



## SB0079 compared with SB0079S01

- 19 **7-1-302** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 20 **7-1-308** , as last amended by Laws of Utah 1993, Chapter 38 , as last amended by Laws of Utah  
1993, Chapter 38
- 21 **7-1-310** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 22 **7-1-312** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 23 **7-1-313** , as last amended by Laws of Utah 1989, Chapter 267 , as last amended by Laws of Utah  
1989, Chapter 267
- 24 **7-1-314** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 25 **7-1-315** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 26 **7-1-316** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 27 **7-1-319** , as last amended by Laws of Utah 1993, Chapter 38 , as last amended by Laws of Utah  
1993, Chapter 38
- 28 **7-1-320** , as last amended by Laws of Utah 1991, Chapter 133 , as last amended by Laws of Utah  
1991, Chapter 133
- 29 **7-1-510** , as last amended by Laws of Utah 1987, Chapter 161 , as last amended by Laws of Utah  
1987, Chapter 161
- 30 **7-1-601** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 31 **7-1-604** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 32 **7-1-610** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
16
- 33 **7-1-613** , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter  
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- 7-1-803 , as last amended by Laws of Utah 1994, Chapter 200 , as last amended by Laws of Utah 1994, Chapter 200
- 35 7-2-3 , as last amended by Laws of Utah 1994, Chapter 200 , as last amended by Laws of Utah 1994, Chapter 200
- 36 7-2-4 , as last amended by Laws of Utah 1983, Chapter 8 , as last amended by Laws of Utah 1983, Chapter 8
- 37 7-2-8 , as enacted by Laws of Utah 1983, Chapter 8 , as enacted by Laws of Utah 1983, Chapter 8
- 38 7-2-11 , as enacted by Laws of Utah 1983, Chapter 8 , as enacted by Laws of Utah 1983, Chapter 8
- 39 7-2-13 , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter 16
- 40 7-2-14 , as last amended by Laws of Utah 1983, Chapter 8 , as last amended by Laws of Utah 1983, Chapter 8
- 41 7-2-15 , as last amended by Laws of Utah 1995, Chapter 49 , as last amended by Laws of Utah 1995, Chapter 49
- 42 7-2-16 , as last amended by Laws of Utah 1989, Chapter 267 , as last amended by Laws of Utah 1989, Chapter 267
- 43 7-2-18 , as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1 , as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1
- 44 7-2-19 , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter 16
- 45 7-3-3.2 , as last amended by Laws of Utah 2000, Chapter 75 , as last amended by Laws of Utah 2000, Chapter 75
- 46 7-3-35 , as enacted by Laws of Utah 1981, Chapter 16 , as enacted by Laws of Utah 1981, Chapter 16
- 47 7-5-3 , as last amended by Laws of Utah 1994, Chapter 200 , as last amended by Laws of Utah 1994, Chapter 200
- 48 7-5-12 , as last amended by Laws of Utah 1983, Chapter 9 , as last amended by Laws of Utah 1983, Chapter 9
- 49 7-9-18 , as last amended by Laws of Utah 1996, Chapter 182 , as last amended by Laws of Utah 1996, Chapter 182
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- 7-9-31 , as last amended by Laws of Utah 1996, Chapter 182 , as last amended by Laws of Utah 1996, Chapter 182
- 51 7-9-49 , as last amended by Laws of Utah 1994, Chapter 200 , as last amended by Laws of Utah 1994, Chapter 200
- 52 7-9-50 , as enacted by Laws of Utah 1994, Chapter 200 , as enacted by Laws of Utah 1994, Chapter 200
- 53 7-17-5 , as enacted by Laws of Utah 1979, Chapter 124 , as enacted by Laws of Utah 1979, Chapter 124
- 54 7-19-3 , as last amended by Laws of Utah 1986, Chapter 1 , as last amended by Laws of Utah 1986, Chapter 1
- 55 7-19-5 , as last amended by Laws of Utah 1986, Chapter 1 , as last amended by Laws of Utah 1986, Chapter 1
- 56 7-19-9 , as enacted by Laws of Utah 1984, Second Special Session, Chapter 5 , as enacted by Laws of Utah 1984, Second Special Session, Chapter 5
- 57 8-2-2 , as last amended by Laws of Utah 1992, Chapter 30 , as last amended by Laws of Utah 1992, Chapter 30
- 58 9-8-804 , as renumbered and amended by Laws of Utah 1992, Chapter 241 , as renumbered and amended by Laws of Utah 1992, Chapter 241
- 59 9-8-806 , as renumbered and amended by Laws of Utah 1992, Chapter 241 , as renumbered and amended by Laws of Utah 1992, Chapter 241
- 60 9-9-203 , as renumbered and amended by Laws of Utah 1992, Chapter 241 , as renumbered and amended by Laws of Utah 1992, Chapter 241
- 61 10-3-202 , as last amended by Laws of Utah 1990, Chapter 32 , as last amended by Laws of Utah 1990, Chapter 32
- 62 10-3-705 , as last amended by Laws of Utah 1979, Chapter 38 , as last amended by Laws of Utah 1979, Chapter 38
- 63 10-3-829 , as enacted by Laws of Utah 1977, Chapter 48 , as enacted by Laws of Utah 1977, Chapter 48
- 64 10-3-904 , as enacted by Laws of Utah 1977, Chapter 48 , as enacted by Laws of Utah 1977, Chapter 48
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- 10-3-906 , as enacted by Laws of Utah 1977, Chapter 48 , as enacted by Laws of Utah 1977,  
Chapter 48
- 66 10-3-915 , as enacted by Laws of Utah 1977, Chapter 48 , as enacted by Laws of Utah 1977,  
Chapter 48
- 67 10-8-50 , as last amended by Laws of Utah 1995, Chapter 131 , as last amended by Laws of Utah  
1995, Chapter 131
- 68 11-3-4 , as last amended by Laws of Utah 1993, Chapter 234 , as last amended by Laws of Utah  
1993, Chapter 234
- 69 11-30-6 , as enacted by Laws of Utah 1987, Chapter 197 , as enacted by Laws of Utah 1987,  
Chapter 197
- 70 13-1-5 , as enacted by Laws of Utah 1983, Chapter 322 , as enacted by Laws of Utah 1983, Chapter  
322
- 71 13-7-4 , as last amended by Laws of Utah 1997, Chapter 10 , as last amended by Laws of Utah  
1997, Chapter 10
- 72 13-11-9 , as enacted by Laws of Utah 1973, Chapter 188 , as enacted by Laws of Utah 1973,  
Chapter 188
- 73 13-11-16 , as last amended by Laws of Utah 1997, Chapter 296 , as last amended by Laws of Utah  
1997, Chapter 296
- 74 13-14a-5 , as enacted by Laws of Utah 1989, Chapter 63 , as enacted by Laws of Utah 1989,  
Chapter 63
- 75 13-20-4 , as last amended by Laws of Utah 1990, Chapter 249 , as last amended by Laws of Utah  
1990, Chapter 249
- 76 13-21-4 , as last amended by Laws of Utah 1994, Chapter 186 , as last amended by Laws of Utah  
1994, Chapter 186
- 77 13-28-7 , as enacted by Laws of Utah 1995, Chapter 196 , as enacted by Laws of Utah 1995,  
Chapter 196
- 78 15-8-11 , as enacted by Laws of Utah 1993, Chapter 251 , as enacted by Laws of Utah 1993,  
Chapter 251
- 79 16-7-2 , as last amended by Laws of Utah 1985, Chapter 178 , as last amended by Laws of Utah  
1985, Chapter 178
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- 16-10a-129 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 81 16-10a-824 , as last amended by Laws of Utah 1993, Chapter 184 , as last amended by Laws of Utah 1993, Chapter 184
- 82 16-10a-841 , as last amended by Laws of Utah 1994, Chapter 200 , as last amended by Laws of Utah 1994, Chapter 200
- 83 16-10a-853 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 84 16-10a-902 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 85 16-10a-903 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 86 16-10a-908 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 87 16-10a-1302 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 88 16-10a-1327 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 89 16-10a-1328 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 90 16-10a-1408 , as last amended by Laws of Utah 1996, Chapter 79 , as last amended by Laws of Utah 1996, Chapter 79
- 91 16-10a-1602 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 92 16-10a-1603 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 93 16-10a-1605 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
- 94 16-10a-1606 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992, Chapter 277
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- 16-10a-1608 , as enacted by Laws of Utah 1992, Chapter 277 , as enacted by Laws of Utah 1992,  
Chapter 277
- 96 19-1-302 , as enacted by Laws of Utah 1991, Chapter 112 , as enacted by Laws of Utah 1991,  
Chapter 112
- 97 19-6-304 , as renumbered and amended by Laws of Utah 1991, Chapter 112 , as renumbered and  
amended by Laws of Utah 1991, Chapter 112
- 98 19-6-309 , as last amended by Laws of Utah 2024, Chapter 158 , as last amended by Laws of Utah  
2024, Chapter 158
- 99 19-6-312 , as renumbered and amended by Laws of Utah 1991, Chapter 112 , as renumbered and  
amended by Laws of Utah 1991, Chapter 112
- 100 19-6-314 , as renumbered and amended by Laws of Utah 1991, Chapter 112 , as renumbered and  
amended by Laws of Utah 1991, Chapter 112
- 101 19-6-315 , as renumbered and amended by Laws of Utah 1991, Chapter 112 , as renumbered and  
amended by Laws of Utah 1991, Chapter 112
- 102 19-6-317 , as renumbered and amended by Laws of Utah 1991, Chapter 112 , as renumbered and  
amended by Laws of Utah 1991, Chapter 112
- 103 19-6-422 , as last amended by Laws of Utah 1992, Chapter 214 , as last amended by Laws of Utah  
1992, Chapter 214
- 104 19-8-110 , as enacted by Laws of Utah 1997, Chapter 247 , as enacted by Laws of Utah 1997,  
Chapter 247
- 105 31A-2-105 , as last amended by Laws of Utah 1993, Chapter 305 , as last amended by Laws of Utah  
1993, Chapter 305
- 106 31A-2-106 , as last amended by Laws of Utah 1987, Chapter 91 , as last amended by Laws of Utah  
1987, Chapter 91
- 107 31A-2-111 , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 108 31A-2-112 , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 109 31A-2-311 , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
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- 111 **31A-5-103** , as last amended by Laws of Utah 2000, Chapter 1 , as last amended by Laws of Utah  
2000, Chapter 1
- 112 **31A-5-206** , as last amended by Laws of Utah 1987, Chapter 95 , as last amended by Laws of Utah  
1987, Chapter 95
- 113 **31A-5-209** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 114 **31A-5-213** , as last amended by Laws of Utah 1987, Chapter 95 , as last amended by Laws of Utah  
1987, Chapter 95
- 115 **31A-5-216** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 116 **31A-5-303** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 117 **31A-5-304** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 118 **31A-5-307** , as last amended by Laws of Utah 1992, Chapter 277 , as last amended by Laws of Utah  
1992, Chapter 277
- 119 **31A-5-408** , as last amended by Laws of Utah 1992, Chapter 277 , as last amended by Laws of Utah  
1992, Chapter 277
- 120 **31A-5-507** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 121 **31A-5-509** , as last amended by Laws of Utah 1986, Chapter 204 , as last amended by Laws of Utah  
1986, Chapter 204
- 122 **31A-5-601** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 123 **31A-7-303** , as last amended by Laws of Utah 2000, Chapter 300 , as last amended by Laws of Utah  
2000, Chapter 300
- 124 **31A-7-403** , as last amended by Laws of Utah 1987, Chapter 161 , as last amended by Laws of Utah  
1987, Chapter 161
- 125 **31A-9-103** , as last amended by Laws of Utah 1986, Chapter 204 , as last amended by Laws of Utah  
1986, Chapter 204



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- 126 **31A-11-106** , as last amended by Laws of Utah 1988, Second Special Session, Chapter 10 , as last  
amended by Laws of Utah 1988, Second Special Session, Chapter 10
- 127 **31A-11-108** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 128 **31A-11-110** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 129 **31A-11-112** , as last amended by Laws of Utah 1997, Chapters 10, 215 , as last amended by Laws of  
Utah 1997, Chapters 10, 215
- 130 **31A-14-202** , as last amended by Laws of Utah 1986, Chapter 204 , as last amended by Laws of  
Utah 1986, Chapter 204
- 131 **31A-14-216** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 132 **31A-15-107** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 133 **31A-21-310** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 134 **31A-22-105** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 135 **31A-22-308** , as last amended by Laws of Utah 1990, Chapter 327 , as last amended by Laws of  
Utah 1990, Chapter 327
- 136 **31A-22-311** , as last amended by Laws of Utah 1994, Chapter 316 , as last amended by Laws of  
Utah 1994, Chapter 316
- 137 **31A-22-312** , as enacted by Laws of Utah 1989, Chapter 251 , as enacted by Laws of Utah 1989,  
Chapter 251
- 138 **31A-22-401** , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of  
Utah 2024, Chapter 120
- 139 **31A-22-512** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 140 **31A-22-514** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242

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- 141 **31A-22-1005** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 142 **31A-22-1007** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 143 **31A-22-1102** , as last amended by Laws of Utah 1989, Chapter 261 , as last amended by Laws of  
Utah 1989, Chapter 261
- 144 **31A-22-1305** , as last amended by Laws of Utah 2000, Chapter 300 , as last amended by Laws of  
Utah 2000, Chapter 300
- 145 **31A-25-201** , as last amended by Laws of Utah 1989, Chapter 261 , as last amended by Laws of  
Utah 1989, Chapter 261
- 146 **31A-26-211** , as last amended by Laws of Utah 1986, Chapter 204 , as last amended by Laws of  
Utah 1986, Chapter 204
- 147 **31A-26-212** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985,  
Chapter 242
- 148 **31A-28-217** , as last amended by Laws of Utah 1988, Chapter 97 , as last amended by Laws of Utah  
1988, Chapter 97
- 149 **34-23-303** , as enacted by Laws of Utah 1990, Chapter 8 , as enacted by Laws of Utah 1990,  
Chapter 8
- 150 **34-26-1** , as last amended by Laws of Utah 1987, Chapter 206 , as last amended by Laws of Utah  
1987, Chapter 206
- 151 **34-38-4** , as enacted by Laws of Utah 1987, Chapter 234 , as enacted by Laws of Utah 1987,  
Chapter 234
- 152 **34-38-7** , as enacted by Laws of Utah 1987, Chapter 234 , as enacted by Laws of Utah 1987,  
Chapter 234
- 153 **34-39-2** , as enacted by Laws of Utah 1989, Chapter 217 , as enacted by Laws of Utah 1989,  
Chapter 217
- 154 **34-39-3** , as enacted by Laws of Utah 1989, Chapter 217 , as enacted by Laws of Utah 1989,  
Chapter 217
- 155 **34-40-205** , as enacted by Laws of Utah 1990, Chapter 8 , as enacted by Laws of Utah 1990,  
Chapter 8

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- 156 **34A-2-207** , as last amended by Laws of Utah 1998, Chapter 13 , as last amended by Laws of Utah  
1998, Chapter 13
- 157 **35A-4-102** , as renumbered and amended by Laws of Utah 1996, Chapter 240 , as renumbered and  
amended by Laws of Utah 1996, Chapter 240
- 158 **35A-4-105** , as renumbered and amended by Laws of Utah 1996, Chapter 240 , as renumbered and  
amended by Laws of Utah 1996, Chapter 240
- 159 **35A-4-207** , as renumbered and amended by Laws of Utah 1996, Chapter 240 , as renumbered and  
amended by Laws of Utah 1996, Chapter 240
- 160 **35A-4-402** , as renumbered and amended by Laws of Utah 1996, Chapter 240 , as renumbered and  
amended by Laws of Utah 1996, Chapter 240
- 161 **35A-4-406** , as renumbered and amended by Laws of Utah 1996, Chapter 240 , as renumbered and  
amended by Laws of Utah 1996, Chapter 240
- 162 **36-19-1** , as enacted by Laws of Utah 1992, Chapter 100 , as enacted by Laws of Utah 1992,  
Chapter 100
- 163 **38-2-4** , as last amended by Laws of Utah 2024, Chapter 158 , as last amended by Laws of Utah  
2024, Chapter 158
- 164 **38-3-5** , as last amended by Laws of Utah 1977, Chapter 272 , as last amended by Laws of Utah  
1977, Chapter 272
- 165 **38-7-2** , as last amended by Laws of Utah 1996, Chapter 167 , as last amended by Laws of Utah  
1996, Chapter 167
- 166 **38-10-102.1** , as enacted by Laws of Utah 1990, Chapter 203 , as enacted by Laws of Utah 1990,  
Chapter 203
- 167 **38-10-108** , as enacted by Laws of Utah 1987, Chapter 170 , as enacted by Laws of Utah 1987,  
Chapter 170
- 168 **38-10-109** , as enacted by Laws of Utah 1987, Chapter 170 , as enacted by Laws of Utah 1987,  
Chapter 170
- 169 **40-1-6** , as last amended by Laws of Utah 1999, Chapter 85 , as last amended by Laws of Utah  
1999, Chapter 85
- 170 **40-8-19** , as enacted by Laws of Utah 1975, Chapter 130 , as enacted by Laws of Utah 1975,  
Chapter 130

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- 171 **40-8-23** , as last amended by Laws of Utah 1995, Chapter 20 , as last amended by Laws of Utah  
1995, Chapter 20
- 172 **40-10-5** , as last amended by Laws of Utah 1991, Chapter 225 , as last amended by Laws of Utah  
1991, Chapter 225
- 173 **40-10-19** , as last amended by Laws of Utah 1994, Chapter 219 , as last amended by Laws of Utah  
1994, Chapter 219
- 174 **40-10-20** , as last amended by Laws of Utah 2024, Chapter 158 , as last amended by Laws of Utah  
2024, Chapter 158
- 175 **40-10-29** , as enacted by Laws of Utah 1979, Chapter 145 , as enacted by Laws of Utah 1979,  
Chapter 145
- 176 **41-1a-224** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1
- 177 **41-1a-607** , as last amended by Laws of Utah 1992, Chapter 218 and renumbered and amended  
by Laws of Utah 1992, Chapter 1 , as last amended by Laws of Utah 1992, Chapter 218 and  
renumbered and amended by Laws of Utah 1992, Chapter 1
- 178 **41-1a-608** , as last amended by Laws of Utah 1992, Chapter 218 and renumbered and amended  
by Laws of Utah 1992, Chapter 1 , as last amended by Laws of Utah 1992, Chapter 218 and  
renumbered and amended by Laws of Utah 1992, Chapter 1
- 179 **41-1a-708** , as last amended by Laws of Utah 1992, Chapter 218 and renumbered and amended  
by Laws of Utah 1992, Chapter 1 , as last amended by Laws of Utah 1992, Chapter 218 and  
renumbered and amended by Laws of Utah 1992, Chapter 1
- 180 **41-1a-708** , as last amended by Laws of Utah 1992, Chapter 218 and renumbered and amended  
by Laws of Utah 1992, Chapter 1 , as last amended by Laws of Utah 1992, Chapter 218 and  
renumbered and amended by Laws of Utah 1992, Chapter 1
- 181 **41-1a-801** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1
- 182 **41-1a-1301** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1
- 183 **41-1a-1313** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1
- 184 **41-1a-1316** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1
- 185 **41-1a-1317** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1
- 186 **41-1a-1317** , as renumbered and amended by Laws of Utah 1992, Chapter 1 , as renumbered and  
amended by Laws of Utah 1992, Chapter 1

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- 187 **41-3-207** , as renumbered and amended by Laws of Utah 1992, Chapter 234 , as renumbered and amended by Laws of Utah 1992, Chapter 234
- 188 **41-3-208** , as renumbered and amended by Laws of Utah 1992, Chapter 234 , as renumbered and amended by Laws of Utah 1992, Chapter 234
- 189 **41-3-505** , as renumbered and amended by Laws of Utah 1992, Chapter 234 , as renumbered and amended by Laws of Utah 1992, Chapter 234
- 190 **41-3-506** , as renumbered and amended by Laws of Utah 1992, Chapter 234 , as renumbered and amended by Laws of Utah 1992, Chapter 234
- 191 **41-3-508** , as last amended by Laws of Utah 1992, Chapter 1 and renumbered and amended by Laws of Utah 1992, Chapter 234 , as last amended by Laws of Utah 1992, Chapter 1 and renumbered and amended by Laws of Utah 1992, Chapter 234
- 193 **41-3-803** , as last amended by Laws of Utah 2000, Chapter 86 , as last amended by Laws of Utah 2000, Chapter 86
- 194 **41-12a-104** , as last amended by Laws of Utah 1986, Chapter 204 , as last amended by Laws of Utah 1986, Chapter 204
- 195 **41-12a-411** , as last amended by Laws of Utah 1999, Chapter 216 , as last amended by Laws of Utah 1999, Chapter 216
- 196 **41-12a-503** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985, Chapter 242
- 197 **41-12a-506** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985, Chapter 242
- 198 **41-12a-507** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985, Chapter 242
- 199 **41-12a-509** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985, Chapter 242
- 200 **41-12a-511** , as enacted by Laws of Utah 1985, Chapter 242 , as enacted by Laws of Utah 1985, Chapter 242
- 201 **41-12a-604** , as last amended by Laws of Utah 1999, Chapter 216 , as last amended by Laws of Utah 1999, Chapter 216
- 202 **42-3-1** , as last amended by Laws of Utah 1997, Chapter 82 , as last amended by Laws of Utah 1997, Chapter 82

