section 31A-37-401 if the issuance to that person is approved by the commissioner before the issuance of the security.
- 2361 [~~(5)~~] (6) Notwithstanding Section 31A-37a-302, a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall:
- 2364 (a) at the time of initial application for a certificate of authority as a special purpose financial captive insurance company, possess unimpaired paid-in capital and surplus of not less than \$500,000; and
- 2367 (b) maintain at least \$500,000 of unimpaired paid-in capital and surplus of not less than \$500,000 during the time that it holds a certificate of authority under this chapter.
- 2369 [~~(6)~~] (7)
- . (a) For purposes of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company, this Subsection [~~(6)~~] (7) applies to:
- 2372 (i) a security issued by the special purpose financial captive insurance company with respect to a [~~protected~~]cell; or
- 2374

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- (ii) a contract or obligation of the special purpose financial captive insurance company with respect to a ~~[protected]~~ cell.
- 2376 (b) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall include with a security, contract, or obligation described in Subsection ~~[(6)(a)]~~ (7)(a):
- 2379 (i) the designation of the ~~[protected]~~ cell; and
- 2380 (ii) a disclosure in a form and content satisfactory to the commissioner to the effect that the holder of the security or a counterparty to the contract or obligation has no right or recourse against the special purpose financial captive insurance company and its assets other than against an asset properly attributable to the ~~[protected]~~ cell.
- 2385 (c) Notwithstanding the requirements of this Subsection ~~[(6)]~~ (7) and subject to other statutes or rules including this chapter and Chapter 37, Captive Insurance Companies Act, a creditor, ceding insurer, or another person may not use a failure to include a disclosure described in Subsection ~~[(6)(b)]~~ (7) (b), in whole or part, as the sole basis to have recourse against:
- 2390 (i) the general account of the special purpose financial captive insurance company; or
- 2391 (ii) the assets of another ~~[protected]~~ cell of the special financial captive insurance company.
- 2393 ~~[(7)]~~ (8) In addition to Section 31A-37-401, a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company is subject to the following with respect to a ~~[protected]~~ cell:
- 2396 (a)
- . (i) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall establish a ~~[protected]~~ cell only for the purpose of insuring or reinsuring risks of one or more reinsurance contracts with a ceding insurer with the intent of facilitating an insurance securitization.
- 2401 (ii) Subject to Subsection ~~[(7)(a)(iii)]~~ (8)(a)(iii), a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall establish a separate ~~[protected]~~ cell with respect to a ceding insurer described in Subsection ~~[(7)(a)(i)]~~ (8)(a).
- 2405 (iii) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall establish a separate ~~[protected]~~ cell with respect to each reinsurance contract that is funded in whole or in part by a separate insurance securitization transaction.

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- 2409 (b) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not sale, exchange, or transfer an asset by, between, or among any of [~~its protected~~] the sponsored captive insurance company's cells without the prior approval of the commissioner.
- 2413 [~~(8)~~] (9)
- (a) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall attribute an asset or liability to a [~~protected~~]cell and to the general account in accordance with the plan of operation approved by the commissioner.
- 2417 (b) Except as provided by Subsection [~~(8)(a)~~] (9)(a), a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not attribute an asset or liability between:
- 2420 (i) [~~its~~] the sponsored captive insurance company's general account and a [~~protected~~]cell; or
- 2422 (ii) [~~its protected~~] the sponsored captive insurance company's cells.
- 2423 (c) A sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company shall attribute:
- 2425 (i) an insurance obligation, asset, or liability relating to a reinsurance contract entered into with respect to a [~~protected~~]cell; and
- 2427 (ii) an insurance securitization transaction related to the obligation, asset, or liability described in Subsection [~~(8)(e)(i)~~] (9)(c)(i), including a security issued by the special purpose financial captive insurance company as part of the insurance securitization, to the [~~protected~~]cell.
- 2431 (d) The following shall reflect an insurance obligation, asset, or liability relating to a reinsurance contract and the insurance securitization transaction that are attributed to a [~~protected~~]cell:
- 2434 (i) a right, benefit, obligation, or a liability of a security attributable to a [~~protected~~]cell described in Subsection [~~(8)(e)~~] (9)(c);
- 2436 (ii) the performance under a reinsurance contract and the related insurance securitization transaction; and
- 2438 (iii) a tax benefit, loss, refund, or credit allocated pursuant to a tax allocation agreement to which the special purpose financial captive insurance company is a party, including a payment made by or due to be made to the special purpose financial captive insurance company pursuant to the terms of the tax allocation agreement.
- 2443 [~~(9)~~] (10) In addition to Section 31A-37a-502:

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- 2444 (a) Chapter 27a, Insurer Receivership Act, applies to each [~~protected~~]cell of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company.
- 2447 (b) A proceeding or action taken by the commissioner pursuant to Chapter 27a, Insurer Receivership Act, with respect to a [~~protected~~]cell of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not be the sole basis for a proceeding pursuant to Chapter 27a, Insurer Receivership Act, with respect to:
- 2452 (i) another [~~protected~~]cell of the special purpose financial captive insurance company; or
- 2454 (ii) the special purpose financial captive insurance company's general account.
- 2455 (c)
- . (i) Except as provided in Subsection [~~(9)(e)(ii)~~] (10)(c)(ii), the receiver of a special purpose financial captive insurance company shall ensure that the assets attributable to one [~~protected~~]cell are not applied to the liabilities attributable to:
- 2458 (A) another [~~protected~~]cell; or
- 2459 (B) the special purpose financial captive insurance company's general account.
- 2460 (ii) Notwithstanding Subsection [~~(9)(e)(i)~~] (10)(c)(i), if an asset or liability is attributable to more than one [~~protected~~]cell, the receiver shall deal with the asset or liability in accordance with the terms of a relevant governing instrument or contract.
- 2464 (d) The insolvency of a [~~protected~~]cell of a sponsored captive insurance company having a certificate of authority as a special purpose financial captive insurance company may not be the sole basis for the commissioner to prohibit:
- 2467 (i) a payment by the special purpose financial captive insurance company made pursuant to a special purpose financial captive insurance company security or reinsurance contract with respect to another [~~protected~~]cell; or
- 2470 (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, not the employees of the small employer;

2450

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- (b) have a contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the small employer's health plan during the contract period;
- 2453 (c) include both a specific attachment point and an aggregate attachment point in a contract;
- 2455 (d) align stop-loss plan benefit limitations and exclusions with a small employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the 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%~~] 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 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 with 15 or more enrolled employees; and
- 2473 (b) may not enter into a small employer stop-loss insurance contract with a small employer with less than 15 enrolled employees.
- 2475 (4) A small employer stop-loss insurance contract issued before July 1, 2025, that is renewed with the same stop-loss insurer or reinsurer that executed that small employer stop-loss insurance contract shall comply with Subsection (1)(e) by no later than July 1, 2027.
- 2479 Section 39. Section **61-2g-502** is amended to read:
- 2480 **61-2g-502. Disciplinary action -- Grounds.**
- 2473 (1)
- . (a) The board may order disciplinary action, with the concurrence of the division, against a person:
- 2475 (i) registered, licensed, or certified under this chapter; or
- 2476 (ii) required to be registered, licensed, or certified under this chapter.