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- 203 **45-2-2** , as last amended by Laws of Utah 1975, Chapter 134 , as last amended by Laws of Utah  
1975, Chapter 134
- 204 **45-2-7** , as last amended by Laws of Utah 1975, Chapter 134 , as last amended by Laws of Utah  
1975, Chapter 134
- 205 **47-1-5** , as last amended by Laws of Utah 1993, Chapter 4 , as last amended by Laws of Utah 1993,  
Chapter 4
- 206 **47-2-6** , as last amended by Laws of Utah 1994, Chapter 146 , as last amended by Laws of Utah  
1994, Chapter 146
- 207 **51-7-9** , as last amended by Laws of Utah 1984, Chapter 44 , as last amended by Laws of Utah  
1984, Chapter 44
- 208 **51-7-18.1** , as last amended by Laws of Utah 1990, Chapter 229 , as last amended by Laws of Utah  
1990, Chapter 229
- 209 **53-7-211** , as renumbered and amended by Laws of Utah 1993, Chapters 38, 234 , as renumbered  
and amended by Laws of Utah 1993, Chapters 38, 234
- 210 **53-7-212** , as renumbered and amended by Laws of Utah 1993, Chapter 234 , as renumbered and  
amended by Laws of Utah 1993, Chapter 234
- 211 **53-7-213** , as renumbered and amended by Laws of Utah 1993, Chapters 38, 234 , as renumbered  
and amended by Laws of Utah 1993, Chapters 38, 234
- 212 **53-7-214** , as renumbered and amended by Laws of Utah 1993, Chapter 234 , as renumbered and  
amended by Laws of Utah 1993, Chapter 234
- 213 **53-9-112** , as last amended by Laws of Utah 1998, Chapter 212 , as last amended by Laws of Utah  
1998, Chapter 212
- 214 **53-9-116** , as last amended by Laws of Utah 1998, Chapter 212 , as last amended by Laws of Utah  
1998, Chapter 212
- 215 **53-10-206** , as last amended by Laws of Utah 1998, Chapter 282 and renumbered and amended  
by Laws of Utah 1998, Chapter 263 , as last amended by Laws of Utah 1998, Chapter 282 and  
renumbered and amended by Laws of Utah 1998, Chapter 263
- 217 **53-10-207** , as renumbered and amended by Laws of Utah 1998, Chapter 263 , as renumbered and  
amended by Laws of Utah 1998, Chapter 263
- 218 **53-11-107** , as enacted by Laws of Utah 1998, Chapter 257 , as enacted by Laws of Utah 1998,  
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- 219 **53-11-108** , as last amended by Laws of Utah 1999, Chapter 21 , as last amended by Laws of Utah  
1999, Chapter 21
- 220 **53-11-111** , as enacted by Laws of Utah 1998, Chapter 257 , as enacted by Laws of Utah 1998,  
Chapter 257
- 221 **53-11-116** , as last amended by Laws of Utah 1999, Chapter 266 , as last amended by Laws of Utah  
1999, Chapter 266
- 222 **53-11-122** , as enacted by Laws of Utah 1998, Chapter 257 , as enacted by Laws of Utah 1998,  
Chapter 257
- 223 **53-11-123** , as last amended by Laws of Utah 1999, Chapter 266 , as last amended by Laws of Utah  
1999, Chapter 266
- 224 **53-13-113** , as enacted by Laws of Utah 2000, Chapter 127 , as enacted by Laws of Utah 2000,  
Chapter 127
- 225 **53B-13-102** , as enacted by Laws of Utah 1987, Chapter 167 , as enacted by Laws of Utah 1987,  
Chapter 167
- 226 **53B-13-110** , as enacted by Laws of Utah 1987, Chapter 167 , as enacted by Laws of Utah 1987,  
Chapter 167
- 227 **53B-13-114** , as enacted by Laws of Utah 1987, Chapter 167 , as enacted by Laws of Utah 1987,  
Chapter 167
- 228 **53C-1-301** , as last amended by Laws of Utah 1996, Chapter 337 , as last amended by Laws of Utah  
1996, Chapter 337
- 229 **53C-2-412** , as enacted by Laws of Utah 1994, Chapter 294 , as enacted by Laws of Utah 1994,  
Chapter 294
- 230 **53C-5-101** , as last amended by Laws of Utah 2000, Chapter 237 , as last amended by Laws of Utah  
2000, Chapter 237
- 231 **54-7-3** , as last amended by Laws of Utah 1987, Chapter 161 , as last amended by Laws of Utah  
1987, Chapter 161
- 232 **54-7-25** , as last amended by Laws of Utah 1989, Chapter 131 , as last amended by Laws of Utah  
1989, Chapter 131
- 233 **56-1-21.5** , as last amended by Laws of Utah 1998, Chapter 282 , as last amended by Laws of Utah  
1998, Chapter 282
- 234

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- 235 **57-1-14** , as last amended by Laws of Utah 2000, Chapter 75 , as last amended by Laws of Utah  
2000, Chapter 75
- 236 **57-1-19** , as last amended by Laws of Utah 1988, Chapter 155 , as last amended by Laws of Utah  
1988, Chapter 155
- 237 **57-1-37** , as last amended by Laws of Utah 1991, Chapter 5 , as last amended by Laws of Utah  
1991, Chapter 5
- 238 **57-2-13** , as last amended by Laws of Utah 2000, Chapter 75 , as last amended by Laws of Utah  
2000, Chapter 75
- 239 **57-2a-2** , as enacted by Laws of Utah 1988, Chapter 155 , as enacted by Laws of Utah 1988,  
Chapter 155
- 240 **57-2a-3** , as last amended by Laws of Utah 1989, Chapter 88 , as last amended by Laws of Utah  
1989, Chapter 88
- 241 **57-3-102** , as last amended by Laws of Utah 2000, Chapter 252 , as last amended by Laws of Utah  
2000, Chapter 252
- 242 **57-4a-4** , as last amended by Laws of Utah 1989, Chapter 88 , as last amended by Laws of Utah  
1989, Chapter 88
- 243 **57-8-6** , as last amended by Laws of Utah 1975, Chapter 173 , as last amended by Laws of Utah  
1975, Chapter 173
- 244 **57-8-8** , as last amended by Laws of Utah 2000, Chapter 132 , as last amended by Laws of Utah  
2000, Chapter 132
- 245 **57-8-13.14** , as enacted by Laws of Utah 1975, Chapter 173 , as enacted by Laws of Utah 1975,  
Chapter 173
- 246 **57-8-32.5** , as enacted by Laws of Utah 1975, Chapter 173 , as enacted by Laws of Utah 1975,  
Chapter 173
- 247 **57-12-6** , as enacted by Laws of Utah 1972, Chapter 24 , as enacted by Laws of Utah 1972, Chapter  
24
- 248 **57-12-7** , as last amended by Laws of Utah 1998, Chapter 321 , as last amended by Laws of Utah  
1998, Chapter 321
- 249 **57-19-17** , as last amended by Laws of Utah 1989, Chapter 225 , as last amended by Laws of Utah  
1989, Chapter 225



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- 250 **57-19-18** , as enacted by Laws of Utah 1987, Chapter 73 , as enacted by Laws of Utah 1987,  
Chapter 73
- 251 **57-19-23** , as enacted by Laws of Utah 1987, Chapter 73 , as enacted by Laws of Utah 1987,  
Chapter 73
- 252 **57-22-3** , as enacted by Laws of Utah 1990, Chapter 314 , as enacted by Laws of Utah 1990,  
Chapter 314
- 253 **58-1-105** , as renumbered and amended by Laws of Utah 1993, Chapter 297 , as renumbered and  
amended by Laws of Utah 1993, Chapter 297
- 254 **58-3a-603** , as enacted by Laws of Utah 1996, Chapter 260 , as enacted by Laws of Utah 1996,  
Chapter 260
- 255 **58-16a-201** , as renumbered and amended by Laws of Utah 1997, Chapter 13 , as renumbered and  
amended by Laws of Utah 1997, Chapter 13
- 256 **58-16a-701** , as enacted by Laws of Utah 1997, Chapter 13 , as enacted by Laws of Utah 1997,  
Chapter 13
- 257 **58-22-603** , as enacted by Laws of Utah 1996, Chapter 259 , as enacted by Laws of Utah 1996,  
Chapter 259
- 258 **58-31b-801** , as enacted by Laws of Utah 1998, Chapter 288 , as enacted by Laws of Utah 1998,  
Chapter 288
- 259 **58-37-15** , as enacted by Laws of Utah 1971, Chapter 145 , as enacted by Laws of Utah 1971,  
Chapter 145
- 260 **58-41-16** , as last amended by Laws of Utah 1989, Chapter 207 , as last amended by Laws of Utah  
1989, Chapter 207
- 261 **58-49-7** , as enacted by Laws of Utah 1986, Chapter 192 , as enacted by Laws of Utah 1986,  
Chapter 192
- 262 **58-50-5** , as last amended by Laws of Utah 1991, Chapter 120 , as last amended by Laws of Utah  
1991, Chapter 120
- 263 **58-55-601** , as renumbered and amended by Laws of Utah 1994, Chapter 181 , as renumbered and  
amended by Laws of Utah 1994, Chapter 181
- 264 **58-55-603** , as renumbered and amended by Laws of Utah 1994, Chapter 181 , as renumbered and  
amended by Laws of Utah 1994, Chapter 181

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- 265 **58-67-802** , as enacted by Laws of Utah 1996, Chapter 248 , as enacted by Laws of Utah 1996,  
Chapter 248
- 266 **58-69-804** , as enacted by Laws of Utah 1996, Chapter 116 , as enacted by Laws of Utah 1996,  
Chapter 116
- 267 **59-1-701** , as renumbered and amended by Laws of Utah 1987, Chapter 3 , as renumbered and  
amended by Laws of Utah 1987, Chapter 3
- 268 **59-1-707** , as renumbered and amended by Laws of Utah 1987, Chapter 3 , as renumbered and  
amended by Laws of Utah 1987, Chapter 3
- 269 **59-1-1002** , as enacted by Laws of Utah 1991, Chapter 35 , as enacted by Laws of Utah 1991,  
Chapter 35
- 270 **59-1-1004** , as enacted by Laws of Utah 1991, Chapter 35 , as enacted by Laws of Utah 1991,  
Chapter 35
- 271 **59-2-326** , as last amended by Laws of Utah 2000, Chapter 86 , as last amended by Laws of Utah  
2000, Chapter 86
- 272 **59-10-512** , as last amended by Laws of Utah 1993, Chapter 4 , as last amended by Laws of Utah  
1993, Chapter 4
- 273 **59-12-112** , as renumbered and amended by Laws of Utah 1987, Chapter 5 , as renumbered and  
amended by Laws of Utah 1987, Chapter 5
- 274 **59-18-104** , as renumbered and amended by Laws of Utah 1987, Chapter 2 , as renumbered and  
amended by Laws of Utah 1987, Chapter 2
- 275 **59-18-105** , as renumbered and amended by Laws of Utah 1987, Chapter 2 , as renumbered and  
amended by Laws of Utah 1987, Chapter 2
- 276 **59-18-108** , as renumbered and amended by Laws of Utah 1987, Chapter 2 , as renumbered and  
amended by Laws of Utah 1987, Chapter 2
- 277 **63B-2-117** , as enacted by Laws of Utah 1993, Chapter 304 , as enacted by Laws of Utah 1993,  
Chapter 304
- 278 **63B-2-217** , as enacted by Laws of Utah 1993, Chapter 304 , as enacted by Laws of Utah 1993,  
Chapter 304
- 279 **63B-3-117** , as enacted by Laws of Utah 1994, Chapter 300 , as enacted by Laws of Utah 1994,  
Chapter 300

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- 280      **63B-3-217** , as enacted by Laws of Utah 1994, Chapter 300 , as enacted by Laws of Utah 1994,  
Chapter 300
- 281      **63B-4-117** , as enacted by Laws of Utah 1995, Chapter 329 , as enacted by Laws of Utah 1995,  
Chapter 329
- 282      **63B-5-117** , as enacted by Laws of Utah 1996, Chapter 335 , as enacted by Laws of Utah 1996,  
Chapter 335
- 283      **63B-6-117** , as enacted by Laws of Utah 1997, Chapter 391 , as enacted by Laws of Utah 1997,  
Chapter 391
- 284      **63B-6-217** , as enacted by Laws of Utah 1997, Chapter 270 , as enacted by Laws of Utah 1997,  
Chapter 270
- 285      **63B-6-302** , as enacted by Laws of Utah 1997, Chapter 270 , as enacted by Laws of Utah 1997,  
Chapter 270
- 286      **63B-6-417** , as enacted by Laws of Utah 1997, Chapter 391 , as enacted by Laws of Utah 1997,  
Chapter 391
- 287      **63B-7-117** , as enacted by Laws of Utah 1998, Chapter 67 , as enacted by Laws of Utah 1998,  
Chapter 67
- 288      **63B-7-217** , as enacted by Laws of Utah 1998, Chapter 316 , as enacted by Laws of Utah 1998,  
Chapter 316
- 289      **63B-7-302** , as enacted by Laws of Utah 1998, Chapter 316 , as enacted by Laws of Utah 1998,  
Chapter 316
- 290      **63B-7-417** , as enacted by Laws of Utah 1998, Chapter 67 , as enacted by Laws of Utah 1998,  
Chapter 67
- 291      **63B-8-117** , as enacted by Laws of Utah 1999, Chapter 309 , as enacted by Laws of Utah 1999,  
Chapter 309
- 292      **63B-8-217** , as enacted by Laws of Utah 1999, Chapter 331 , as enacted by Laws of Utah 1999,  
Chapter 331
- 293      **63B-8-302** , as enacted by Laws of Utah 1999, Chapter 331 , as enacted by Laws of Utah 1999,  
Chapter 331
- 294      **63B-8-417** , as enacted by Laws of Utah 1999, Chapter 309 , as enacted by Laws of Utah 1999,  
Chapter 309

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- 295 **64-13-15** , as last amended by Laws of Utah 1991, Chapter 124 , as last amended by Laws of Utah  
1991, Chapter 124
- 296 **64-13-32** , as last amended by Laws of Utah 1993, Chapter 49 , as last amended by Laws of Utah  
1993, Chapter 49
- 297 **64-13d-106** , as enacted by Laws of Utah 1999, Chapter 288 , as enacted by Laws of Utah 1999,  
Chapter 288
- 298 **65A-6-11** , as enacted by Laws of Utah 1988, Chapter 121 , as enacted by Laws of Utah 1988,  
Chapter 121
- 299 **67-1-1** , as last amended by Laws of Utah 1993, Chapter 38 , as last amended by Laws of Utah  
1993, Chapter 38
- 300 **67-5-5** , as last amended by Laws of Utah 1982, Chapter 76 , as last amended by Laws of Utah  
1982, Chapter 76
- 301 **67-9-1** , as last amended by Laws of Utah 1984, Chapter 68 , as last amended by Laws of Utah  
1984, Chapter 68
- 302 **67-16-2** , as last amended by Laws of Utah 1989, Chapter 147 , as last amended by Laws of Utah  
1989, Chapter 147
- 303 **70C-2-207** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 304 **70C-5-101** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 305 **70C-5-103** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 306 **70C-5-104** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 307 **70C-5-105** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 308 **70C-6-104** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 309 **70C-6-106** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159

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- 310 **70C-6-304** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 311 **70C-7-104** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 312 **70C-7-201** , as enacted by Laws of Utah 1985, Chapter 159 , as enacted by Laws of Utah 1985,  
Chapter 159
- 313 **72-2-104** , as renumbered and amended by Laws of Utah 1998, Chapter 270 , as renumbered and  
amended by Laws of Utah 1998, Chapter 270
- 314 **72-5-107** , as renumbered and amended by Laws of Utah 1998, Chapter 270 , as renumbered and  
amended by Laws of Utah 1998, Chapter 270
- 315 **72-9-303** , as renumbered and amended by Laws of Utah 1998, Chapter 270 , as renumbered and  
amended by Laws of Utah 1998, Chapter 270
- 316 **72-9-703** , as renumbered and amended by Laws of Utah 1998, Chapter 270 , as renumbered and  
amended by Laws of Utah 1998, Chapter 270
- 317 **73-2-10** , as last amended by Laws of Utah 1983, Chapter 201 , as last amended by Laws of Utah  
1983, Chapter 201
- 318 **73-2-12** , as last amended by Laws of Utah 1984, Chapter 67 , as last amended by Laws of Utah  
1984, Chapter 67
- 319 **73-2-13** , as last amended by Laws of Utah 1971, Chapter 186 , as last amended by Laws of Utah  
1971, Chapter 186
- 320 **73-2-23.1** , as enacted by Laws of Utah 1985, Chapter 228 , as enacted by Laws of Utah 1985,  
Chapter 228
- 321 **73-3-5.5** , as last amended by Laws of Utah 1987, Chapter 161 , as last amended by Laws of Utah  
1987, Chapter 161
- 322 **73-3a-108** , as enacted by Laws of Utah 1991, Chapter 234 , as enacted by Laws of Utah 1991,  
Chapter 234
- 323 **73-3b-303** , as enacted by Laws of Utah 1991, Chapter 146 , as enacted by Laws of Utah 1991,  
Chapter 146
- 324 **73-5a-203** , as enacted by Laws of Utah 1990, Chapter 319 , as enacted by Laws of Utah 1990,  
Chapter 319

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- 325 **73-5a-301** , as enacted by Laws of Utah 1990, Chapter 319 , as enacted by Laws of Utah 1990,  
Chapter 319
- 326 **73-5a-302** , as enacted by Laws of Utah 1990, Chapter 319 , as enacted by Laws of Utah 1990,  
Chapter 319
- 327 **73-5a-303** , as enacted by Laws of Utah 1990, Chapter 319 , as enacted by Laws of Utah 1990,  
Chapter 319
- 328 **73-5a-402** , as enacted by Laws of Utah 1990, Chapter 319 , as enacted by Laws of Utah 1990,  
Chapter 319
- 329 **73-5a-601** , as enacted by Laws of Utah 1990, Chapter 319 , as enacted by Laws of Utah 1990,  
Chapter 319
- 330 **73-18-7.1** , as enacted by Laws of Utah 1990, Chapter 216 , as enacted by Laws of Utah 1990,  
Chapter 216
- 331 **73-18-10** , as last amended by Laws of Utah 1986, Chapter 197 , as last amended by Laws of Utah  
1986, Chapter 197
- 332 **73-18-20.3** , as enacted by Laws of Utah 1990, Chapter 216 , as enacted by Laws of Utah 1990,  
Chapter 216
- 333 **73-18-20.5** , as last amended by Laws of Utah 1998, Chapter 263 , as last amended by Laws of Utah  
1998, Chapter 263
- 334 **73-18-20.7** , as enacted by Laws of Utah 1990, Chapter 216 , as enacted by Laws of Utah 1990,  
Chapter 216
- 335 **76-1-304** , as last amended by Laws of Utah 1998, Chapter 121 , as last amended by Laws of Utah  
1998, Chapter 121
- 336 **76-1-402** , as last amended by Laws of Utah 1974, Chapter 32 , as last amended by Laws of Utah  
1974, Chapter 32
- 337 **76-2-201** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196
- 338 **76-2-204** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196
- 339 **76-2-205** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196

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- 340 **76-2-301** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196
- 341 **76-2-302** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196
- 342 **76-2-303** , as last amended by Laws of Utah 1998, Chapter 282 , as last amended by Laws of Utah  
1998, Chapter 282
- 343 **76-2-304** , as last amended by Laws of Utah 1974, Chapter 32 , as last amended by Laws of Utah  
1974, Chapter 32
- 344 **76-2-307** , as last amended by Laws of Utah 1995, Chapter 20 , as last amended by Laws of Utah  
1995, Chapter 20
- 345 **76-2-403** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196
- 346 **76-3-303** , as enacted by Laws of Utah 1973, Chapter 196 , as enacted by Laws of Utah 1973,  
Chapter 196
- 347 **76-3-405** , as last amended by Laws of Utah 1997, Chapter 291 , as last amended by Laws of Utah  
1997, Chapter 291
- 348 **76-3-409** , as last amended by Laws of Utah 1985, Chapter 212 , as last amended by Laws of Utah  
1985, Chapter 212
- 349 **76-7-202** , as last amended by Laws of Utah 1995, Chapter 289 , as last amended by Laws of Utah  
1995, Chapter 289
- 350 **76-7-303** , as enacted by Laws of Utah 1974, Chapter 33 , as enacted by Laws of Utah 1974,  
Chapter 33
- 351 **76-7-308** , as last amended by Laws of Utah 1991, First Special Session, Chapter 2 , as last amended  
by Laws of Utah 1991, First Special Session, Chapter 2
- 352 **77-1-6** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 353 **77-2-4** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 354 **77-2-4.5** , as enacted by Laws of Utah 1990, Chapter 7 , as enacted by Laws of Utah 1990, Chapter  
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- 355 **77-2-6** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 356 **77-2-8** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 357 **77-3-2** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 358 **77-3-4** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 359 **77-3-5** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 360 **77-3-8** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 361 **77-3-10** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 362 **77-5-2** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 363 **77-5-8** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 364 **77-6-5** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 365 **77-6-6** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 366 **77-6-8** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 367 **77-6-9** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 368 **77-7-1** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 369 **77-7-3** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15



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- 370 **77-7-9** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 371 **77-7-10** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 372 **77-7-11** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 373 **77-7-14** , as last amended by Laws of Utah 1987, Chapter 245 , as last amended by Laws of Utah 1987, Chapter 245
- 374 **77-7-16** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 375 **77-7-17** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 376 **77-8-2** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 377 **77-8-4** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 378 **77-8a-1** , as enacted by Laws of Utah 1990, Chapter 201 , as enacted by Laws of Utah 1990, Chapter 201
- 379 **77-9-1** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 380 **77-9-2** , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 381 **77-9-3** , as last amended by Laws of Utah 1998, Chapter 282 , as last amended by Laws of Utah 1998, Chapter 282
- 382 **77-10a-1** , as enacted by Laws of Utah 1990, Chapter 318 , as enacted by Laws of Utah 1990, Chapter 318
- 383 **77-10a-7** , as enacted by Laws of Utah 1990, Chapter 318 , as enacted by Laws of Utah 1990, Chapter 318
- 384 **77-10a-8** , as last amended by Laws of Utah 1993, Chapter 38 , as last amended by Laws of Utah 1993, Chapter 38

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- 77-10a-11 , as enacted by Laws of Utah 1990, Chapter 318 , as enacted by Laws of Utah 1990,  
Chapter 318
- 385 77-10a-17 , as enacted by Laws of Utah 1990, Chapter 318 , as enacted by Laws of Utah 1990,  
Chapter 318
- 386 77-10a-18 , as enacted by Laws of Utah 1990, Chapter 318 , as enacted by Laws of Utah 1990,  
Chapter 318
- 387 77-13-5 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 388 77-14-1 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 389 77-14-2 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 390 77-16a-303 , as enacted by Laws of Utah 1992, Chapter 171 , as enacted by Laws of Utah 1992,  
Chapter 171
- 391 77-17-1 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 392 77-17-2 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 393 77-17-3 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 394 77-17-9 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 395 77-17-11 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980,  
Chapter 15
- 396 77-17-12 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980,  
Chapter 15
- 397 77-19-5 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter  
15
- 398 77-19-11 , as last amended by Laws of Utah 2000, Chapters 1, 250 , as last amended by Laws of  
Utah 2000, Chapters 1, 250
- 399

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- 400 **77-19-12** , as last amended by Laws of Utah 1988, Chapter 190 , as last amended by Laws of Utah  
1988, Chapter 190
- 401 **77-22-4.5** , as enacted by Laws of Utah 1995, Chapter 115 , as enacted by Laws of Utah 1995,  
Chapter 115
- 402 **77-22a-2** , as enacted by Laws of Utah 1989, Chapter 9 , as enacted by Laws of Utah 1989, Chapter  
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- 403 **77-22a-3** , as last amended by Laws of Utah 1993, Chapter 38 , as last amended by Laws of Utah  
1993, Chapter 38
- 404 **77-23a-3** , as last amended by Laws of Utah 1998, Chapter 282 , as last amended by Laws of Utah  
1998, Chapter 282
- 405 **77-23a-9** , as last amended by Laws of Utah 1988, Chapter 251 , as last amended by Laws of Utah  
1988, Chapter 251
- 406 **77-23a-16** , as enacted by Laws of Utah 1988, Chapter 251 , as enacted by Laws of Utah 1988,  
Chapter 251
- 407 **77-23b-2** , as last amended by Laws of Utah 1991, Chapter 241 , as last amended by Laws of Utah  
1991, Chapter 241
- 408 **77-23b-5** , as enacted by Laws of Utah 1988, Chapter 251 , as enacted by Laws of Utah 1988,  
Chapter 251
- 409 **77-27-5.5** , as last amended by Laws of Utah 1994, Chapter 13 , as last amended by Laws of Utah  
1994, Chapter 13
- 410 **77-27-12** , as enacted by Laws of Utah 1985, Chapter 213 , as enacted by Laws of Utah 1985,  
Chapter 213
- 411 **77-27-26** , as last amended by Laws of Utah 1998, Chapter 282 , as last amended by Laws of Utah  
1998, Chapter 282
- 412 **77-28b-3** , as enacted by Laws of Utah 1990, Chapter 324 , as enacted by Laws of Utah 1990,  
Chapter 324
- 413 **77-28b-4** , as enacted by Laws of Utah 1990, Chapter 324 , as enacted by Laws of Utah 1990,  
Chapter 324
- 414 **77-28b-7** , as enacted by Laws of Utah 1990, Chapter 324 , as enacted by Laws of Utah 1990,  
Chapter 324

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- 77-30-3 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 415 77-30-4 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 416 77-30-5 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 417 77-30-7 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 418 77-30-10 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 419 77-30-11 , as last amended by Laws of Utah 1995, Chapter 20 , as last amended by Laws of Utah 1995, Chapter 20
- 420 77-30-12 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 421 77-30-13 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 422 77-30-14 , as last amended by Laws of Utah 1995, Chapter 20 , as last amended by Laws of Utah 1995, Chapter 20
- 423 77-30-15 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 424 77-30-16 , as last amended by Laws of Utah 1997, Chapter 199 , as last amended by Laws of Utah 1997, Chapter 199
- 425 77-30-17 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 426 77-30-20 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 427 77-30-21 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
- 428 77-30-22 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980, Chapter 15
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77-30-26 , as enacted by Laws of Utah 1980, Chapter 15 , as enacted by Laws of Utah 1980,  
Chapter 15

430 77-38-10 , as last amended by Laws of Utah 1995, Chapter 352 , as last amended by Laws of Utah  
1995, Chapter 352

431 **Utah Code Sections affected by Coordination Clause:**

432 **13-11-9** , as enacted by Laws of Utah 1973, Chapter 188 , as enacted by Laws of Utah 1973,  
Chapter 188

433

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

435 Section 1. Section **7-1-208.2** is amended to read:

436 **7-1-208.2. Deputy commissioner.**

The commissioner may appoint a deputy commissioner who shall be a citizen of the United States and a member of the Utah State Bar, to serve at the pleasure of the commissioner. The deputy commissioner shall serve as staff attorney for the department and perform all other duties assigned to ~~him~~ the deputy commissioner by the commissioner.

441 Section 2. Section **7-1-302** is amended to read:

442 **7-1-302. Review of supervisor's action by commissioner.**

The commissioner shall review, upon written request of the institution or other person affected, any act or order of a supervisor and may suspend, modify, or revoke any such act or order as ~~he~~ the commissioner may find to be arbitrary, capricious, contrary to law or the rules and regulations of the department, or not in the best interest of the public or of the state.

447 Section 3. Section **7-1-308** is amended to read:

448 **7-1-308. Suspension or removal of director or officer -- Grounds -- Procedure for issuance of order.**

447 (1)

(a) If the commissioner has determined that any officer or director of an institution or other person under the jurisdiction of the department has:

449 (i) violated any law, rule, regulation, or a cease and desist order which has become final;

451 (ii) engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the institution or other person;

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- (iii) committed or engaged in any act, omission, or practice which constitutes a breach of [his] the person's fiduciary duty as an officer or director;
- 455 (iv) been charged in any information, indictment, or complaint authorized by a county attorney, a district attorney, or the attorney general of the state relative to a violation of this title; or
- 458 (v) been charged with the commission of or participation in a crime involving dishonesty or breach of trust; and
- 460 (b) if the commissioner determines that:
- 461 (i) the institution or other person under the jurisdiction of the department has suffered or will suffer substantial financial loss or other damage due to such actions and that such action may impair the safety and soundness of the institution or other person or prejudice in any manner the interests of the depositors, members, creditors, or shareholders; or
- 466 (ii) the director or officer has received financial gain by reason of any breach of fiduciary duty[;] the commissioner may, after notice and opportunity for hearing, serve upon such director or officer a written notice of suspension or removal of the individual from office or prohibition from further participation in the conduct of the affairs of the institution or other person.
- 471 (2) If the commissioner deems it necessary for the protection of an institution or other person under the jurisdiction of the department or the interests of its depositors, members, creditors, or shareholders, [he] the commissioner may, by written notice served upon the officer or director, suspend that officer or director from office or prohibit [him] the officer or director from further participation in any manner in the conduct of the affairs of the institution or other person. The suspension or prohibition is effective upon service of the notice and, unless stayed by a court, shall remain in effect until the commissioner dismisses the charges specified in the notice, or, if an order of removal or prohibition is issued against the officer or director, until the effective date of that order.

483 Section 4. Section **7-1-310** is amended to read:

484 **7-1-310. Subpoena power of commissioner.**

The commissioner may issue subpoenas to compel the attendance of witnesses and the production of books, records, and other papers and documents and may examine or cause to be examined under oath any officer, director, or employee of any institution subject to the jurisdiction of the department or any other person whose testimony [he] the commissioner finds relevant to any matter before [him] the commissioner or whose testimony is necessary or appropriate in carrying out [his] the commissioner's duties and responsibilities.

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491 Section 5. Section **7-1-312** is amended to read:

492 **7-1-312. Reports required of large stockholders of financial institutions as to loans secured  
by stock.**

The commissioner may require any person owning or acquiring 25% or more of the outstanding capital stock of any depository institution subject to [his] the commissioner's jurisdiction, or 25% or more of the stock of any corporation having control of the institution, to report to [him] the commissioner any borrowing by that person which is secured by that stock and to report to [him] the commissioner the terms of the borrowing. This section applies only if the purpose for the borrowing was to acquire control of the institution or any other depository institution.

501 Section 6. Section **7-1-313** is amended to read:

502 **7-1-313. Requiring remedial action by institution in or about to be in unsound condition --  
Assistance by insurers.**

501 (1) The commissioner may require any financial institution subject to the jurisdiction of the department that [he] the commissioner finds to be or about to be in an unsafe or unsound condition to take corrective or remedial action as [he] the commissioner considers appropriate to protect the interests of depositors, members, other creditors, and shareholders of the institution, and the general public.

506 (2) An insurer of the accounts of a financial institution may make loans to, purchase the assets of, establish accounts in, or provide other assistance to a financial institution in order to correct or remedy an unsafe or unsound condition or to protect the interests of depositors, members, other creditors, and shareholders of the institution. This assistance is subject to approval by the commissioner.

514 Section 7. Section **7-1-314** is amended to read:

515 **7-1-314. Examination of institutions by commissioner or supervisor.**

513 (1) The commissioner or the responsible supervisor shall visit and examine or cause to be visited and examined every depository institution and such other institutions subject to the jurisdiction of the department as the commissioner considers necessary or advisable.

516 (2) At every examination of a depository institution careful inquiry shall be made as to:

517 (a) the condition and resources of the institution examined;

518 (b) the mode of conducting and managing of its affairs;

519 (c) the actions of its directors and officers;

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- 520 (d) the investment and disposition of its funds;
- 521 (e) the security offered to depositors and other customers;
- 522 (f) whether or not it is violating any provision of law relating to the institution or the business of the  
institution examined;
- 524 (g) whether or not it is complying with its articles of incorporation and bylaws; and
- 525 (h) such other matters as the commissioner may prescribe.
- 526 (3) The commissioner may, in [~~his~~] the commissioner's discretion, accept examinations of any  
institution which are made by federal examiners or examiners from other states having jurisdiction  
over that institution in lieu of any examination required under the laws of this state.
- 530 (4) The nature and extent of examination of institutions or other business entities not classified as  
depository institutions but otherwise subject to the jurisdiction of the department as provided in this  
title shall be such as the commissioner may determine to be necessary or appropriate in determining  
whether or not the business is being conducted in accordance with law and the regulations of the  
department.

538 Section 8. Section **7-1-315** is amended to read:

539 **7-1-315. Examination by board of directors required -- Report.**

The commissioner may at any time require the board of directors of any or all  
institutions under [~~his~~] the commissioner's jurisdiction to fully examine or have fully examined  
the books, papers, and affairs of the institution of which they are directors and particularly the  
loans, discounts, and overdrafts of such institutions to ascertain the value and security thereof  
and the collateral security, if any, given in connection therewith and to inquire into such other  
matters as the commissioner may consider necessary and to have a report placed on file with  
the records of the institution, which report shall be subject to examination by the commissioner.

547 Section 9. Section **7-1-316** is amended to read:

548 **7-1-316. Forms for reports required from institutions.**

The commissioner shall prescribe the forms for all reports required by law or regulation  
from financial institutions subject to the jurisdiction of the department and may change the  
forms at [~~his~~] the commissioner's discretion. The department shall furnish without charge upon  
the request of any such institution any blank form necessary or required by law.

553 Section 10. Section **7-1-319** is amended to read:

554



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### **7-1-319. Notice to county attorney or district attorney of criminal violations -- Attorney general to conduct actions commenced by commissioner -- Assistance of county attorney or district attorney.**

The commissioner shall inform the county attorney or district attorney in the county in which the principal office of an institution is located of any violation of any provision of law which constitutes a misdemeanor or felony by an officer, director, or employee of any institution under [his] the commissioner's jurisdiction~~[-which shall come to his notice]~~, and upon receipt of such information the county attorney or district attorney shall institute proceedings to enforce the provisions of the law. The attorney general shall conduct all actions, suits, and proceedings begun by the commissioner under authority of law and may call to [his] the attorney general's assistance the county attorney or district attorney of the county in which the action, suit, or proceeding is conducted, and it shall be the duty of the county attorney or district attorney to render such assistance as the attorney general may require.

567 Section 11. Section **7-1-320** is amended to read:

568 **7-1-320. Actions to enjoin violations -- Bond not required -- Recovery -- Attorney fees.**

567 (1) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this title or any rule, regulation, or order of the commissioner or the department, [he] the commissioner may bring an action in an appropriate court of general jurisdiction to enjoin the acts or practices and to enforce compliance with this title or any rule or order issued under this title. Upon a proper showing, a permanent or temporary injunction, restraining order, or extraordinary writ shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the commissioner to post a bond.

575 (2) If the court finds that the defendant in an action brought by the commissioner pursuant to this section has violated or is about to violate any provision of this title or any rule or order of the commissioner, the court may award to the department an amount not exceeding \$10,000 per day for each day the defendant was in violation. The court may also award the department reasonable [attorney's] attorney fees.

583 Section 12. Section **7-1-510** is amended to read:

584 **7-1-510. Examination of institutions -- Adoption of rules -- Requiring actions by institutions.**

If the commissioner finds that it is in the public interest and necessary to protect the

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depositors and other customers of a financial institution, [he] the commissioner may:

- 585 (1) examine the books and records of any financial institution holding company and require the  
company to furnish whatever reports that [he] the commissioner considers appropriate to properly  
supervise the company's financial institution subsidiaries;
- 588 (2) adopt and issue rules consistent with the purposes and provisions of this title as they pertain to  
financial institution holding companies; and
- 590 (3) require a financial institution holding company to take any action [he] the commissioner finds  
reasonable and necessary to protect the interests of depositors, other customers, and creditors of any  
subsidiary financial institution, to maintain its solvency or to prevent its failure.

597 Section 13. Section **7-1-601** is amended to read:

598 **7-1-601. Adverse claim to account in depository institution -- Notice required -- Bond may  
be required for payment.**

Receipt of a notice of an adverse claim to a deposit or other account standing on the  
books of any depository institution doing business in this state does not obligate the depository  
institution to the adverse claimant, unless the notice is given pursuant to an appropriate court  
order, obtained by the adverse claimant in a legal action instituted by [him] the adverse claimant  
in which the person to whose credit the deposit stands is made a party. Such depository  
institution may also pay the adverse claim, if the claimant executes to the depository institution  
a good and sufficient bond in double the amount claimed, indemnifying it from any and all  
liability, loss, damage, costs and expenses including [attorneys'] attorney fees for and on  
account of the payment of the adverse claim or the dishonor of a check or other instrument of  
the person to whose credit the deposit stands on its books.

610 Section 14. Section **7-1-604** is amended to read:

611 **7-1-604. Savings accounts -- Qualifications to hold -- Representation -- Transfer -- Holder  
treated as owner -- Exception.**

- 610 (1) Savings accounts may be opened and held solely and absolutely by any adult or minor individual,  
male or female, single or married in [~~his or her~~] the individual's own right or in trust or other  
fiduciary capacity for any such adult or minor.
- 613 (2) Savings accounts shall be represented only by the account of each savings account holder on the  
books of the depository institution.

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(3) Savings accounts shall be transferable only on the books of the depository institution and only upon written application. Acceptance by the institution of the transferee as an account holder may only be upon terms approved by its board of directors. Nothing in this subsection shall be construed as prohibiting the transfer of part or all of the funds in a transaction account to a third party by means of checks, drafts, or other instruments or by electronic means.

621 (4) The institution may treat the holder of record of a savings account as the owner of the account for all purposes and may disregard any notice to the contrary, unless the institution has acknowledged, in writing, notice of a pledge of the savings account.

627 Section 15. Section **7-1-610** is amended to read:

628 **7-1-610. Attorney-in-fact as to savings account -- Institution immune from liability.**

Any depository institution may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a holder, whether minor or adult, until it is on actual notice of the revocation of [his] the authority of the attorney-in-fact. No such institution shall be liable for damages, penalty, or tax by reason of any payment made under this section.

635 Section 16. Section **7-1-613** is amended to read:

636 **7-1-613. Incompetency of savings account owner.**

When a savings account is held in any depository institution by a person who becomes incompetent and an adjudication of incompetency has been made by a court of competent jurisdiction, the institution may pay or deliver the withdrawal value of the savings account and any earnings that may have accrued on the account to the conservator for that person upon proof of [his] the conservator's appointment and qualification. However, if the institution has received no written notice and is not on actual notice that the savings account holder has been adjudicated incompetent, it may pay or deliver the funds to the holder in accordance with the provision of the savings account contract, and the receipt or acquittance of the holder therefor shall be a valid and sufficient release and discharge of the institution for the payment or delivery so made.

647 Section 17. Section **7-1-803** is amended to read:

648 **7-1-803. Conflicting interests of commissioner, supervisors, and examiners -- Loans and accounts -- Disclosure -- Penalty.**

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- (1) Neither the commissioner nor any supervisor or examiner may do any of the following with respect to any institution under the supervision of the department:
- 649 (a) be indebted, directly or indirectly, as a borrower, accommodation endorser, surety, or guarantor to an institution, or to an individual or any other legal or commercial entity owning or controlling an institution;
- 652 (b) be an officer, director, or employee of any institution or of an individual or any other legal or commercial entity owning or controlling an institution;
- 654 (c) own or deal in, directly or indirectly, the shares or obligations of an institution or of a corporation owning or controlling an institution;
- 656 (d) receive, directly or indirectly, from an institution or any officer, director, or employee of an institution, any salary, fee, or compensation; or
- 658 (e) be interested in or engage in the negotiations of any loan to, obligation of, or accommodation for another person to or with an institution.
- 660 (2) Notwithstanding Subsection (1), the commissioner, any supervisor, or any examiner of the department may:
- 662 (a) have and maintain savings, transaction, share, time deposit, or other accounts, or certificates and deposits in any financial or depository institution in the state, or be a lessee of a safe deposit box on the same terms and conditions available to the public generally;
- 666 (b) be indebted to a depository institution under the supervision of the department on terms offered to the public generally upon:
- 668 (i) a mortgage loan upon the mortgagor's own home;
- 669 (ii) an open or closed end consumer loan granted before the person became employed with the department or before the institution became subject to the jurisdiction of the department;
- 672 (iii) in the case of a supervisor or examiner, a consumer loan lawfully made prior to January 1, 1991, provided that while the debt is subject to the provisions of this chapter, the terms of the debt are not changed in favor of the debtor in a manner not offered and provided to other creditworthy borrowers or waived or extended as a result of delinquency or default; and
- 677 (iv) a debt fully secured at all times by deposits in the institution;
- 678 (c) be indebted on an installment debt transferred to an institution under the jurisdiction of the department in the regular course of business by a seller of consumer goods; and
- 680

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(d) continue to receive payments under a regularly established pension plan of general application for fully retired employees of an institution under the supervision of the department.

683 (3) Full disclosure in writing of any indebtedness incurred under Subsection (2) shall be filed in the commissioner's office.

685 (4) Any person who knowingly violates this section with the intention of getting gain through the influence of [~~his~~] that person's office shall forfeit the office or employment and is guilty of a third degree felony.

691 Section 18. Section **7-2-3** is amended to read:

692 **7-2-3. Action for injunction against commissioner in possession -- Procedure -- Appeal.**

691 (1)

(a) Whenever any institution or other person of which the commissioner has taken possession considers itself aggrieved by the taking, it may within 10 days after the taking apply to the court to enjoin further proceedings.

694 (b) After ordering the commissioner to show cause why further proceedings should not be enjoined and after hearing the allegations and proofs of the parties and determining the facts, the court may:

697 (i) dismiss the application; or

698 (ii) enjoin the commissioner from further proceedings if the court finds the taking to be arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.

700 (c) If the court enjoins further proceedings, it shall order the commissioner to surrender possession of the institution in a manner and on terms designated by the court in the public interest.

703 (d) Notice of any hearings shall be given to persons designated by the court in the manner designated by the court.

705 (2) An appeal may be taken by the commissioner, a receiver, or liquidator appointed by the commissioner under Section 7-2-9, or by the institution from the judgment of the court as provided by law. An appeal from the judgment does not stay any judgment in favor of the commissioner, or a receiver or liquidator appointed by [~~him~~] the commissioner. If the appeal is taken by the commissioner, or by a receiver or liquidator appointed by [~~him~~] the commissioner, no bond is required. If the appeal is taken by the institution, a bond is required as provided by the Utah Rules of Civil Procedure.

715 Section 19. Section **7-2-4** is amended to read:

716 **7-2-4. Consent required for institution to resume business.**

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The institution or other person may resume business only with the consent of and upon conditions approved by the commissioner. The commissioner may give [his] the commissioner's consent to resumption of business if arrangements have been made by the institution or its stockholders, by reorganization or otherwise, to the satisfaction of the commissioner, to pay all creditors of the institution, aside from the stockholders, and to remedy the default or condition for which possession was taken and to pay the expenses of the proceeding.

723 Section 20. Section **7-2-8** is amended to read:

724 **7-2-8. Special deputies or agents -- Appointment -- Bond.**

The commissioner may appoint one or more special deputies or agents to assist [him]the commissioner in the proceedings. The commissioner may fix the compensation of any agent appointed to assist [him] the commissioner. The commissioner may require from agents security for the faithful discharge of their duties. All bonds given under this section shall be deposited with the commissioner and kept in [his] the commissioner's office.

730 Section 21. Section **7-2-11** is amended to read:

731 **7-2-11. Special counsel -- Employment by attorney general.**

Upon taking possession of any institution or other person subject to the jurisdiction of the department, the commissioner may request the attorney general to employ special counsel on [his] the commissioner's behalf to assist and advise [him] the commissioner in connection with a liquidation or reorganization proceeding and the prosecution or defense of any action or proceeding connected with it.

737 Section 22. Section **7-2-13** is amended to read:

738 **7-2-13. Collections in liquidation -- Deposit -- Preference.**

The money collected in process of a liquidation by the commissioner shall be from time to time deposited, subject to [his] the commissioner's order as herein provided, in one or more federally insured depository institutions organized under the laws of this state. In case of the suspension or insolvency of the depository institution, these deposits shall be preferred before all other deposits.