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- 2477 (b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:
- 2479 (i) revoking, suspending, or placing a person's registration, license, or certification on probation;
- 2481 (ii) denying a person's original registration, license, or certification;
- 2482 (iii) denying a person's renewal license, certification, or registration;
- 2483 (iv) in the case of denial or revocation of a registration, license, or certification, setting a waiting period  
for an applicant to apply for a registration, license, or certification under this chapter;
- 2486 (v) ordering remedial education;
- 2487 (vi) imposing a civil penalty upon a person not to exceed the greater of:
- 2488 (A) \$5,000 for each violation; or
- 2489 (B) the amount of any gain or economic benefit from a violation;
- 2490 (vii) issuing a cease and desist order;
- 2491 (viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the  
concurrence of the division, finds that the person complies with court ordered restitution; or
- 2494 (ix) doing any combination of Subsections (1)(b)(i) through (viii).
- 2495 (c)
- . (i) If the board or division issues an order that orders a fine or educational requirements as part of  
the disciplinary action against a person, including a stipulation and order, the board or division  
shall state in the order the deadline by which the person shall comply with the fine or educational  
requirements.
- 2499 (ii) If a person fails to comply with a stated deadline:
- 2500 (A) the person's license, certificate, or registration is automatically suspended:
- 2501 (I) beginning on the day specified in the order as the deadline for compliance; and
- 2503 (II) ending the day on which the person complies in full with the order; and
- 2504 (B) if the person fails to pay a fine required by an order, the division may begin a collection process:
- 2506 (I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act; and
- 2508 (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- 2509 (2) The following are grounds for disciplinary action under this section:
- 2510 (a) procuring or attempting to procure a registration, license, or certification under this chapter:
- 2512 (i) by fraud; or
- 2513

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- (ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;
- 2515 (b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;
- 2518 (c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;
- 2520 (d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- 2522 (e) regardless of whether the crime is related to the appraisal business, to:
  - 2523 (i) be convicted of a felony;
  - 2524 (ii) be convicted of any of the following involving fraud, misrepresentation, theft, or dishonesty:
    - 2526 (A) a class A misdemeanor;
    - 2527 (B) a class B misdemeanor; or
    - 2528 (C) a criminal offense comparable to a class A or class B misdemeanor;
  - 2529 (iii) plead guilty or nolo contendere to a felony;
  - 2530 (iv) plead guilty or nolo contendere to any of the following involving fraud, misrepresentation, theft, or dishonesty:
    - 2532 (A) a class A misdemeanor;
    - 2533 (B) a class B misdemeanor; or
    - 2534 (C) a criminal offense comparable to a class A or class B misdemeanor;
  - 2535 (v) enter into a plea in abeyance agreement involving a felony; or
  - 2536 (vi) enter into a plea in abeyance agreement involving any of the following involving fraud, misrepresentation, theft, or dishonesty:
    - 2538 (A) a class A misdemeanor;
    - 2539 (B) a class B misdemeanor; or
    - 2540 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2541 (f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;
- 2543 (g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;
- 2545 (h) making a false or misleading statement in:

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- 2546 (i) that portion of a written appraisal report that deals with professional qualifications; or  
2548 (ii) testimony concerning professional qualifications;  
2549 (i) violating or disregarding:  
2550 (i) this chapter;  
2551 (ii) an order of:  
2552 (A) the board; or  
2553 (B) the division, in a case when the board delegates to the division the authority to make a decision on  
behalf of the board; or  
2555 (iii) a rule issued under this chapter;  
2556 (j) violating the confidential nature of governmental records to which a person registered, licensed, or  
certified under this chapter gained access through employment or engagement as an appraiser by a  
governmental agency;  
2559 (k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:  
2561 (i) the appraiser reporting a predetermined analysis, opinion, or conclusion;  
2562 (ii) the analysis, opinion, conclusion, or valuation reached; or  
2563 (iii) the consequences resulting from the appraisal assignment;  
2564 (l) unprofessional conduct as defined by statute or rule; or  
2565 [~~(m) in the case of a dual licensed title licensee as defined in Section 31A-2-402;~~]  
2566 [~~(i) providing a title insurance product or service without the approval required by Section 31A-2-405;~~  
~~or~~]  
2568 [~~(ii) knowingly providing false or misleading information in the statement required by Subsection~~  
~~31A-2-405(2); or~~]  
2570 [~~(n)~~] (m) other conduct that constitutes dishonest dealing.  
2571 (3) A person previously licensed, certified, or registered under this chapter remains responsible for, and  
is subject to disciplinary action for, an act that the person committed, while the person was licensed,  
certified, or registered, in violation of this chapter or an administrative rule in effect at the time that  
the person committed the act, regardless of whether the person is currently licensed, certified, or  
registered.

2584 Section 40. **Effective date.**

This bill takes effect on May 7, 2025.

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