744 Section 23. Section **7-2-14** is amended to read:

745 **7-2-14. Expenses during possession.**

The expenses reimbursable to the commissioner during possession or in the course of proceedings under this chapter include the compensation of deputies, agents, clerks, and

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examiners employed by [him] the commissioner and reasonable fees for counsel, accountants or consultants employed by [him] the commissioner or on [his] the commissioner's behalf. The compensation shall be fixed by the commissioner subject to the approval of the court. The expenses of the proceedings shall be paid out of the property of the institution in the hands of the commissioner, shall be a valid charge against that property, and shall be paid first in order of priority. No expenses may be paid out of the property of the institution until an account of the expense has been filed with and approved by the court.

755 Section 24. Section **7-2-15** is amended to read:

756 **7-2-15. Priority of obligations, expenses, and claims -- Distribution of balance of assets.**

755 (1) The following obligations, expenses, and claims have the following priority:

756 (a) first, any obligation the commissioner may have under Subsection 7-2-6(3)(b) to be bound by the terms, covenants, and conditions of obligations secured by assets or property of the institution;

759 (b) second, administrative expenses, including those allowed under Section 7-2-14;

760 (c) third, unsecured claims for wages, salaries, or commissions, including vacation, severance, or sick leave pay, earned by an individual within 90 days before the date of the commissioner's possession, in an amount not exceeding \$2,000 for each individual;

764 (d) fourth, claims of depositors. Any federal deposit insurance agency or other deposit insurer is subrogated to all rights of the depositors against the institution, its officers and directors, and its persons in control of the institution as control is defined in Section 7-1-103 to the extent of all payments made for the benefit of the depositors. "Payments," as used in this subsection, includes arrangements by a federal deposit insurance agency for the assumption or payment of the deposit liabilities by another institution whose deposits are insured by a federal deposit insurance agency. The right of any agency of the United States insuring deposits or savings obligations to be subrogated to the rights of depositors upon payment of their claims may not be less extensive than the law of the United States provides with respect to subrogation to the rights of depositors in national banks. For the purposes of this section, a contractual commitment to advance funds, including a standby letter of credit, may not be considered a deposit liability of the institution;

777 (e) fifth, all other unsecured claims in amounts allowed by the court, including claims of secured creditors to the extent the amount of their claims exceed the present fair market value of their collateral. The claim of a lessor for damages resulting from the termination of a lease of property may not be allowed in an amount in excess of the rent reserved by the lease, without acceleration,

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for 60 days after the lessor repossessed the leased property, or the leased property was surrendered to the lessor, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid rent due under the lease, without acceleration, on the date of possession or surrender. A claim for damages resulting from the termination of an employment contract, may not be allowed in an amount in excess of the compensation provided by the contract, without acceleration, for 90 days after the employee was directed to terminate, or the employee terminated, performance under the contract, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid compensation due under the contract, without acceleration, on the date the employee was directed to terminate or the employee terminated performance. Claims for damages resulting from the termination of employment contracts of persons who were in control of the institution, as control is defined in Section 7-1-103, are not entitled to priority under this subsection. Claims for damages for breach of a commitment to advance funds shall be limited to the amount due and owing by the institution on the date the commissioner took possession of the institution;

- 798 (f) sixth, claims for debt that are subordinated under the provisions of a subordination agreement or  
other instrument;
- 800 (g) seventh, claims of persons who were at any time in control of the institution as control is defined in  
Section 7-1-103; and
- 802 (h) eighth, all other claims.
- 803 (2) The commissioner shall classify each claim presented for priority purposes under Subsection (1)  
and shall indicate the classification on any certificate issued under the provisions of Subsection  
7-2-6(11). This classification is final, subject to review by the court upon a timely objection filed  
under Subsection 7-2-6(9).
- 807 (3) When the commissioner has paid to each depositor and creditor of the institution whose claims have  
been proved and allowed the full amount of the claim, has made proper provision for unclaimed or  
unpaid deposits or dividends, and has paid all the expenses of the liquidation, [he] the commissioner  
shall distribute the balance of the assets of the institution in [his] the commissioner's possession  
among the shareholders of the institution in proportion to the holdings and classes of this stock.  
Unless a court of competent jurisdiction determines otherwise, the shareholders shall be determined  
by the books and records of the institution as of the date the commissioner took possession.

818 Section 25. Section **7-2-16** is amended to read:



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819 **7-2-16. Interim ratable dividends.**

At any time after the expiration of the date fixed for the presentation of claims and prior to the declaration of a final dividend the commissioner may, out of the funds remaining in [his] the commissioner's hands after the payment of expenses, declare and pay, subject to their priorities established under Section 7-2-15, one or more interim ratable dividends to any person and in the amount and upon such notice as the court directs.

825 Section 26. Section **7-2-18** is amended to read:

826 **7-2-18. Plan for reorganization or liquidation of institution -- Hearing -- Procedure -- Effect -- Appeals.**

825 (1) If the commissioner has taken possession of any institution or other person under the jurisdiction of the department[~~he~~] , the commissioner may propose to the court a plan for the reorganization or liquidation of the institution or the establishment of a new institution by filing a petition with the court, setting forth the details of the plan and requesting the court to set a day for hearing on the petition.

830 (2) The court shall make an order fixing a day for the hearing of the petition, prescribing the manner in which notice of the hearing is given, and may prescribe a deadline for filing written objections. The court may adjourn the hearing from time to time and no further notice is required. At the time of hearing or any adjournment of a hearing the court shall take testimony, and if it appears that it is in the best interests of the depositors and other creditors, the court shall approve the plan.

836 (3) A plan of reorganization or liquidation approved by the court shall be fully binding upon and constitute a final adjudication of all claims, rights, and interests of all depositors, creditors, shareholders, and members of the institution being reorganized or liquidated, and all other parties in interest with regard to the plan and with regard to any institution or other person receiving any assets or assuming any liabilities under the plan.

841 (4) Notice of an appeal of an order approving a plan of reorganization or liquidation shall be filed within 10 days after the date of entry of the order appealed from.

846 Section 27. Section **7-2-19** is amended to read:

847 **7-2-19. Suspension of payments by institution -- Order of commissioner -- Approval of governor -- Period effective -- Exempt payments -- Operation during suspension -- Modification of orders -- Adoption of rules and regulations.**

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- (1) The commissioner, whenever in [~~his~~] the commissioner's opinion the action is necessary in the public interest, may, if the governor approves, order such institutions as are subject to [~~his~~] the commissioner's supervision to suspend the payment in any manner of their respective liabilities to their depositors and other creditors, except as hereinafter provided.
- 852 (2) The order shall become effective upon notice, and shall continue in full force and effect until rescinded or modified by [~~him~~] the commissioner. No such order shall be issued for an initial period of more than 60 days, but any such order may, if the governor approves, be extended from time to time for further periods not exceeding 60 days each.
- 856 (3) Nothing contained in this chapter shall affect the right of the institutions to pay current operating expenses and other liabilities incurred during a period of suspension.
- 858 (4) Whenever in the opinion of the commissioner conditions warrant such action, [~~he~~] the commissioner may, if the governor approves, authorize the issuance of clearing house certificates, post notes or other evidences of indebtedness, either during a period of suspension, or during such longer period as [~~he~~] the commissioner may prescribe, and during a period of suspension, [~~he~~] the commissioner may permit the suspended institution to receive deposits and may authorize any such institution to pay any part of its liabilities, or of any class thereof, payment of which has been suspended.
- 865 (5) [~~He~~] The commissioner may, if the governor approves, at any time, by order, modify or rescind any or all previous orders made by [~~him~~] the commissioner under authority of this chapter.
- 868 (6) The commissioner may, if the governor approves, prescribe such rules and regulations as [~~he~~] the commissioner considers necessary in order to carry out the provisions of this chapter, and an order may be issued on such terms and conditions as may be incorporated in the order.

875 Section 28. Section **7-3-3.2** is amended to read:

876 **7-3-3.2. Securities business permitted -- Activities conducted by subsidiary -- Disclosure statements required.**

- 875 (1) A bank has all necessary and incidental powers to engage in the business of purchasing, selling, underwriting, and dealing in securities, whether as a principal for its own account or as agent or broker for a customer, subject to the limitations in this section.
- 878 (2) The securities business that a bank may conduct as a principal for its own account is limited to the activities specified in Subsections (2)(a) through (d). A bank does not otherwise have power to enter securities underwriting or act as a principal in issuance or marketing of securities.

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- (a) A bank may purchase for investment and subsequently resell those types of securities authorized by statute or rule of the commissioner, including, without limitation, shares purchased in accordance with Section 7-3-21 and government or other securities lawfully acquired for the investment or trading portfolio of the bank or any of its subsidiaries or affiliates in accordance with any limitation established by any other federal or state statute, regulation, or rule.
- 888 (b) A bank may sell securities of any kind acquired in the ordinary course of business, including, without limitation, through foreclosure on pledged securities.
- 890 (c) A bank may underwrite or deal in securities issued by a municipality, county, or other local governmental entity or an agency of any such governmental entity, securities issued by a state or any of its agencies, or securities issued by the federal government or any of its agencies.
- 894 (d) A bank may establish or underwrite the securities of registered investment companies that are limited to operating or investing in money market funds or other short-term government or corporate debt instruments.
- 897 (3) This section may not be interpreted to alter the traditional rights and powers of banks to issue deposit instruments or similar instruments that acknowledge receipt of money for customers, even though the instruments may for some purposes be considered securities.
- 900 (4) Securities activities under this section, except those activities described in Subsections (2)(a) and (b), shall be conducted only through a subsidiary. Any such subsidiary shall be established pursuant to rules that the commissioner may adopt after notice and hearing. Any such rules shall further define the standards by which a securities subsidiary of a bank may be established and operated, including the requirement for registration, if required, as a broker-dealer with state, federal, and self-regulatory agencies. In addition to other standards that may be established by these rules, a bank may not invest more than 10% of its total capital in a securities subsidiary. For purposes of that determination, total capital shall be calculated in accordance with all other applicable statutes and rules of the commissioner, including the effect of loans from the bank to the subsidiary, together with capital standards established by the Federal Deposit Insurance Corporation. Every loan made by the bank to a securities subsidiary shall comply with applicable state and federal laws. In all cases, each subsidiary shall maintain separate corporate and financial records.
- 914 (5) Notwithstanding Subsection (4), a bank may enter into a networking agreement with a registered broker-dealer for the provision of brokerage services to the bank's customers on the bank's premises without the need to comply with Subsection (4), (6), or (7).

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- 917 (6) The securities activities authorized by this section may be conducted from an authorized banking office or from a separate office of a subsidiary, and may be offered to customers in this state or in any other state, territory, or country, except to the extent such activities are limited or prohibited by the laws of the other state, territory, or country.
- 921 (7) Before undertaking any of the direct or indirect securities activities permitted under this section, except those authorized by Subsection (2)(a), a bank shall apply to the commissioner. The commissioner shall render a decision of approval, conditional approval, or disapproval within 60 days from the date of receiving the application. Public notice is not required for any hearing on the application that may be held. ~~[The commissioner shall satisfy himself before approving the application]~~ Before approving the application, the commissioner shall be satisfied that the bank possesses the managerial and financial resources necessary to conduct the securities activities safely and soundly.
- 930 (8) In conducting securities activities, a bank shall in all respects comply, and cause its securities subsidiary to comply, with the Utah Uniform Securities Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and other applicable statutes, regulations, and rules.
- 934 (9) In connection with each customer for which a bank or its securities subsidiary shall act as agent or broker, the bank or the subsidiary, as applicable, shall give a written disclosure to its customer prior to closing any single transaction or establishment of an account contemplating a series of transactions. The disclosure statement shall be in legible print and shall be in substantially the form shown in Subsection (9)(a) with respect to the bank and in Subsection (9)(b) with respect to any securities subsidiary.
- 940 (a)

### {-} DISCLOSURE STATEMENT

941 The services offered by the securities department of this bank are offered to its customers without regard to any other banking relationship. By signing below the customer acknowledges receipt of this Disclosure Statement and agrees that any contract for securities services is completely voluntary, and the selection of this bank for securities services has not been required by any other business relationship or account with the bank.

946 \_\_\_\_\_(month/day/year).

947 CUSTOMER:

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948 {-} \_\_\_\_\_

949 {-} \_\_\_\_\_

950 (b)

### DISCLOSURE STATEMENT

951 \_\_\_\_\_ (name of securities agency subsidiary) is a subsidiary of \_\_\_\_\_  
(name of bank). The services offered by \_\_\_\_\_ (name of subsidiary) are offered to  
its customers without regard to any separate banking relationship with \_\_\_\_\_ (name  
of bank). By signing below the customer acknowledges receipt of this Disclosure Statement and  
agrees that any contract for services with \_\_\_\_\_ (name of subsidiary) is completely  
voluntary and the selection of \_\_\_\_\_ (name of subsidiary) for securities services has not  
been required by any business relationship with its parent bank.

959 \_\_\_\_\_(month/day/year).

960 CUSTOMER:

961 {-} \_\_\_\_\_

962 {-} \_\_\_\_\_

966 Section 29. Section **7-3-35** is amended to read:

967 **7-3-35. Examinations in lieu of directors' examination -- Report filed with board minutes.**

966 (1) With the approval of the commissioner, and under rules and regulations prescribed by ~~him~~ the  
commissioner, any examination made during an 18-month period by the department, the applicable  
federal reserve bank or the Federal Deposit Insurance Corporation, or a certified audit prepared  
by an independent certified public accountant may be substituted for the directors' examination  
required under Section 7-3-33.

971 (2) If an examination by the department, the applicable federal reserve bank, or the Federal Deposit  
Insurance Corporation or an audit by a certified public accountant, is substituted for the directors'  
examination, the board of directors of the examined bank, or an examining committee appointed  
by the board shall prepare and file with the minutes of the board a detailed written report of the  
findings and recommendations based upon the examination. The report shall be in addition to any  
other requirements prescribed by the commissioner.

981 Section 30. Section **7-5-3** is amended to read:

982 **7-5-3. Application for authorization to engage in trust business -- Criteria for granting --  
Authority of trust company.**

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- 981 (1) A person seeking authorization to become a trust company and engage in the trust business in this  
state shall file an application with the commissioner in the manner provided in Section 7-1-704, and  
shall pay the fee prescribed in Section 7-1-401.
- 984 (2) The commissioner shall, in deciding whether or not to approve the application, take into account:
- 986 (a) the character and condition of the applicant's assets;
- 987 (b) the adequacy of its capital;
- 988 (c) its earnings record;
- 989 (d) the quality of its management;
- 990 (e) the qualifications of any person proposed to be an officer in charge of the trust operations;
- 992 (f) the needs of the community for fiduciary services;
- 993 (g) the volume of business that the applicant will probably do; and
- 994 (h) any other relevant facts and circumstances, including the availability of legal counsel to advise and  
pass upon matters relating to the trust business.
- 996 (3) The commissioner may not apply criteria making it more difficult for a state chartered depository  
institution to obtain approval to engage in the trust business than for a federally chartered depository  
institution of the same class.
- 999 (4) The commissioner may impose such conditions when authorizing a person to engage in the trust  
business as [he] the commissioner considers appropriate to protect the public interest.
- 1002 (5) Upon receiving authorization from the commissioner to become a trust company and engage in the  
trust business, the trust company is qualified to act as fiduciary in any capacity without bond.

1008 Section 31. Section **7-5-12** is amended to read:

1009 **7-5-12. Directors' audit of trust business -- Report available to commissioner or examiners --  
Examinations in lieu of audit.**

A committee of the board of directors, exclusive of any active officers of the trust department, of every trust company authorized to engage in the trust business in this state shall, at least once during a 15-month period, make a suitable audit of the trust business operations of the institution or cause a suitable audit to be made by auditors responsible only to the board of directors and shall ascertain whether the trust business operations of the institution have been administered in accordance with law and sound fiduciary principles. A report of the audit, together with the action taken thereon, shall be made available to the commissioner, [his] the commissioner's examiners, or the examiners of other trust company regulating agencies

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upon request. An examination by the state or other trust company regulating agencies or both made during the same period may be substituted for this audit.

1021 Section 32. Section **7-9-18** is amended to read:

1022 **7-9-18. Expulsion of member.**

1020 (1) The board of directors or board-designated representatives may expel from the credit union any member who has not carried out [~~his~~] the member's engagements with the credit union, or neglected or refused to comply with the credit union board policies, provisions of this chapter, or of the credit union bylaws.

1024 (2) If the member whose expulsion is under consideration is a member of the board of directors or credit committee, the supervisory committee shall call a special meeting of the members to hear the facts and act upon the proposed expulsion.

1030 Section 33. Section **7-9-31** is amended to read:

1031 **7-9-31. Shares held in trust.**

1029 (1) Shares may be issued to and deposits received in the name of a minor, and these shares and deposits may, in the discretion of the board of directors, be withdrawn by the minor or by [~~his~~] the minor's parent or guardian.

1032 (2) A credit union share account, share certificate, deposit, or deposit certificate may be held in trust provided that the trustor, trustee, or primary beneficiary is a member of the credit union.

1035 (3) The trustee of the trust meeting the requirements of Subsection (2) shall exercise the rights of the trust as a member of the credit union.

1040 Section 34. Section **7-9-49** is amended to read:

1041 **7-9-49. Limitation of personal liability of directors and committee members.**

1039 (1) Without limiting the generality of Section 7-9-50, the articles of incorporation may include a provision eliminating or limiting the personal liability of a director, supervisory committee member, or credit committee member to the credit union, its members, or its depositors for monetary damages for any action taken or any failure to take any action as a director, supervisory committee member, or credit committee member, except liability for:

1045 (a) the amount of a financial benefit received by a director, supervisory committee member, or credit committee member to which [~~he~~] the individual is not entitled;

1047 (b) an intentional infliction of harm on the credit union, its members, or depositors; or

1048 (c) an intentional violation of criminal law.

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1049 (2) No provision authorized under this section may eliminate or limit the liability of a director,  
supervisory committee member, or credit committee member for any act or omission occurring prior  
to the date when the provision becomes effective.

1052 (3) Any provision authorized under this section to be included in the articles of incorporation may  
also be adopted in the bylaws or by resolution, but only if the provision is approved by the same  
percentage of members as would be required to approve it as an amendment to the articles of  
incorporation.

1059 Section 35. Section **7-9-50** is amended to read:

1060 **7-9-50. General limitation on liability.**

A director, supervisory committee member, credit committee member, or officer is not  
liable to the credit union, its members, its depositors, any conservator or receiver, or any  
assignee or successor-in-interest thereof, for any action taken, or any failure to take any action,  
as a director, supervisory committee member, credit committee member, or officer, as the case  
may be, unless:

1063 (1) [~~he~~] the director, supervisory committee member, credit committee member, or officer has breached  
or failed to perform the duties of the office in compliance with this title; and

1066 (2) the breach or failure to perform constitutes gross negligence, willful misconduct, or intentional  
infliction of harm on the credit union or its members.

1071 Section 36. Section **7-17-5** is amended to read:

1072 **7-17-5. Statements.**

Every lender shall furnish to the borrower, or [~~his~~] the borrower's successors or assigns,  
without charge, within 60 days after the end of each calendar year, an itemized statement  
showing money:

(1) received for interest and principal repayment; and

(2) received and held in or disbursed from a reserve account, if any.

1078 Section 37. Section **7-19-3** is amended to read:

1079 **7-19-3. Waiver of procedures.**

The commissioner may waive any of the procedures of Section 7-1-705 or any  
regulation of the department if [~~he~~] the commissioner considers it necessary to protect the  
interest of depositors, creditors, and other customers of a failing or failed depository institution  
or failing or failed depository institution holding company in a supervisory merger or a



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supervisory acquisition.

1085 Section 38. Section **7-19-5** is amended to read:

1086 **7-19-5. Findings prerequisite to requiring or authorizing supervisory acquisitions or mergers by commissioner.**

The commissioner may not authorize or require any transaction pursuant to Section  
1086 7-19-2 unless [he] the commissioner determines that:

- 1087 (1) the acquiring or resulting depository institution or depository institution holding company has demonstrated an acceptable record of meeting the credit needs of the communities which it serves; and
- 1090 (2) the acquiring or resulting depository institution or depository institution holding company has a record of sound performance, capital adequacy, financial capacity, and efficient management such that the acquisition or merger will not jeopardize the financial stability of the acquired or merged depository institution and will not be detrimental to the interests of depositors, creditors, other customers of the depository institution, or to the public.

1099 Section 39. Section **7-19-9** is amended to read:

1100 **7-19-9. Commissioner's powers not limited -- Immunity -- Rules -- Reports.**

- 1098 (1) This chapter does not limit any power otherwise granted to the commissioner or to any depository institution or depository institution holding company by the laws of this state.
- 1100 (2) The commissioner is not subject to any civil liability or penalty nor to any criminal prosecution for any error in judgment or discretion in any action taken or omitted by [him] the commissioner in good faith under the provisions of this chapter.
- 1103 (3) The commissioner may promulgate such rules and regulations as may be necessary to implement this chapter.
- 1105 (4) By January 10 of each year, the commissioner shall report to the governor and the Legislature the nature and general terms and conditions of any supervisory acquisition or supervisory merger effectuated under the provisions of this chapter during the preceding year.

1112 Section 40. Section **8-2-2** is amended to read:

1113 **8-2-2. Investment of funds by Division of Finance.**

The Division of Finance shall with the approval of the governor invest the money which may be deposited with the state treasurer under the provisions of the preceding section in the name of the state, in bonds or other obligations of the state or of the United States, or in

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securities in which the division is authorized to invest money in behalf of the state, and semiannually in each year it shall cause to be paid the accrued interest thereof to such person, association or corporation for the care, maintenance or improvement of any cemetery or cemetery lot where the money has been deposited for that purpose. If such cemetery is not held in private ownership, such interest shall be paid to the city or town in which the cemetery is located. At the time of paying such interest the treasurer shall inform the person, city, or town to whom it is paid of the purpose to which it is to be applied as stated in the copy of the instrument which is filed with ~~[him]~~ the treasurer, and the person, city, or town to whom it is paid shall apply it to such purpose.

1126 Section 41. Section **9-8-804** is amended to read:

1127 **9-8-804. Statute of limitations for claiming repositied materials from a collecting institution.**

1126 (1) Any repositied materials in a collecting institution that are not accompanied by a transfer of title to those materials are considered a gift to the collecting institution when more than 25 years have passed from the date of the last written contact between the depositor or ~~[his]~~ the depositor's successors and the collecting institution.

1130 (2) No depositor or any of ~~[his]~~ the depositor's successors may bring an action against the collecting institution to recover the repositied materials from the collecting institution after 25 years have passed from the date of the last written contact between the depositor or ~~[his]~~ the depositor's successors and the collecting institution.

1137 Section 42. Section **9-8-806** is amended to read:

1138 **9-8-806. Claiming repositied materials held by a collecting institution.**

1136 (1) Any person claiming title to repositied materials held by a collecting institution shall demonstrate that ~~[he]~~ the person owns all right, title, and interest in the repositied materials to the reasonable satisfaction of the collecting institution.

1139 (2)

. (a) Any person claiming to represent a person claiming title to repositied materials held by a collecting institution shall demonstrate, to the reasonable satisfaction of the collecting institution, that:

1142 (i) ~~[he]~~ the person claiming to represent a person claiming title to the repositied material represents every person who owns any right, title, or interest in the repositied materials; and

1145 (ii) the represented persons ~~[he represents]~~ own all right, title, and interest in the repositied materials.

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1147 (b) Any person claiming [~~he represents~~] to represent persons holding all right, title, and interest in the  
reposited materials may demonstrate that representation by providing the collecting institution  
with a notarized authorization from every person having any right, title, or interest in the reposited  
materials.

1154 Section 43. Section **9-9-203** is amended to read:

1155 **9-9-203. Acceptance or rejection of cession of state jurisdiction -- Proclamation by governor.**

1154 (1) If the governor receives a resolution signed by the majority of any tribe, tribal council, or other  
governing body duly recognized by the Bureau of Indian Affairs of any tribe, community, band  
or group in the state certifying the results of a special election expressly ceding criminal or civil  
jurisdiction of the Indian tribe, community, band, or group or its lands or any portion thereof to the  
state of Utah within the limits authorized by federal law, [~~he~~] the governor shall either accept or  
reject the cession of jurisdiction within 60 days.

1161 (2) If the governor accepts jurisdiction, [~~he~~] the governor shall issue a proclamation within 60 days to  
the effect that civil or criminal jurisdiction shall apply, subject to the limitations of this chapter,  
to all Indians and all Indian territory, country, lands or any portion thereof of the Indian body  
involved to the extent authorized by the resolution. Failure to issue the proclamation within the time  
prescribed is considered a rejection of the assumption of jurisdiction.

1170 Section 44. Section **10-3-202** is amended to read:

1171 **10-3-202. Terms of elected municipal officers.**

Each elected officer of a municipality shall hold office for the term for which [~~he~~]the  
officer is elected and until [~~his~~] the officer's successor is chosen and qualified, unless the office  
becomes vacant under Section 10-3-301.

1175 Section 45. Section **10-3-705** is amended to read:

1176 **10-3-705. Requirements as to form -- Effective date.**

Ordinances passed or enacted by the governing body shall be signed by the mayor, or if [  
~~he~~] the mayor is absent, by the mayor pro tempore, or by a quorum of the governing body, and  
shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its  
failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4). Ordinances  
which do not have an effective date shall become effective 20 days after publication or  
posting, or 30 days after final passage by the governing body, whichever is sooner.

1183 Section 46. Section **10-3-829** is amended to read:

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1184 **10-3-829. Acts of officials not voided.**

No official act of any municipal officer shall be invalid for the reason that [he] the officer failed to take the oath of office.

1187 Section 47. Section **10-3-904** is amended to read:

1188 **10-3-904. Books and supplies -- Recording, filing, and inspection.**

The city engineer's office shall be supplied with all necessary books, cases and supplies for recording and filing as required. The city engineer shall record and file all drawings and documents pertaining to public lands and improvements. Those made in [his] the city engineer's office shall be placed on record as soon as completed and shall then be open for public inspections, and any person copying the same or taking notes therefrom may do so in pencil only. [He] The city engineer shall keep the records and files in good condition and turn the same over to [his] the city engineer's successor in office. [He] The city engineer shall allow no alteration, mutilation or changes to be made in any matter of record, and shall be held strictly accountable for the same.

1198 Section 48. Section **10-3-906** is amended to read:

1199 **10-3-906. Seal.**

The city engineer shall be provided with a seal by the city for [his] the city engineer's use, containing the words " \_\_\_\_City, Utah, Engineering Department." The seal shall be affixed to every certification approval.

1203 Section 49. Section **10-3-915** is amended to read:

1204 **10-3-915. Rights to arrest without warrant.**

The members of the police force shall have the power and authority, without process, to arrest and take into custody any person who shall commit or threaten or attempt to commit in the presence of the officer, or within [his] the officer's view, any breach of the peace, or any offense directly prohibited by the laws of this state or by ordinance.

1209 Section 50. Section **10-8-50** is amended to read:

1210 **10-8-50. Disturbing the peace -- Public intoxication -- Fighting -- Obscene language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.**

1209 (1) Boards of commissioners and city councils of cities may provide for the punishment of any person or persons for:

1211 (a) disturbing the peace or good order of the city;

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- 1212 (b) disturbing the peace of any person or persons;
- 1213 (c) disturbing any lawful assembly;
- 1214 (d) public intoxication;
- 1215 (e) challenging, encouraging, or engaging in fighting;
- 1216 (f) using obscene or profane language in a place or under circumstances which could cause a breach of the peace or good order of the city;
- 1218 (g) engaging in indecent or disorderly conduct;
- 1219 (h) engaging in lewd or lascivious behavior or conduct in the city; and
- 1220 (i) interfering with any city officer in the discharge of [his] the officer's duty.
- 1221 (2) Boards of commissioners and city councils of cities may provide for the punishment of trespass and such other petty offenses as the board of commissioners or city council may consider proper.
- 1224 (3)
- . (a) A woman's breast feeding, including breast feeding in any location where she otherwise may rightfully be, does not under any circumstance constitute a lewd or indecent act, irrespective of whether or not the breast is covered during or incidental to feeding.
- 1228 (b) Boards of commissioners and city councils of cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breast feeding.
- 1234 Section 51. Section **11-3-4** is amended to read:
- 1235 **11-3-4. Enforcement -- Seizure of fireworks sold unlawfully -- Revocation of license.**
- 1234 (1) Each county and municipal officer charged with the enforcement of state and municipal laws, including all fire enforcement officials and the State Fire Marshal Division of the Department of Public Safety, shall enforce this chapter and Sections 53-7-220 through 53-7-225, Utah Fireworks Act.
- 1238 (2) Any official charged with enforcing this chapter and the Utah Fireworks Act may:
- 1239 (a) seize display fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of this chapter or the Utah Fireworks Act; and
- 1242 (b) recommend to the state fire [~~marshall~~] marshal that the state fire marshal revoke the license of each importer or wholesaler selling or offering to sell display fireworks, fireworks, or unclassified fireworks in violation of this chapter or the Utah Fireworks Act[~~have his license revoked~~].
- 1249 Section 52. Section **11-30-6** is amended to read:

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- 1250           **11-30-6. Contest of petition by attorney general or county attorney -- Attorney general and**  
**county attorney as parties.**
- 1249   (1) A copy of the petition and order shall be served on the attorney general at least 20 days before  
the hearing. Upon receipt of the petition, the attorney general shall carefully examine the petition  
and, if the petition is believed to be defective, insufficient, or untrue, or if, in the attorney general's  
opinion, a reasonable question exists as to the validity of the bonds, the attorney general shall  
contest the petition. If neither of those conditions exists or if one or more other parties to the action  
will, in the attorney general's opinion, competently contest the petition, the attorney general may,  
upon approval of the court, be dismissed as a defendant.
- 1257   (2) If the petition is filed by the state or any agency, authority, instrumentality, or institution of the  
state, the attorney general may not be made a party to the proceeding and notice shall be served on  
the county attorney in the county in which the largest expenditure of the proceeds of the bonds is  
expected to be made. That county attorney shall then in all respects perform the role of the attorney  
general as set forth in this section.
- 1262   (3) The attorney general or county attorney, as the case may be, may waive [his] the right of appeal and  
that waiver shall be binding on all successors and assigns.
- 1264   (4) All costs of the attorney general or county attorney incurred in performing duties imposed by this  
section shall be reimbursed from the proceeds of the bonds if the bonds are issued.

1270           Section 53. Section **13-1-5** is amended to read:

1271           **13-1-5. Executive director's authority over division directors.**

The executive director has policymaking and management jurisdiction over directors of  
the divisions and agencies within the department. [He] The executive director shall appoint the  
division directors, subject to approval by the governor, unless otherwise provided by law and  
shall determine their compensation.

1276           Section 54. Section **13-7-4** is amended to read:

1277           **13-7-4. Business establishment, place of public accommodation, or enterprise regulated  
by the state denying rights deemed public nuisance -- Investigation and conciliation -- Action to  
enjoin -- Civil action for damages -- Expenses of defending action.**

Any business establishment or place of public accommodation or enterprise regulated by  
the state in which a violation of the rights provided in Section 13-7-3 of this chapter occurs is a  
public nuisance. The operator of any such business establishment or place of public

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accommodation or enterprise regulated by the state is guilty of maintaining a public nuisance and may be enjoined as hereinafter provided.

- 1282 (1) Upon application to the attorney general by any person denied the rights guaranteed by Section  
13-7-3, the attorney general shall investigate and seek to conciliate the matter.
- 1284 (2) An action to enjoin any nuisance defined in this section may be brought in the name of the state of  
Utah by the attorney general. Upon the trial of the cause, on finding that the material allegations  
of the complaint are true, the court shall order such nuisance to be abated, and enjoin all persons  
from maintaining or permitting such nuisance. When any injunction as herein provided has been  
granted it shall be binding upon the defendant and shall act as an injunction in personam against the  
defendant throughout the state.
- 1290 (3) Any person who is denied the rights provided for in Section 13-7-3 shall have a civil action for  
damages and any other remedy available in law or equity against any person who denies [him] that  
person the rights provided for in Section 13-7-3 or who aids, incites or conspires to bring about such  
denial.
- 1294 (4) Any business establishment or place of public accommodation or enterprises regulated by the  
state charged with maintaining a public nuisance in violation of this chapter, which is determined  
or found not to be in violation of this chapter, may be awarded all actual and necessary expenses  
incurred in defending such action, as determined and approved by the court having jurisdiction of  
the matter.

1303 Section 55. Section **13-11-9** is amended to read:

1304 **13-11-9. Rule-making requirements.**

- 1301 (1) In addition to complying with other rule-making requirements imposed by this act, the enforcing  
authority shall:
- 1303 (a) adopt as a rule a description of the organization of [his] the enforcing authority's office, stating the  
general course and method of operation of [his] the office and method whereby the public may  
obtain information or make submissions or requests;
- 1306 (b) adopt rules of practice setting forth the nature and requirements of all formal and informal  
procedures available, including a description of the forms and instructions used by the enforcing  
authority of [his] the enforcing authority's office; and

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(c) make available for public inspection all rules, written statements of policy, and interpretations formulated, adopted, or used by the enforcing authority in discharging [his] the enforcing authority's functions.

1312 (2) A rule of the enforcing authority is invalid, and may not be invoked by the enforcing authority for any purpose, until it has been made available for public inspection under Subsection (1). This provision does not apply to a person who has knowledge of a rule before engaging in an act or practice that violates this act.

1320 Section 56. Section **13-11-16** is amended to read:

1321 **13-11-16. Investigatory powers of enforcing authority.**

1318 (1) If, by [his] the enforcing authority's own inquiries or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, is engaging in, or is about to engage in an act or practice that violates this act, [he] the enforcing authority may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.

1323 (2) If matter that the enforcing authority subpoenas is located outside this state, the person subpoenaed may either make it available to the enforcing authority at a convenient location within the state or pay the reasonable and necessary expenses for the enforcing authority or [his] the enforcing authority's representative to examine the matter at the place where it is located. The enforcing authority may designate representatives, including officials of the state in which the matter is located, to inspect the matter on [his] the enforcing authority's behalf, and [he] the enforcing authority may respond to similar requests from officials of other states.

1331 (3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable notice to all persons affected, the enforcing authority may apply to the court for an order compelling compliance.

1334 (4) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

1341 Section 57. Section **13-14a-5** is amended to read:

1342 **13-14a-5. Notice or consent required before changing terms of retailing agreement --  
Limitations on pledge of personal assets -- Cancellation of retailing agreement.**

1341 (1) Each manufacturer, wholesaler, financing subsidiary or division of the manufacturer, or any independent lender shall give the dealer prior written notice and obtain the dealer's consent before:

1344 (a) changing either the time or manner of payment;

1345 (b) making any changes in notes or security;



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- 1346 (c) adding or releasing guarantors; or
- 1347 (d) granting extensions or renewals in payment schedules on any contract that is executed by the dealer in behalf of and in the name of any third purchaser of goods or services in which the dealer is obligated to assume contingent liability for the repurchase of that contract upon default by that third party.
- 1351 (2) A person who signs a security agreement or guarantee agreement with a manufacturer or wholesaler may not be required to pledge or encumber [his] the person's personal assets in a value in excess of the amount of the indebtedness secured.
- 1354 (3) If any manufacturer or wholesaler fails to give notice or obtain consent under Subsection (1), or fails to comply with Subsection (2), the guarantee or security agreement affected is considered cancelled and terminated.

1361 Section 58. Section **13-20-4** is amended to read:

1362 **13-20-4. Nonconforming motor vehicles -- Replacement -- Refund -- Criteria -- Defenses.**

- 1360 (1) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use, market value, or safety of the motor vehicle after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a comparable new motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to the consumer, and any lienholders or lessors as their interests may appear.
- 1368 (2) A reasonable allowance for use is that amount directly attributable to use by the consumer prior to [his] the consumer's first report of the nonconformity to the manufacturer, its agent, or its authorized dealer, and during any subsequent period when the vehicle is not out of service because of repair.
- 1372 (3) Upon receipt of any refund or replacement under Subsection (1), the consumer, lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the motor vehicle.
- 1375 (4) It is an affirmative defense to any claim under this chapter:
- 1376 (a) that an alleged nonconformity does not substantially impair the consumer's use of the motor vehicle and does not substantially impair the market value or safety of the motor vehicle; or
- 1379 (b) that an alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

1385 Section 59. Section **13-21-4** is amended to read:

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1386           **13-21-4. Bond, letter of credit, or certificate of deposit -- Not required of agent if obtained by organization.**

1384       (1) If a credit services organization has obtained a bond, letter of credit, or certificate of deposit as set forth in Subsection 13-21-3(1) a salesperson, agent, or representative who sells the services of that organization is not required to post [~~his own~~] a separate bond, letter of credit, or certificate of deposit.

1388       (2) As used in this section, a person is not a salesperson, agent, or representative of a credit services organization unless:

1390       (a) the person does business under the same name as the credit services organization; or

1391       (b) the credit services organization and the issuer of the bond or letter of credit certify in writing that the bond or letter of credit covers the person.

1397           Section 60. Section **13-28-7** is amended to read:

1398           **13-28-7. Penalties -- Administrative and criminal.**

1395       (1) Any person who violates this chapter shall be subject to:

1396       (a) a cease and desist order; and

1397       (b) an administrative fine of not less than \$100 or more than \$5,000 for each separate violation.

1399       (2) All administrative fines shall be deposited in the Consumer Protection Education and Training Fund created in Section 13-2-8.

1401       (3) Any person who intentionally violates this part is guilty of a class A misdemeanor and may be fined up to \$10,000. A person intentionally violates this part if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that [he] the person is in violation of this chapter.

1409           Section 61. Section **15-8-11** is amended to read:

1410           **15-8-11. Enforcement -- Penalties.**

1407       (1)

.       (a) A lessor who fails to comply with the requirements of this chapter is liable to a consumer in an amount equal to the greater of:

1409       (i) the actual damages sustained by the consumer as a result of the lessor's failure to comply with this chapter; or

1411       (ii) 25% of the total payments necessary to acquire ownership, but not less than \$100 nor more than \$1,000.

## SB0079 compared with SB0079S01

- 1413 (b) A lessor may also be liable to the consumer for the costs of the action and reasonable  
[attorneys'] attorney fees, as determined by the court.
- 1415 (2) A consumer may not take any action to offset the amount for which a lessor is potentially liable  
under Subsection (1) against any amount owed by the consumer, unless the amount of the lessor's  
liability has been determined by judgment of a court of competent jurisdiction in an action in which  
the lessor was a party. This subsection does not bar a consumer then in default on an obligation  
from asserting a violation of this chapter as an original action, or as a defense or counterclaim, to an  
action brought by a lessor against the consumer.
- 1422 (3) No action under this section may be brought in any court of competent jurisdiction more than two  
years after the date the consumer made [~~his~~] the consumer's last rental payment or more than two  
years after the date of the occurrence of the violation that is the subject of the suit, whichever is  
later.

1430 Section 62. Section **16-7-2** is amended to read:

1431 **16-7-2. Articles of incorporation -- Execution -- Filing.**

Any person who is the archbishop, bishop, president, trustee in trust, president of stake,  
president of congregation, overseer, presiding elder, or clergyman of any church or religious  
society who has been duly chosen, elected, or appointed in conformity with the constitution,  
canons, rites, regulations, or discipline of such church or religious society, and in whom is  
vested the legal title to its property, may make and subscribe articles of incorporation,  
acknowledge the same before some officer authorized to take acknowledgments, and file the  
original articles with the Division of Corporations and Commercial Code; [~~he~~]the person who  
makes and subscribes the articles of incorporation shall retain a copy of these articles in [~~his~~]  
the person's possession.

1441 Section 63. Section **16-10a-129** is amended to read:

1442 **16-10a-129. Penalty for signing false documents.**

- 1439 (1) A person commits an offense if [~~he~~] the person signs a document knowing it to be false in any  
material respect, with intent that the document be delivered to the division for filing.
- 1442 (2) An offense under this section is a class A misdemeanor punishable by a fine not to exceed \$2,500.

1448 Section 64. Section **16-10a-824** is amended to read:

1449 **16-10a-824. Quorum and voting.**

1446

## SB0079 compared with SB0079S01

- (1) Unless the articles of incorporation or bylaws require a greater number, or, as permitted in Subsection (2), a lower number, a quorum of a board of directors consists of:
- 1448 (a) a majority of the fixed number of directors if the corporation has a fixed board size; or
- 1450 (b) a majority of the number of directors prescribed, or if no number is prescribed, of the number in office immediately before the meeting begins, if a range for the size of the board is established pursuant to Subsection 16-10a-803(2).
- 1453 (2) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than 1/3 of the fixed or prescribed number of directors determined under Subsection (1).
- 1456 (3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation, bylaws, or this chapter require the vote of a greater number of directors.
- 1459 (4) A director who is present at a meeting of the board of directors when corporate action is taken is considered to have assented to the action taken at the meeting unless:
- 1461 (a) the director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting;
- 1464 (b) the director contemporaneously requests [~~his~~] the director's dissent or abstention as to any specific action to be entered into the minutes of the meeting; or
- 1466 (c) the director causes written notice of a dissent or abstention as to any specific action to be received by the presiding officer of the meeting before adjournment of the meeting or by the corporation promptly after adjournment of the meeting.
- 1469 (5) The right of dissent or abstention as to a specific action pursuant to Subsection (4) is not available to a director who votes in favor of the action taken.
- 1475 Section 65. Section **16-10a-841** is amended to read:
- 1476 **16-10a-841. Limitation of liability of directors.**
- 1473 (1) Without limiting the generality of Subsection 16-10a-840(4), if so provided in the articles of incorporation or in the bylaws or a resolution to the extent permitted in Subsection (3), a corporation may eliminate or limit the liability of a director to the corporation or to its shareholders for monetary damages for any action taken or any failure to take any action as a director, except liability for:
- 1478 (a) the amount of a financial benefit received by a director to which [~~he~~] the director is not entitled;
- 1480 (b) an intentional infliction of harm on the corporation or the shareholders;

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- 1481 (c) a violation of Section 16-10a-842; or  
1482 (d) an intentional violation of criminal law.
- 1483 (2) No provision authorized under this section may eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision becomes effective.
- 1486 (3) Any provision authorized under this section to be included in the articles of incorporation may also be adopted in the bylaws or by resolution, but only if the provision is approved by the same percentage of shareholders of each voting group as would be required to approve an amendment to the articles of incorporation including the provision.
- 1491 (4) Any foreign corporation authorized to transact business in this state, including any federally chartered depository institution authorized under federal law to transact business in this state, may adopt any provision authorized under this section.
- 1494 (5) With respect to a corporation that is a depository institution regulated by the Department of Financial Institutions or by an agency of the federal government, any provision authorized under this section may include the elimination or limitation of the personal liability of a director or officer to the corporation's members or depositors.
- 1502 Section 66. Section **16-10a-853** is amended to read:  
1503 **16-10a-853. Shareholders' action.**
- 1500 (1) Shareholders' action respecting a transaction is effective for purposes of Subsection 16-10a-851(2) (b) if a quorum existed pursuant to Subsection (2) and a majority of the votes entitled to be cast by holders of qualified shares present in person or by proxy at the meeting were cast in favor of the transaction after notice to shareholders describing the director's conflicting interest transaction, provision of the information referred to in Subsection (3), and required disclosure to the shareholders who voted on the transaction, to the extent the information was not known by them.
- 1507 (2) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of action that complies with this section. Subject to the provisions of Subsections (3) and (4), shareholders' action that otherwise complies with this section is not affected by the presence of holders of, or the voting of, shares that are not qualified shares.
- 1512 (3) For purposes of compliance with Subsection (1), a director who has a conflicting interest respecting the transaction shall, before the shareholders vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes of the number and the identity of persons holding or

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controlling the vote, of all shares that the director knows are beneficially owned, or the voting of which is controlled, by the director or by a related person of the director, or both.

1518 (4) If a shareholders' vote does not comply with Subsection (1) solely because of a failure of a director  
to comply with Subsection (3), and if the director establishes that the failure did not determine and  
was not intended by ~~him~~ the director to influence the outcome of the vote, the court may, with  
or without further proceedings under Subsection 16-10a-851(2)(c), take any action respecting the  
transaction and the director, and give any effect to the shareholders' vote, as it considers appropriate  
in the circumstances.

1528 Section 67. Section **16-10a-902** is amended to read:

1529 **16-10a-902. Authority to indemnify directors.**

1526 (1) Except as provided in Subsection (4), a corporation may indemnify an individual made a party  
to a proceeding because ~~he~~ the individual is or was a director, against liability incurred in the  
proceeding if:

1529 (a) ~~his~~ the individual's conduct was in good faith; ~~and~~

1530 (b) ~~he~~ the individual reasonably believed that ~~his~~ the individual's conduct was in, or not opposed to,  
the corporation's best interests; and

1532 (c) in the case of any criminal proceeding, ~~he~~ the individual had no reasonable cause to believe  
~~his~~ the individual's conduct was unlawful.

1534 (2) A director's conduct with respect to any employee benefit plan for a purpose ~~he~~ the director  
reasonably believed to be in or not opposed to the interests of the participants in and beneficiaries of  
the plan is conduct that satisfies the requirement of Subsection (1)(b).

1537 (3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo  
contendere or its equivalent is not, of itself, determinative that the director did not meet the standard  
of conduct described in this section.

1540 (4) A corporation may not indemnify a director under this section:

1541 (a) in connection with a proceeding by or in the right of the corporation in which the director was  
adjudged liable to the corporation; or

1543 (b) in connection with any other proceeding charging that the director derived an improper personal  
benefit, whether or not involving action in ~~his~~ the director's official capacity, in which proceeding  
~~he~~ the director was adjudged liable on the basis that ~~he~~ the director derived an improper personal  
benefit.

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1547 (5) Indemnification permitted under this section in connection with a proceeding by or in the right of  
the corporation is limited to reasonable expenses incurred in connection with the proceeding.

1554 Section 68. Section **16-10a-903** is amended to read:

1555 **16-10a-903. Mandatory indemnification of directors.**

Unless limited by its articles of incorporation, a corporation shall indemnify a director who was successful, on the merits or otherwise, in the defense of any proceeding, or in the defense of any claim, issue, or matter in the proceeding, to which [he] the director was a party because [he] the director is or was a director of the corporation, against reasonable expenses incurred by [him] the director in connection with the proceeding or claim with respect to which [he] the director has been successful.

1562 Section 69. Section **16-10a-908** is amended to read:

1563 **16-10a-908. Insurance.**

A corporation may purchase and maintain liability insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the corporation, or who, while serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary, or agent of another foreign or domestic corporation or other person, or of an employee benefit plan, against liability asserted against or incurred by [him] the person in that capacity or arising from [his] the person's status as a director, officer, employee, fiduciary, or agent, whether or not the corporation would have power to indemnify [him] the person against the same liability under Section 16-10a-902, 16-10a-903, or 16-10a-907. Insurance may be procured from any insurance company designated by the board of directors, whether the insurance company is formed under the laws of this state or any other jurisdiction of the United States or elsewhere, including any insurance company in which the corporation has an equity or any other interest through stock ownership or otherwise.

1577 Section 70. Section **16-10a-1302** is amended to read:

1578 **16-10a-1302. Right to dissent.**

1575 (1) A shareholder, whether or not entitled to vote, is entitled to dissent from, and obtain payment of the fair value of shares held by [him] the shareholder in the event of, any of the following corporate actions:

1578 (a) consummation of a plan of merger to which the corporation is a party if:

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- 1579 (i) shareholder approval is required for the merger by Section 16-10a-1103 or the articles of  
incorporation; or
- 1581 (ii) the corporation is a subsidiary that is merged with its parent under Section 16-10a-1104;
- 1583 (b) consummation of a plan of share exchange to which the corporation is a party as the corporation  
whose shares will be acquired;
- 1585 (c) consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of  
the property of the corporation for which a shareholder vote is required under Subsection  
16-10a-1202(1), but not including a sale for cash pursuant to a plan by which all or substantially all  
of the net proceeds of the sale will be distributed to the shareholders within one year after the date of  
sale; and
- 1590 (d) consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of the  
property of an entity controlled by the corporation if the shareholders of the corporation were  
entitled to vote upon the consent of the corporation to the disposition pursuant to Subsection  
16-10a-1202(2).
- 1594 (2) A shareholder is entitled to dissent and obtain payment of the fair value of [~~his~~] the shareholder's  
shares in the event of any other corporate action to the extent the articles of incorporation, bylaws,  
or a resolution of the board of directors so provides.
- 1597 (3) Notwithstanding the other provisions of this part, except to the extent otherwise provided in  
the articles of incorporation, bylaws, or a resolution of the board of directors, and subject to the  
limitations set forth in Subsection (4), a shareholder is not entitled to dissent and obtain payment  
under Subsection (1) of the fair value of the shares of any class or series of shares which either  
were listed on a national securities exchange registered under the federal Securities Exchange Act  
of 1934, as amended, or on the National Market System of the National Association of Securities  
Dealers Automated Quotation System, or were held of record by more than 2,000 shareholders, at  
the time of:
- 1606 (a) the record date fixed under Section 16-10a-707 to determine the shareholders entitled to receive  
notice of the shareholders' meeting at which the corporate action is submitted to a vote;
- 1609 (b) the record date fixed under Section 16-10a-704 to determine shareholders entitled to sign writings  
consenting to the proposed corporate action; or
- 1611 (c) the effective date of the corporate action if the corporate action is authorized other than by a vote of  
shareholders.



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- 1613 (4) The limitation set forth in Subsection (3) does not apply if the shareholder will receive for [his] the  
1614 shareholder's shares, pursuant to the corporate action, anything except:
- 1615 (a) shares of the corporation surviving the consummation of the plan of merger or share exchange;
- 1617 (b) shares of a corporation which at the effective date of the plan of merger or share exchange either  
will be listed on a national securities exchange registered under the federal Securities Exchange Act  
of 1934, as amended, or on the National Market System of the National Association of Securities  
Dealers Automated Quotation System, or will be held of record by more than 2,000 shareholders;
- 1622 (c) cash in lieu of fractional shares; or
- 1623 (d) any combination of the shares described in Subsection (4), or cash in lieu of fractional shares.
- 1625 (5) A shareholder entitled to dissent and obtain payment for [his] the shareholder's shares under this  
part may not challenge the corporate action creating the entitlement unless the action is unlawful or  
fraudulent with respect to [him] the shareholder or to the corporation.

1633 Section 71. Section **16-10a-1327** is amended to read:

1634 **16-10a-1327. Special provisions relating to shares acquired after announcement of proposed  
corporate action.**

- 1632 (1) A corporation may, with the dissenters' notice given pursuant to Section 16-10a-1322, state the date  
of the first announcement to news media or to shareholders of the terms of the proposed corporate  
action creating dissenters' rights under Section 16-10a-1302 and state that a shareholder who asserts  
dissenters' rights must certify in writing, in or with the payment demand, whether or not [he] the  
dissenter or the person on whose behalf [he asserts] the dissenters' rights are being asserted acquired  
beneficial ownership of the shares before that date. With respect to any dissenter who does not  
certify in writing, in or with the payment demand that [he] the dissenter or the person on whose  
behalf the dissenters' rights are being asserted, acquired beneficial ownership of the shares before  
that date, the corporation may, in lieu of making the payment provided in Section 16-10a-1325,  
offer to make payment if the dissenter agrees to accept it in full satisfaction of [his] the dissenter's  
demand.
- 1644 (2) An offer to make payment under Subsection (1) shall include or be accompanied by the information  
required by Subsection 16-10a-1325(2).

1650 Section 72. Section **16-10a-1328** is amended to read:

1651 **16-10a-1328. Procedure for shareholder dissatisfied with payment or offer.**

1648

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(1) A dissenter who has not accepted an offer made by a corporation under Section 16-10a-1327 may notify the corporation in writing of [his] the dissenter's own estimate of the fair value of [his] the dissenter's shares and demand payment of the estimated amount, plus interest, less any payment made under Section 16-10a-1325, if:

1652 (a) the dissenter believes that the amount paid under Section 16-10a-1325 or offered under Section 16-10a-1327 is less than the fair value of the shares;

1654 (b) the corporation fails to make payment under Section 16-10a-1325 within 60 days after the date set by the corporation as the date by which it must receive the payment demand; or

1657 (c) the corporation, having failed to take the proposed corporate action creating dissenters' rights, does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares as required by Section 16-10a-1326.

1660 (2) A dissenter waives the right to demand payment under this section unless [he] the dissenter causes the corporation to receive the notice required by Subsection (1) within 30 days after the corporation made or offered payment for [his] the dissenter's shares.

1667 Section 73. Section **16-10a-1408** is amended to read:

1668 **16-10a-1408. Enforcement of claims against dissolved corporations.**

A claim may be enforced:

1666 (1) under Section 16-10a-1406 or 16-10a-1407 against the dissolved corporation, to the extent of its undistributed assets; or

1668 (2) against a shareholder of the dissolved corporation, if the assets have been distributed in liquidation; but a shareholder's total liability for all claims under this section may not exceed the total value of assets distributed to [him] the shareholder, as that value is determined at the time of distribution.

Any shareholder required to return any portion of the value of assets received by [him] the shareholder in liquidation shall be entitled to contribution from all other shareholders. The contributions shall be in accordance with the shareholders' respective rights and interests and may not exceed the value of the assets received in liquidation.

1680 Section 74. Section **16-10a-1602** is amended to read:

1681 **16-10a-1602. Inspection of records by shareholders and directors.**

1678 (1) A shareholder or director of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in Subsection 16-10a-1601(5) if [he] the shareholder or director gives the corporation written notice

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of the demand at least five business days before the date on which [~~he~~] the shareholder or director wishes to inspect and copy.

- 1683 (2) In addition to the rights set forth in Subsection (1), a shareholder or director of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder or director meets the requirements of Subsection (3) and gives the corporation written notice of the demand at least five business days before the date on which [~~he~~] the shareholder or director wishes to inspect and copy:
- 1689 (a) excerpts from:
- 1690 (i) minutes of any meeting, records of any action taken by the board of directors, or by a committee of the board of directors while acting on behalf of the corporation in place of the board of directors;
- 1693 (ii) minutes of any meeting of the shareholders;
- 1694 (iii) records of any action taken by the shareholders without a meeting; and
- 1695 (iv) waivers of notices of any meeting of the shareholders, of any meeting of the board of directors, or of any meeting of a committee of the board of directors;
- 1697 (b) accounting records of the corporation; and
- 1698 (c) the record of shareholders described in Subsection 16-10a-1601(3).
- 1699 (3) A shareholder or director is entitled to inspect and copy records as described in Subsection (2) only if:
- 1701 (a) the demand is made in good faith and for a proper purpose;
- 1702 (b) the shareholder or director describes with reasonable particularity [~~his~~] the shareholder's or director's purpose and the records [~~he~~] the shareholder or director desires to inspect; and
- 1705 (c) the records are directly connected with [~~his~~] the shareholder's or director's purpose.
- 1706 (4) For purposes of this section:
- 1707 (a) "proper purpose" means a purpose reasonably related to the demanding shareholder's or director's interest as a shareholder or director; and
- 1709 (b) "shareholder" includes a beneficial owner whose shares are held in a voting trust and any other beneficial owner who establishes beneficial ownership.
- 1711 (5) The right of inspection granted by this section may not be abolished by a corporation's articles of incorporation or bylaws.
- 1713 (6) This section does not affect:
- 1714

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(a) the right of a shareholder or director to inspect records under Section 16-10a-720 or, if the shareholder or director is in litigation with the corporation, to the same extent as any other litigant; or

1717 (b) the power of a court, independent of this chapter, to compel the production of corporate records for examination.

1719 (7) A shareholder or director may not use any information obtained through the inspection or copying of records permitted by Subsection (2) for any purposes other than those set forth in a demand made under Subsection (3).

1726 Section 75. Section **16-10a-1603** is amended to read:

1727 **16-10a-1603. Scope of inspection right.**

1724 (1) A shareholder's or director's agent or attorney has the same inspection and copying rights as the shareholder or director represented by the agent or attorney.

1726 (2) The right to copy records under Section 16-10a-1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

1728 (3) Except as provided in Section 16-10a-1606, the corporation may impose a reasonable charge, payable in advance, covering the costs of labor and material, for copies of any documents to be provided to the shareholder or director. The charge may not exceed the estimated cost of production or reproduction of the records.

1732 (4) The corporation may comply with a shareholder's or director's demand to inspect the record of shareholders under Subsection 16-10a-1602(2)(c) by providing ~~[him]~~ the shareholder or director with a list of the corporation's shareholders that complies with Subsection 16-10a-1601(3) and was compiled no earlier than the date of the shareholder's or director's demand.

1741 Section 76. Section **16-10a-1605** is amended to read:

1742 **16-10a-1605. Financial statements.**

Upon the written request of any shareholder, a corporation shall mail to ~~[him]~~the shareholder its most recent annual or quarterly financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

1746 Section 77. Section **16-10a-1606** is amended to read:

1747 **16-10a-1606. Information respecting shares.**

Upon the written request of any shareholder, a corporation at its own expense shall mail to ~~[him]~~ the shareholder the information specified by Subsection 16-10a-625(3), whether or not

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the information is also contained or summarized on any share certificate of the shareholder. The corporation may comply with this section by mailing articles of incorporation including the designations, preferences, limitations, and relative rights applicable to each class and series of shares and the authority of the board of directors to determine variations for any existing or future class or series.

1755 Section 78. Section **16-10a-1608** is amended to read:

1756 **16-10a-1608. Statement of person named as director or officer.**

1753 [(+) Any person named as a director or officer of a domestic or foreign corporation in an annual report or other document on file with the division may, if [he] the person does not hold the named position, deliver to the division for filing a statement setting forth:

1756 [(a)] (1) [his] the person's name;

1757 [(b)] (2) the domestic or foreign corporation's name;

1758 [(c)] (3) information sufficient to identify the report or other document in which [he] the person is named as a director or officer; and

1760 [(d)] (4) the date on which [he] the person ceased to be a director or officer of the domestic or foreign corporation, or a statement that [he] the person did not hold the position for which [he] the person was named in the corporate report or other document.

1767 Section 79. Section **19-1-302** is amended to read:

1768 **19-1-302. Violation of laws and orders unlawful.**

It is unlawful for any person:

- 1766 (1) to violate the provisions of the laws of this title or the terms of any order or rule issued under it; or  
1768 (2) to fail to remove or abate from private property under the person's control at [his] the person's own expense within 48 hours, or such other reasonable time as the department determines, after being ordered to do so, any nuisance, source of filth, or other sanitation violation.

1776 Section 80. Section **19-6-304** is amended to read:

1777 **19-6-304. Inspections.**

1774 (1) Upon presentation of appropriate credentials and at any reasonable time, any authorized officer, employee, or representative of the department may:

1776 (a) enter and inspect any property, premises, or place where [he] the officer, employee, or representative has reason to believe there is a hazardous materials or substances release;

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- (b) copy any records relating to those hazardous materials or substances to determine compliance with this part and the rules made under authority of this part; and
- 1781 (c) inspect and take samples of any suspected hazardous material or substance.
- 1782 (2) If the department's representative takes samples of any suspected hazardous material or substance under authority of this section, [he] the representative shall:
- 1784 (a) give a receipt describing the sample taken to the owner, operator, or agent who has control of the suspected hazardous material or substance;
- 1786 (b) if requested and if possible, give the owner, operator, or agent a split sample of the suspected hazardous material or substance equal in volume or weight to the portion [he] the representative retains; and
- 1789 (c) if an analysis of any sample is made, upon request, promptly furnish a copy of the results of the analysis to the owner, operator, or agent.
- 1795 Section 81. Section **19-6-309** is amended to read:
- 1796 **19-6-309. Emergency provisions.**
- 1793 (1)
- . (a) If the executive director has reason to believe any hazardous materials release that occurred after March 18, 1985, is presenting a direct and immediate threat to public health or the environment, the executive director may:
- 1796 (i) issue an order requiring the owner or operator of the facility to take abatement action within the time specified in the order; or
- 1798 (ii) bring suit on behalf of the state in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take immediate abatement action.
- 1801 (b) If the executive director determines the owner or operator cannot be located or is unwilling or unable to take abatement action, the executive director may:
- 1803 (i) reach an agreement with one or more potentially responsible parties to take abatement action; or
- 1805 (ii) use fund money to investigate the release and take abatement action.
- 1806 (2) The executive director may use money from the fund created in Section 19-6-307:
- 1807 (a) for abatement action even if an adjudicative proceeding or judicial review challenging an order or a decision to take abatement action is pending; and
- 1809 (b) to investigate a suspected hazardous materials release if [he] the executive director has reason to believe the release may present a direct and immediate threat to public health.

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1812 (3) This section takes precedence over any conflicting provision in this part.

1817 Section 82. Section **19-6-312** is amended to read:

1818 **19-6-312. Preinvestigation requirements.**

Before undertaking any remedial investigations on a facility on the hazardous substances priority list, the executive director shall make reasonable attempts to:

1817 (1) identify potentially responsible parties for each facility; and

1818 (2) send written notice to each potentially responsible party informing ~~[him]~~ the party of ~~[his]~~ the party's potential responsibility.

1824 Section 83. Section **19-6-314** is amended to read:

1825 **19-6-314. Remedial investigations of priority list sites -- Parties involved -- Powers of the executive director.**

1823 (1) All remedial investigations conducted under the authority of this section shall:

1824 (a) meet the substantive requirements of CERCLA;

1825 (b) follow procedures established by the National Contingency Plan to avoid inconsistent state and federal action; and

1827 (c) include recommendations for remedial action.

1828 (2)

. (a) After determining that a hazardous substance release is occurring from a national priority list site or proposed national priority list site, and identifying responsible parties under Section 19-6-312, the executive director shall make reasonable efforts to reach an agreement with the identified responsible parties to conduct a remedial investigation.

1833 (b) The executive director may define in the agreement the scope of the remedial investigation, the form of the report, and the time limits for completion of the investigation.

1836 (c) If any responsible party fails to perform as required under an agreement entered under the authority of this section, the executive director may take action to enforce the agreement.

1839 (3)

. (a) If the executive director is unable to reach an agreement with one or more responsible parties to perform a remedial investigation, the executive director may issue an order directing one or more responsible parties to perform the remedial investigation.

1843 (b) The executive director may define in the order the scope of the remedial investigation, the form of the report, and the time limits for completion of the remedial investigation.

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- 1846 (4)
- . (a) If the executive director is unable to obtain an agreement with one or more responsible parties to perform a remedial investigation, chooses not to order any responsible party to perform the remedial investigation, or determines that the remedial investigation performed by a responsible party does not meet the substantive requirements of CERCLA, [~~he~~] the executive director may direct the department to conduct or correct the remedial investigation.
- 1852 (b) The executive director may recover the costs incurred in conducting a remedial investigation from responsible parties according to the standards contained in Section 19-6-316.
- 1859 Section 84. Section **19-6-315** is amended to read:
- 1860 **19-6-315. Remedial investigations of scored sites -- Parties involved -- Powers of the**
- executive director.**
- 1858 (1) All remedial investigations conducted under the authority of this section shall:
- 1859 (a) meet the substantive requirements of CERCLA; and
- 1860 (b) include recommendations for remedial action.
- 1861 (2)
- . (a) After determining that a hazardous substance release is occurring from a scored site and identifying responsible parties under Section 19-6-312, the executive director shall make reasonable efforts to reach an agreement with the identified responsible parties to perform a remedial investigation.
- 1865 (b) The executive director may define in the agreement the scope of the investigation, the form of the report, and the time limits for completion of the investigation.
- 1867 (c) If the potentially responsible parties fail to perform as required under an agreement entered under the authority of this section, the executive director may take action to enforce the agreement.
- 1870 (3)
- . (a) If the executive director is unable to reach an agreement with one or more responsible parties to perform a remedial investigation, or determines that the remedial investigation performed by responsible parties does not meet the substantive requirements of CERCLA, [~~he~~] the executive director may direct the department to conduct or correct the remedial investigation.
- 1875 (b) The executive director may recover the costs incurred in conducting a remedial investigation from responsible parties according to the standards contained in Section 19-6-316.

1882 Section 85. Section **19-6-317** is amended to read:

1883



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### **19-6-317. Remedial investigation report -- Remedial action plan implementation -- Legal remedies.**

- 1881 (1) Upon receipt of a remedial investigation report for a national priority list site, the executive director shall:
- 1883 (a) review the report;
- 1884 (b) provide a period for public comment;
- 1885 (c) issue an order defining a remedial action plan consistent with CERCLA for the facility; and
- 1887 (d) follow the procedures established by the National Contingency Plan to avoid inconsistent state and federal action.
- 1889 (2)
- . (a) To implement the remedial action plan, the executive director shall seek to reach an agreement with all responsible parties to perform the remedial action.
- 1891 (b) The executive director may define in the agreement the remedial action required and the time limits for completion of the remedial action.
- 1893 (c) If the responsible parties fail to perform as required under an agreement entered under the authority of this section, the executive director may take action to enforce the agreement.
- 1896 (3)
- . (a) If the executive director is unable to reach an agreement with one or more responsible parties to perform remedial action, [~~he-~~] the executive director may order all responsible parties to perform the remedial action.
- 1899 (b) The executive director may define in the order the remedial action required and the time limits for completion of the remedial action.
- 1905 Section 86. Section **19-6-422** is amended to read:
- 1906 **19-6-422. Participation by state risk manager in suit, claim, or settlement.**
- 1903 (1) If a suit is filed or a claim is made against a responsible party who is eligible for payments from the fund for bodily injury or property damage connected with a release of petroleum from a petroleum storage tank, the state risk manager and [~~his~~] the state risk manager's legal counsel may participate with the responsible party and [~~his~~] the responsible party's legal counsel in:
- 1908 (a) the defense of any suit;
- 1909 (b) determination of legal strategy and any other decisions affecting the defense of any suit; and
- 1911 (c) any settlement negotiations.

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- 1912 (2) The state risk manager shall approve any settlement between the responsible party and a third party  
before payment of fund money is made.
- 1918 Section 87. Section **19-8-110** is amended to read:
- 1919 **19-8-110. Voluntary cleanup work plans and reports.**
- 1916 (1) After the applicant and the executive director have signed the voluntary cleanup agreement, the  
applicant shall prepare and submit the appropriate work plans and reports to the executive director  
as provided in the agreement.
- 1919 (2) The executive director shall review and evaluate the work plans and reports for accuracy, quality,  
and completeness.
- 1921 (3) The executive director may approve a voluntary cleanup work plan or report, or if [~~he~~] the executive  
director does not approve the work plan or a report, [~~he~~] the executive director shall notify the  
applicant in writing concerning additional information or commitments necessary to obtain  
approval.
- 1925 (4) At any time during the evaluation of a work plan or report, the executive director may request the  
applicant to submit additional or corrected information.
- 1927 (5) After considering the proposed future use of the property that is the subject of the agreement, the  
executive director may approve work plans and reports submitted under this section that do not  
require removal or remedy of all discharges, releases, and threatened releases on the property if the  
applicant's response actions under the agreement:
- 1932 (a) will be completed in a manner that protects human health and the environment;
- 1933 (b) will not cause, contribute to, or exacerbate discharges, releases, or threatened releases on the  
property that are not required to be removed or remedied under the work plan; and
- 1936 (c) will not interfere with or substantially increase the costs of response actions to address any  
remaining discharges, releases, or threatened releases resulting from releases initially generated on  
the property.
- 1943 Section 88. Section **31A-2-105** is amended to read:
- 1944 **31A-2-105. Constitutional oath.**
- Before entering upon the duties of [~~his~~] the commissioner's office, the commissioner  
shall take, subscribe, and file the constitutional oath. If the commissioner takes action in [~~his~~]  
the commissioner's office before complying with this section, in good faith and without  
knowledge of this requirement, and the validity of [~~his~~] the commissioner's action is then

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challenged, that person may take the oath after the action and the oath shall be given retroactive effect to the date on which [he] the commissioner began [his] the commissioner's duties.

1952 Section 89. Section **31A-2-106** is amended to read:

1953 **31A-2-106. Ethical requirements for Insurance Department staff.**

1950 (1) No employee of the Insurance Department, including the commissioner, may:

1951 (a) make any solicitation for any partisan political purpose or for anything that is not related to the public interest, as it is affected by insurance; or

1953 (b) continue or initiate a monetary relationship, except as policyholder, with an insurance agency or brokerage firm, insurance service organization, insurance adjuster, insurer or person affiliated with an insurer, except that:

1956 (i) a commissioner may receive renewal commissions or other deferred compensation earned before [his] the commissioner's appointment if this commission or compensation does not require [him] the commissioner to personally perform further service;

1960 (ii) a commissioner may continue to be obligated under the terms of a mortgage entered into prior to [his] the commissioner's appointment; and

1962 (iii) a commissioner may continue to have the beneficial interest in or own stock in an insurer, noninsurance company with insurance subsidiaries, insurance agency, brokerage firm, or insurance service organization acquired before appointment if the commissioner's ownership or interest is not of such total value that the commissioner might receive a substantial monetary benefit by failing to act impartially towards the organization. A partnership interest shall be treated as if it were shares in a corporation.

1969 (2) If the commissioner has any beneficial interest or ownership in an organization outlined under Subsection (1)(b)(iii), or if it is known to the commissioner that [his] the commissioner's spouse, parent, sibling, or child has an interest in any organization that, if held by the commissioner, would disqualify [him] the commissioner from serving as commissioner, [~~he shall disqualify himself~~] the commissioner is disqualified and shall abstain from all actions respecting the particular organization. The commissioner shall then delegate a senior staff member who is not also disqualified to act in [his] the commissioner's place with regard to that organization. There is a rebuttable presumption that the commissioner or the delegate service staff member knows of any

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disqualifying holdings. The commissioner shall report a disqualification in each annual report to the governor as long as the disqualification continues.

- 1980 (3) The commissioner shall give the governor at least 10 days written notice of any solicitation to be made by the commissioner or other member of the department staff.
- 1982 (4) In addition to any other penalty, an employee violating this section may be removed from office.
- 1988 Section 90. Section **31A-2-111** is amended to read:
- 1989 **31A-2-111. Delegation.**
- 1986 (1) Any power, duty, or function vested in the commissioner by law may be exercised, discharged, or performed by an employee of the Insurance Department acting in the commissioner's name and under [~~his~~] the commissioner's delegated authority.
- 1989 (2) Any person whose own course of action depends in good faith upon proof of the validity of an alleged delegation is not obligated to act until shown a written delegation of the commissioner with the signature of the commissioner or deputy commissioner.
- 1996 Section 91. Section **31A-2-112** is amended to read:
- 1997 **31A-2-112. Advisory councils and committees.**
- The commissioner may create advisory councils and committees to assist [~~him~~]the commissioner. [~~He~~] The commissioner may appoint members and provide by rule for the creation, governance, duties, and termination of any council or committee established.
- 2001 Section 92. Section **31A-2-311** is amended to read:
- 2002 **31A-2-311. Reciprocal enforcement of foreign decrees.**
- 1999 (1) As used in this section:
- 2000 (a) "Reciprocal state" means a state whose laws contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders issued by courts located in other states against an insurer authorized to do business in the reciprocal state, and which recognizes Utah as a reciprocal state under its law.
- 2004 (b) "Foreign decree" means a decree or order of a court located in a reciprocal state, including a United States court located in a reciprocal state against an insurer authorized to do business in Utah.
- 2007 (2) The commissioner shall determine which states qualify as reciprocal states and shall maintain a list of them.
- 2009

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- (3) The attorney general, upon request of the commissioner, may proceed in the courts of Utah or any other state to enforce an order or decision issued in Utah in any court proceeding or in any administrative proceeding before the insurance commissioner.
- 2012 (4)
- . (a) A copy of any foreign court decree authenticated under Utah statutes or court rules may be filed in the office of the clerk of the Third District Court for Salt Lake County. The clerk, upon verifying with the commissioner that the decree or order qualifies as a foreign court decree, shall treat it in the same manner and give it the same effect as a decree of a district court of Utah.
- 2017 (b)
- . (i) When filing the foreign decree, the filer shall deposit with the clerk of the court an affidavit setting forth the name and last-known post-office address of the defendant in Utah.
- 2020 (ii) When the foreign decree and the affidavit are filed, the clerk shall immediately mail notice of the filing of the foreign decree to the defendant at the address given by the filer and to the commissioner, and shall note the mailing in the docket. In addition, the attorney general may mail a notice of the filing of the foreign decree to the defendant and to the commissioner. Alternatively, the commissioner may mail a notice of the filing of the foreign decree to the defendant, and either the attorney general or the commissioner may file proof of this mailing with the clerk. The clerk's failure to mail notice of the filing does not affect the enforcement proceedings if the attorney general or the commissioner has filed a proof of mailing.
- 2030 (iii) No execution or other process for enforcement of a foreign decree may issue until 30 days after the foreign decree is filed.
- 2032 (c)
- . (i) If the defendant shows the court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof by the defendant that [~~he~~] the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.
- 2038 (ii) If the defendant shows the court any ground upon which enforcement of a similar decree of any district court of Utah would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon proof by the defendant that [~~he~~] the defendant has furnished the same security for satisfaction of the decree as is required in Utah.

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2043 (d) A person filing a foreign decree shall pay to the clerk of the court the same fee for an enforcement  
proceeding as is required for enforcing a decree of the district court.

2049 Section 93. Section **31A-5-103** is amended to read:

2050 **31A-5-103. Orders imposing and relaxing restrictions.**

2047 (1) The commissioner may by order subject an individual corporation not otherwise subject to some or  
all of the restrictions of Subsections 31A-5-304(4), 31A-5-305(1)(a), 31A-5-305(2)(a)(i) and (ii),  
and 31A-5-410(1)(b) if [~~he~~] the commissioner finds after a hearing that the individual corporation's  
financial condition, management, and other circumstances require additional regulation for the  
protection of the interests of insureds or the public. The commissioner shall detail in writing the  
grounds for [~~his~~] the commissioner's order.

2054 (2) The commissioner may by order free a new corporation from any or all of the restrictions  
generally applicable to new corporations under the provisions listed in Subsection (1), if [~~he~~] the  
commissioner is satisfied that the corporation's financial condition, management, and other  
circumstances give assurance that the interests of insureds and the public will not be endangered by  
doing so.

2063 Section 94. Section **31A-5-206** is amended to read:

2064 **31A-5-206. Sale of securities by authorized insurer.**

A domestic insurer that has already received a certificate of authority may issue  
additional securities to obtain further financing, after obtaining a solicitation permit from the  
commissioner. The organizational permit requirements in Section 31A-5-204 apply if the  
commissioner prescribes its application. The phrase "organization permit" in Section  
2065 31A-5-204 means "solicitation permit" when being applied to this section. The solicitation  
permit terminates one year from the date of its issuance. However, this permit may be  
extended for not more than one additional year by the commissioner on terms [~~he~~] the  
commissioner considers sufficient to protect the policyholders, the shareholders, and the public.

2073 Section 95. Section **31A-5-209** is amended to read:

2074 **31A-5-209. Termination and revocation of organization permit and payment of organization  
expenses.**

2072 (1) The organization permit terminates upon:

2073 (a) issuance of a certificate of authority under Section 31A-5-212;

2074 (b) revocation of the organization permit under Subsection (2); or

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- 2075 (c) expiration of one year after issuance, except that:
- 2076 (i) filing with the commissioner a good-faith application for a certificate of authority tolls the running of the expiration period for 30 days or until the commissioner rejects the application, whichever is earlier; and
- 2079 (ii) on application before expiration of the year the commissioner may grant a reasonable extension if [he] the commissioner states that [he] the commissioner expects the corporation to be able to satisfy the requirements for a certificate of authority within the extended period.
- 2083 (2) The commissioner may revoke an organization permit if:
- 2084 (a) he finds, after a hearing, that because of changes in circumstances, or because the facts are not as represented in the application, the conditions for issuance of a permit are not satisfied; or
- 2087 (b) he denies an application for a certificate of authority and finds that the corporation cannot reasonably be expected to satisfy the requirements for a certificate of authority within the remaining term of the organization permit or extension allowable under Subsection (1)(c).
- 2091 (3)
- . (a) Except in cases under Subsections (3)(b) and (3)(c), if the organization permit is revoked or expires before a certificate of authority is granted, after payment of the expenses of the state and payments to creditors under Section 31A-5-205, incorporators who have advanced money for the reasonable and authorized expenses of organization, including underwriting expenses, may be reimbursed in cash from the proceeds of share, mutual bond, or contribution note subscriptions under the organization permit, on itemized receipts audited by the commissioner. The total reimbursement may not exceed 5% of the amount received from subscribers. The remainder in the escrow account shall then be distributed among the subscribers in proportion to their contributions, valued as of the time the contributions were made. The bond under Section 31A-5-205 shall be discharged or the deposits under Section 31A-5-205 shall be released to the extent they are not needed for other purposes.
- 2103 (b) Reimbursement may be refused to any incorporator under Subsection (3), if the commissioner finds that in connection with the organization of the corporation, the incorporator has wilfully or negligently violated in a material way any provision of this chapter.
- 2107 (c) No reimbursement may be made under Subsection (3)(a) to an incorporator of an assessable mutual until all advance premiums collected under Subsection 31A-5-211(5) have been repaid in full.
- 2110

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- (4) The legal existence of the corporation terminates upon completion of the payments under Subsection (3).
- 2112 (5) This section does not apply to stock or mutual insurance corporations already in existence on July 1, 1986.
- 2118 Section 96. Section **31A-5-213** is amended to read:
- 2119 **31A-5-213. Accelerated organization procedure.**
- 2116 (1) The incorporators may apply for a certificate of authority without first obtaining an organization permit if:
- 2118 (a) their number is not more than 15;
- 2119 (b) no compensation is paid directly or indirectly for soliciting any of them;
- 2120 (c) they purchase for their own accounts all the shares proposed to be issued in the case of a stock corporation, or in the case of a mutual, they supply all the minimum permanent surplus and initial expendable surplus by contribution notes or otherwise; and
- 2124 (d) the shares are promotional securities and are subject to Subsections 31A-5-304(3) and (4).
- 2126 (2) The application for a certificate of authority shall include:
- 2127 (a) proof that the purchase price for the shares or the proceeds of contribution notes have been deposited on behalf of the proposed corporation;
- 2129 (b) a statement concerning whether and what property other than money is held in trust for the proposed corporation; and
- 2131 (c) the information which the commissioner reasonably requires under Subsection 31A-5-204(2).
- 2133 (3) The commissioner shall issue a certificate of authority if [~~he~~] the commissioner finds that:
- 2135 (a) all requirements of law have been met;
- 2136 (b) all natural persons who are incorporators, the directors and principal officers of corporate incorporators, and the proposed directors and officers of the corporation being formed are trustworthy and collectively have the competence and experience to engage in the particular insurance business proposed; and
- 2140 (c) the business plan is consistent with the interests of the corporation's potential insureds and of the public.
- 2142 (4) The director of the Division of Corporations and Commercial Code shall issue a certificate of incorporation upon notice from the insurance commissioner that all the applicable requirements of law have been met, including the payment of fees.



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- 2145 (5) When the certificate of incorporation is issued, the corporation's legal existence begins, the articles and bylaws become effective, and the proposed directors and officers take office. The certificate is conclusive evidence of compliance with this section, except in a proceeding by the state against the corporation.
- 2149 (6) This section does not apply to stock or mutual insurance corporations already in existence on July 1, 1986.
- 2155 Section 97. Section **31A-5-216** is amended to read:
- 2156 **31A-5-216. Change of domicile.**
- 2153 (1) A foreign insurance corporation may become a Utah insurance corporation if it submits an application which evidences that the corporation complies with all of the requirements imposed on domestic Utah corporations. The commissioner may, by order after a hearing, relax the requirements of this chapter applicable to corporations in the process of organization that, because of the developed status of the insurer, [~~he~~] the commissioner finds unnecessary to protect policyholders and the public. The commissioner shall simultaneously issue a certificate of organization under Subsection 31A-5-204(3) and a certificate of authority under Subsection 31A-5-212(2) when the conditions for both have been satisfied.
- 2162 (2) Upon approval by the commissioner, a domestic insurer may transfer its domicile to any other state in which it is admitted. The commissioner shall approve the transfer of domicile unless [~~he~~] the commissioner finds that the transfer will prejudice the interests of policyholders, creditors, or the public in Utah. The commissioner may require a special deposit, reinsurance, or other protective measures as an alternative to rejecting the insurer's application to move. After or simultaneous with the removal of the corporation, it may seek entry into this state as a foreign corporation under Chapter 14, Foreign Insurers.
- 2170 (3) The transfer of domicile of an insurance corporation under either Subsection (1) or Subsection (2) does not affect the obligations of the corporation under its existing insurance contracts or any other existing contracts.
- 2177 Section 98. Section **31A-5-303** is amended to read:
- 2178 **31A-5-303. Insider trading of securities.**
- 2175 (1) Every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance corporation, or who is a director or officer of a domestic stock corporation, shall file with the commissioner within 10 days after [~~he~~] the

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person becomes a beneficial owner, director, or officer, and within 10 days after the close of any following calendar month in which there has been a change in [his] the person's ownership or office, a statement in a form prescribed by the commissioner, of [his] the person's office and of all the equity securities of the company which [he] the person beneficially owns, and of all the changes in either. The commissioner may accept a copy of a similar statement filed with another regulatory authority in satisfaction of this subsection's requirement.

- 2185 (2) To prevent the unfair use of information which may have been obtained by a beneficial owner, director, or officer because of [his] the beneficial owner's, director's, or officer's relationship to the corporation, any profit realized by [him] the beneficial owner, director, or officer from the purchase and sale or sale and purchase of any equity security of the corporation within any period of less than six months, unless the security was acquired in good faith in connection with a debt previously contracted, is recoverable by the corporation. This recovery may be made in spite of any intention by the beneficial owner, director, or officer in entering into the transaction to hold the security purchased or not to repurchase the security sold for a period exceeding six months. A suit to recover the profit may be instituted in any court of competent jurisdiction by the corporation. If the corporation fails to bring suit within 60 days after request by the owner of a security of the corporation or if the corporation fails to prosecute it diligently, the owner of any security of the corporation may bring suit or prosecute the action in the name and on behalf of the corporation. This suit may not be brought more than two years after the date the profit was realized. This subsection does not apply to any transaction where the beneficial owner was not a beneficial owner both at the time of the purchase and sale, or the sale and purchase, of the security involved, nor does it apply to any transaction which the commissioner, by rule, exempts as not within the purpose of this subsection.

- 2204 (3)
- (a) A dealer in the ordinary course of [his] the dealer's business and incident to [his] the dealer's establishment or maintenance of a primary or secondary market for the security other than on an exchange as defined in the federal Securities Exchange Act of 1934, is not governed by Subsection (2) regarding a purchase and sale or sale and purchase. The commissioner may by rule define terms and prescribe conditions regarding securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

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- 2212 (b) Subsections (1) and (2) do not apply to foreign or domestic arbitrage transactions unless made in contravention of rules the commissioner adopts to carry out this section.
- 2215 (c) Subsections (1) and (2) do not apply to equity securities of a corporation if:
- 2216 (i) the securities are registered, or are required to be registered, under Section 12 of the federal Securities Exchange Act of 1934, as amended; or
- 2218 (ii) the corporation did not have any class of its equity securities held of record by 100 or more persons on the last business day of the year preceding the year in which equity securities of the corporation would otherwise be subject to Subsections (1) and (2).
- 2222 (4) No person may, in contravention of rules the commissioner adopts for the protection of investors or the public, solicit or permit the use of [his] the person's name to solicit a proxy, consent, or authorization regarding an equity security of a domestic stock corporation having 100 or more shareholders of record.
- 2226 (5) No provision of this section imposing liability applies to an act done or omitted in good faith in conformity with any rule of the commissioner. Liability does not apply even if the rule is amended, rescinded, or determined by judicial or other authority to be invalid after the act or omission.
- 2230 (6) As used in this section, "equity security" means any stock or similar security; any security convertible, with or without consideration, into stock or a similar security; carrying any warrant or right to subscribe to or purchase stock or a similar security; any such warrant or right; or any other security which the commissioner considers to be of similar nature and designates as an equity security by rules promulgated in the public interest or for the protection of investors.
- 2240 Section 99. Section **31A-5-304** is amended to read:
- 2241 **31A-5-304. Promoter stock.**
- 2238 (1) While the organization permit is effective, the incorporators, directors, and principal officers of a stock corporation shall in the aggregate subscribe and pay, at the public offering price, at least \$150,000 in cash or in property of equivalent value approved by the commissioner under Subsection 31A-5-207(1)(a) or (2)(a), for shares offered by the corporation under the organization permit.
- 2243 (2)
- . (a) Certificates representing promotional securities and any stock received on those shares as the result of a stock dividend, stock split, or exercise of preemptive or conversion rights, shall be placed in escrow with a depository satisfactory to the commissioner under an agreement providing that the shares may not be transferred without the approval of the commissioner.

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- 2248 (b) If the corporation issues any life insurance policies, any shares subject to this section shall be released from escrow five years after issuance of the certificate of authority. In other cases, the shares shall be released from escrow three years after issuance of the certificate of authority.
- 2252 (3) The commissioner's approval of the transfer of promoter stock under Subsection (2)(a):
- 2253 (a) shall be granted upon request, if the corporation has made an addition to earned surplus in each of the two immediately preceding years of at least 15% of the capital and surplus raised by the sale of shares under the organization permit; and
- 2256 (b) may be granted upon a showing of hardship by the shareholder or [~~his~~] the shareholder's estate or legatee, if the release from escrow of the shares or a portion of the shares would not, in the commissioner's opinion, endanger the interests of insureds or the public.
- 2260 (4) For three years after the issuance of the certificate of authority, an option to purchase stock may be issued only under a plan approved by the commissioner.
- 2262 (5) This section does not apply to promotional securities issued prior to July 1, 1986.
- 2267 Section 100. Section **31A-5-307** is amended to read:
- 2268 **31A-5-307. Reduction in capital.**
- A stock corporation may reduce its capital by amendment of its articles of incorporation under Section 31A-5-219, if the commissioner is notified of the proposed reduction at least 60 days prior to the proposed effective date of the reduction. The commissioner may disapprove the reduction within 45 days after the notice if [~~he~~] the commissioner finds that it would violate the law or would be contrary to the interests of insureds. [~~His~~] The commissioner's order shall explain in detail why the distribution is disapproved.
- 2275 Section 101. Section **31A-5-408** is amended to read:
- 2276 **31A-5-408. Election and removal of directors and officers of stock corporations.**
- 2273 (1) Sections 16-10a-721, 16-10a-724, and 16-10a-728 apply to the voting of shares of a stock corporation.
- 2275 (2) At each annual meeting of shareholders, the shareholders shall elect directors to hold office until the next succeeding annual election, except as provided under Subsection (3) or (4). Each director shall hold office for the term for which [~~he~~] the director is elected and until [~~his~~] the director's successor is elected and qualified, if qualification is required.
- 2279 (3) Sections 16-10a-808 and 16-10a-832 apply to removal of directors and officers of a stock corporation.

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- 2281 (4) Each director shall be subject to election at least once every three years.
- 2282 (5) A vacancy in the board of directors may be filled by the affirmative vote of a majority of the remaining directors even though the number of remaining directors is less than a quorum. The director elected through this process shall serve only until the next regular shareholders meeting at which a director's election may be held.
- 2290 Section 102. Section **31A-5-507** is amended to read:
- 2291 **31A-5-507. Conversion of assessable to nonassessable and nonassessable to assessable mutuals.**
- 2289 (1) When an assessable mutual accumulates enough surplus to satisfy the financial requirements for the operation of a nonassessable mutual, it may apply for a certificate of authority authorizing it to sell nonassessable policies. The commissioner shall issue a certificate of authority designating it a nonassessable mutual, if [he] the commissioner finds that the applicant satisfies the requirements of the law and that the issuance of nonassessable policies will not endanger the interests of its insureds or the public. Policies issued after the issuance of this certificate of authority are nonassessable. Existing policies remain in effect and are nonassessable.
- 2297 (2) A nonassessable mutual may apply to the commissioner for a certificate of authority designating it an assessable mutual. The commissioner shall issue the certificate if the law permits the corporation to issue assessable policies and if [he] the commissioner finds that the conversion will not endanger the interests of insureds or the public. All policies issued after conversion are assessable, unless otherwise provided by contract.
- 2306 Section 103. Section **31A-5-509** is amended to read:
- 2307 **31A-5-509. Conversion of a domestic mutual life insurance company into a fraternal.**
- A domestic mutual life insurance company may be converted into a fraternal under
- 2306 Chapter 9, Insurance Fraternal, in the following manner:
- 2307 (1) The board of directors of the company shall adopt a plan of conversion stating:
- 2308 (a) the basis for and the purposes of the proposed action;
- 2309 (b) the proposed articles and bylaws for the new fraternal; and
- 2310 (c) the proposed procedure and estimated expenses for implementing the conversion.
- 2311 (2) The plan shall be filed with the commissioner for approval, together with the information under Subsection 31A-9-205(2) required by the commissioner. The commissioner shall approve the plan unless [he] the commissioner finds, after a hearing, that:

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- 2315 (a) the conversion would be contrary to the law;
- 2316 (b) the new fraternal would not satisfy the requirements for a certificate of authority under Section 31A-5-212 as incorporated by Section 31A-9-210; or
- 2318 (c) the plan would be contrary to the interests of the policyholders or the public.
- 2319 (3) After being approved by the commissioner, the plan shall be submitted to the policyholders for their approval.
- 2321 (4) A copy of the plan adopted by the policyholders shall be filed with the commissioner, with a statement indicating the number and percentages of policyholders voting, the method of voting, and the number of votes cast in favor of the plan.
- 2324 (5) If all requirements of the law are met, the commissioner shall issue a certificate of authority for the new fraternal. Upon this issuance, the mutual ceases its legal existence and the corporate existence of the new fraternal begins. The new fraternal is considered as having been incorporated on the date the converted mutual was incorporated. The new fraternal has all of the assets and is liable for all of the obligations of the converted mutual. The commissioner may grant a fraternal an adjustment period, not to exceed one year, for compliance with the requirements of Chapter 9, Insurance Fraternal. The commissioner's extension shall specify the extent to which particular provisions of Chapter 9, Insurance Fraternal, do not apply.
- 2337 Section 104. Section **31A-5-601** is amended to read:
- 2338 **31A-5-601. Duties of officers, directors, agents, and employees.**
- 2335 (1) Any officer, director, agent, attorney, or employee upon whom legal process is properly served or who receives notice of any legal action that may affect or involve the property or business of the insurer, shall promptly communicate the service or notice and detailed information about it to facilitate informed response to persons in the insurer's organization who have authority to take responsive action or to instigate responsive action by those in authority.
- 2341 (2) A director of an insurer is assumed to have enough knowledge of its affairs to determine whether any act, proceeding, or omission of its directors is a violation of any provision of this chapter. If a director is present at a meeting of directors at which a violation of any provision of this chapter occurs, [he] the director is considered as concurring in the violation unless at the meeting [he] the director requires [his] the director's dissent to be entered on the minutes. If a director is absent from the meeting, [he] the director is considered as concurring in any violation if the facts of violation appear on the minutes of the meeting and [he] the director remains a director for six months after

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the violation without requiring that [his] the director's dissent from the violation be entered upon the record or the minutes.

2355 Section 105. Section **31A-7-303** is amended to read:

2356 **31A-7-303. Board of directors.**

- 2353 (1) Subject to other provisions under this section, Sections 16-6a-801 through 16-6a-805, and Sections 16-6a-810, 16-6a-812, 16-6a-814, 16-6a-815, and 16-6a-816 apply to the board of directors of insurers organized or operating under this chapter.
- 2356 (2) The property and lawful business of every corporation subject to this chapter shall be held and managed by a governing board of trustees or directors with the powers and authority as is necessary or incidental to the complete execution of the purposes of each corporation as limited by its articles of incorporation and bylaws. A board may not consist of less than five members. A majority of the directors shall be residents of Utah.
- 2361 (3) Any person employed by or receiving more than 10% of [his] the person's income from a corporation licensed under this chapter, and any person related to that person within the second degree by blood or marriage, is an "insider." Insiders may not constitute a majority of the board of a corporation organized and operating under this chapter.
- 2365 (4) The board shall manage the business and affairs of the corporation and may not delegate its power or responsibility to do so, except to the extent authorized by Section 31A-7-307.
- 2367 (5) Section 16-6a-814 applies to the place and notice of directors' meetings.
- 2368 (6) Any director may be removed from office for cause by an affirmative vote of a majority of the full board at a meeting of the board called for that purpose.

2374 Section 106. Section **31A-7-403** is amended to read:

2375 **31A-7-403. Conversion to a Title 31A, Chapter 5, mutual insurer.**

- 2372 (1) An insurer organized and operating under this chapter may be converted into a mutual insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, as provided in this section.
- 2375 (2)
- . (a) The board shall pass a resolution that the conversion is not contrary to the interests of the policyholders specifying the reasons for and the purposes of the proposed conversion, and the manner in which the conversion is expected to affect policyholders, particularly the policyholders that are members.
- 2379 (b) The board's resolution shall also set forth a plan of conversion which shall include:

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- 2380 (i) the articles of incorporation of the new Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurer, including a description of the classes of policyholders who, by virtue of being policyholders, will have an interest in the converted insurer;
- 2384 (ii) the bylaws of the new Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurer;
- 2386 (iii) a description of any changes in the insurer's mode of operations after conversion to a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurer; and
- 2389 (iv) any other items specified by rule.
- 2390 (3) The provisions of Chapter 16, Insurance Holding Companies, apply to the conversion of a Chapter 7, Nonprofit Health Service Insurance Corporations, insurer to a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual insurance corporation.
- 2393 (4) The plan of conversion shall be submitted to the commissioner for approval, together with a projection of the planned or anticipated financial condition of the insurer for two years after the conversion.
- 2396 (5) The commissioner shall hold an adjudicative proceeding concerning the conversion application.
- 2398 (6) The commissioner shall approve the plan of conversion, unless [he] the commissioner finds that the plan violates the law, is contrary to the interests of policyholders or the public, or would result in an unfair distribution of interest among the insurer's policyholders.
- 2402 (7)
- . (a) Upon the commissioner approving the conversion under Subsection (6), the commissioner shall issue a new certificate of authority.
- 2404 (b) The issuance of the certificate is the conversion, and upon issuance of the certificate the Chapter 7, Nonprofit Health Service Insurance Corporations, insurer at once becomes a mutual insurance corporation organized under and fully subject to Chapter 5, Domestic Stock and Mutual Insurance Corporations.
- 2408 (c) The mutual insurer is considered to have been organized at the time the converted Chapter 7, Nonprofit Health Service Insurance Corporations, insurer was organized.
- 2410 (d) Unless otherwise provided in the plan of conversion, the directors, officers, agents, and employees of the Chapter 7, Nonprofit Health Service Insurance Corporations, insurer shall continue in like capacity with the mutual insurance corporation.
- 2417 Section 107. Section **31A-9-103** is amended to read:



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2418           **31A-9-103. Orders imposing and relaxing restrictions.**

2415       (1) The commissioner may subject any fraternal to some or all of the restrictions of Subsections 31A-5-305(2)(a)(i) and (ii), and Subsection 31A-5-410(1)(b), as such provisions are incorporated by Sections 31A-9-303 and 31A-9-407.

2418       (2) The commissioner may free a fraternal from any of the restrictions applicable to fraternal's under the provisions enumerated in Subsection (1), if [~~he~~] the commissioner is satisfied that the fraternal's financial condition, management, and other circumstances give assurance that the interests of insureds and the public will not be endangered by the waiver.

2427           Section 108. Section **31A-11-106** is amended to read:

2428           **31A-11-106. Application for certificate of authority -- Deposit or bond.**

2425       (1) Any corporation may apply, in the form specified by the commissioner, for a certificate of authority to transact a motor club business. The applicant shall include with the application any documents the commissioner may reasonably require, the deposit described in Subsection (2), which may be waived if net worth exceeds the deposit requirements, and the fee provided for in Section 31A-3-103. No person may engage in the motor club business without complying with this section and receiving a certificate of authority under Section 31A-11-107.

2432       (2) The deposit required under Subsection (1) shall comply with the requirements of Section 31A-2-206, and is \$100,000. In lieu of the deposit, the applicant may supply a bond of a corporate surety authorized to do a surety business in this state, in the same sum and in a form prescribed by the commissioner, payable to the state. The deposit, or the bond, shall be conditioned upon the corporation's faithful performance in the sale or rendering of motor club service under the provisions of this chapter, and the payment of fines, fees, or penalties imposed on the motor club under this title. Any person with a claim against the deposit or bond arising from the motor club's breach of the conditions of the deposit or bond may bring suit in [~~his~~] the person's own name to make a claim against the deposit or bond, or the commissioner may bring suit on behalf of claimants. In no event shall the liability of the surety exceed the amount of the bond, regardless of the number of claimants or claims made on the bond. Regardless of the number of years the bond continues in force or the number of premiums payable or paid, the limit of the surety's liability, specified as the amount of liability of the bond, is not cumulative from year to year or from period to period. The bond shall be forfeited up to the amount of actual damages sustained by any claimant

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or claimants. No cause of action shall be filed against the bond after two years from the date of termination of the bond.

2449 (3) If a motor club is a separate division of a corporation, the commissioner may increase the deposit  
or bond requirements to take into account the increased risk created by the other business of the  
corporation. However, the deposit or bond requirement may not be more than twice the amounts  
required under Subsection (2).

2457 Section 109. Section **31A-11-108** is amended to read:

2458 **31A-11-108. Denial of certificate of authority.**

If the commissioner declines or fails to issue a certificate of authority under Section  
2456 31A-11-107 within a reasonable time, [~~he~~] the commissioner shall issue an order giving a  
reasonably detailed explanation for the refusal or the delay.

2462 Section 110. Section **31A-11-110** is amended to read:

2463 **31A-11-110. Registration of agents.**

No person may execute, issue, or deliver any motor club service contract to any person  
or receive anything of value for the contract either before or after its execution, unless [~~he~~]the  
person executing, issuing, or delivering the contract is registered with the commissioner. A  
person is registered upon filing a statement including [~~his~~] the person's name, home and  
business address, telephone number, and motor club represented with the commissioner, on a  
form prescribed by the commissioner, and upon payment of all the fees due under Section  
2466 31A-3-103. Registered persons shall give the commissioner notice of any change in  
registration information.

2472 Section 111. Section **31A-11-112** is amended to read:

2473 **31A-11-112. Bail for traffic violations.**

2470 (1) Any insurance company that is qualified to transact a surety business in Utah may contract to  
become surety for any guaranteed arrest bond certificates issued by it or by a motor club, by filing  
with the commissioner an undertaking to become surety. The undertaking shall be in a form  
prescribed by the commissioner and shall state the following:

2475 (a) The name and address of the motor club or clubs issuing the guaranteed arrest bond certificates on  
which the company will be surety, and whether the motor club will issue the certificates itself.

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- (b) The unqualified obligation of the company to be surety to pay, up to a specified dollar amount, the fine or forfeiture of any person who fails to make an appearance to answer the charges for which the guaranteed arrest bond certificate is posted.
- 2481 (2) Any guaranteed arrest bond certificate under Subsection (1), when posted by the signatory, shall be accepted in lieu of cash bail or other bond in an amount not exceeding the dollar amount specified under Subsection (1)(b), to guarantee the appearance of the person when required by any court in Utah when the person is arrested for violation of any Utah motor vehicle law, or any motor vehicle ordinance of any Utah municipality, except for driving under the influence of drugs or intoxicating liquors or for any felony. A law enforcement officer who issues a citation to an operator of a vehicle who has a valid guaranteed arrest bond certificate in [~~his~~] the operator's possession shall obtain the necessary information for the arrest citation, and if the guaranteed arrest bond certificate covers the fine for the violation, the officer shall release the vehicle and operator after serving the citation and receiving the guaranteed arrest bond from the operator. The officer shall deliver the guaranteed arrest bond to the appropriate court to be held as a bail bond.
- 2494 (3) A guaranteed arrest bond certificate posted as a bail bond in a district court is subject to the forfeiture and enforcement provisions which govern bail bonds in criminal cases. A guaranteed arrest bond certificate posted as a bail bond in a justice court is subject to the forfeiture and enforcement provisions of the charter or ordinance of the particular municipality which pertains to bail bonds.
- 2499 (4) A motor club may not agree to exonerate or indemnify an authorized surety issuing guaranteed arrest bonds under Subsection (1) for losses in connection with these bonds.
- 2505 Section 112. Section **31A-14-202** is amended to read:
- 2506 **31A-14-202. Certificate of authority.**
- 2503 (1) The commissioner shall either issue a certificate of authority to an applicant under Section 31A-14-201 or issue an order refusing the certificate which explains why [~~he~~] the commissioner finds that:
- 2506 (a) not all specific requirements of the law have been met, including the requirements of Section 31A-14-209 for an alien insurer;
- 2508 (b) the applicant is not sound, reliable, entitled to public confidence, or cannot reasonably be expected to perform its obligations continuously in the future;

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- (c) the applicant's directors and officers or, in the case of an alien insurer, its United States manager, are not sufficiently trustworthy and competent to engage in the proposed business in this state and to comply with the laws of this state; or
- 2513 (d) the applicant has not been in existence long enough to demonstrate its competence to engage in the proposed business in this state.
- 2515 (2) If the commissioner finds that the applicant does not comply with all requirements of the law, the commissioner may, after a hearing under Section 31A-2-301, issue a certificate of authority if the purposes of each unsatisfied requirement and the protection of insureds, creditors, and the public in this state are otherwise achieved by:
- 2519 (a) a deposit in trust to be established and maintained under Section 31A-2-206;
- 2520 (b) a bond acceptable to the commissioner conditioned on the satisfaction of the purposes of the requirement;
- 2522 (c) special limits on the applicant's business or methods of operation in this state or elsewhere; or
- 2524 (d) other protective devices satisfactory to the commissioner.
- 2525 (3) The certificate of authority shall specify the terms of any deposit or bond required as a condition for authorization, any limits placed on the insurer's business or methods of operation in this state, and any other conditions imposed under Subsection (2).
- 2528 (4) An insurer may apply to the commissioner for a new certificate of authority, removing, altering, or adding limits on its business or methods of operation. The application shall be accompanied by the information specified in Section 31A-14-201 that the commissioner reasonably requires. The commissioner shall issue the new certificate as requested if ~~he~~ the commissioner would do so if an initial application were being made.
- 2537 Section 113. Section **31A-14-216** is amended to read:
- 2538 **31A-14-216. Release from regulation.**
- 2535 (1) A foreign insurer authorized under this chapter is subject to regulation under the applicable provisions of the Insurance Code, unless it is released from regulation under this section.
- 2538 (2) A foreign insurer may apply for release from regulation by filing with the commissioner:
- 2539 (a) its certificate of authority;
- 2540 (b) a schedule of its outstanding liabilities from policies issued in this state to residents of Utah or on risks located in Utah, and from other business transactions in Utah;
- 2542 (c) a plan for securing the discharge of those outstanding liabilities; and

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- 2543 (d) any other information as reasonably required by the commissioner.
- 2544 (3) The commissioner shall promptly release the insurer from regulation if [he] the commissioner finds all the following:
- 2546 (a) The insurer has stopped doing any new business in Utah.
- 2547 (b) The discharge of existing liabilities to creditors in Utah is sufficiently secured.
- 2548 (c) The release would not otherwise be prejudicial to the interests of insureds or creditors in Utah or, if the insurer is an alien insurer and Utah is the state of entry into the United States, of all insureds and creditors in the United States.
- 2551 (4) Before deciding on the release, the commissioner may require the insurer to notify, at its own expense, all agents or other classes of potentially interested persons in a manner the commissioner prescribes, including publication of its withdrawal from Utah. The notice shall advise affected persons to communicate to the commissioner any objections they may have to the insurer's release from regulation.
- 2556 (5) As a prerequisite for releasing the insurer, the commissioner may require a deposit under Section 31A-2-206, a bond issued by a surety authorized in Utah, or other appropriate security or reinsurance in a sufficient amount to secure the proper discharge of the insurer's remaining liabilities in Utah. The commissioner may also require the insurer to sign an agreement to remain subject to the jurisdiction of the commissioner and the courts of Utah with respect to any matter arising out of business done in Utah prior to the release.
- 2567 Section 114. Section **31A-15-107** is amended to read:
- 2568 **31A-15-107. Defense of action by unauthorized person.**
- 2565 (1) Except under Subsection (3), no pleading, notice, order, or process in any action in court or in any administrative proceeding before the commissioner instituted against an unauthorized person under Sections 31A-2-309 and 31A-2-310 may be filed by or on behalf of the unauthorized person unless one of the following conditions exists:
- 2569 (a) The unauthorized person deposits with the clerk of the court in which the action or proceeding is pending, or with the commissioner in administrative proceedings, cash, securities, or a bond with sureties in an amount fixed by the court or the commissioner, sufficient to secure the payment or performance of any probable final judgment or order.
- 2574 (b) That person procures proper authorization to do an insurance business in Utah.

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- (c) The commissioner, after a hearing, issues an order stating that [~~he~~] the commissioner is satisfied the person has funds or securities, in a state of the United States, in trust or otherwise, which are readily available and adequate to satisfy any probable final judgment or to perform in accordance with any order.
- 2579 (2) The court in any action or proceeding under this section, or the commissioner in any administrative proceeding under this section, may order any postponement [~~he~~] the commissioner considers necessary to give the unauthorized person a reasonable opportunity to comply with Subsection (1).
- 2583 (3) Subsection (1) does not prevent an unauthorized person from filing a motion to quash a writ or to set aside service on the ground that the person has not done any of the acts specified under Subsection 31A-15-102(2).
- 2590 Section 115. Section **31A-21-310** is amended to read:
- 2591 **31A-21-310. Dividends on policies.**
- 2588 (1) Section 31A-22-418 applies to life insurance and annuities.
- 2589 (2) Any insurer may distribute a portion of surplus attributable to policies other than life insurance or annuities, in amounts and with classifications the board of directors determines to be fair and reasonable. This distribution may not be contingent on the renewal of any policy or of premium payments unless the policy stated that limitation when it was written. A schedule explaining the basis for the distribution shall be filed with the commissioner prior to the distribution. The schedule shall be kept confidential by the commissioner unless [~~he~~] the commissioner finds that the interests of insureds and the public require that it be made public.
- 2597 (3) Any insurer may distribute surplus to any class of policyholder, even if their policies do not provide for it. A schedule explaining the basis for the distribution shall be filed with the commissioner under Subsection (2) at least 30 days prior to the distribution. The commissioner shall disallow any distribution which is materially unfair to other policyholders or which would place the insurer in a financially hazardous condition.
- 2602 (4) It is permissible to provide an indivisible dividend to classes of policyholders having more than one type of policy, including a combination of life or annuities with other types of insurance.
- 2609 Section 116. Section **31A-22-105** is amended to read:
- 2610 **31A-22-105. Common control of fiduciary funds permissible.**
- Any fiduciary from whom a bond, undertaking, or other obligation is required may agree and arrange with [~~his~~] the fiduciary's sureties for the deposit for safekeeping of any and all

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assets for which [he] the fiduciary is responsible with a depository institution authorized by law to hold the assets, in a manner which prevents the withdrawal or alienation of any part of the property without the written consent of the sureties, or an order of the court made after notice is given to the sureties and a hearing is held as directed by the court. This deposit agreement does not release or change the fiduciary responsibility of the principal, or the liability of the principal or sureties as established under the bond.

2619 Section 117. Section **31A-22-308** is amended to read:

2620 **31A-22-308. Persons covered by personal injury protection.**

The following may receive benefits under personal injury protection coverage:

2618 (1) the named insured, when injured in an accident involving any motor vehicle, regardless of whether the accident occurs in this state, the United States, its territories or possessions, or Canada, except where the injury is the result of the use or operation of the named insured's own motor vehicle not actually insured under the policy;

2622 (2) persons related to the insured by blood, marriage, adoption, or guardianship who are residents of the insured's household, including those who usually make their home in the same household but temporarily live elsewhere under the circumstances described in [~~Section~~] Subsection (1), except where the person is injured as a result of the use or operation of [~~his~~] the person's own motor vehicle not insured under the policy; and

2627 (3) any other natural person whose injuries arise out of an automobile accident occurring:

2628 (a) while the person occupies a motor vehicle described in the policy with the express or implied consent of the named insured; or

2630 (b) [~~while~~] if the person is a pedestrian [~~if he~~] who is injured in an accident occurring in Utah involving the described motor vehicle.

2636 Section 118. Section **31A-22-311** is amended to read:

2637 **31A-22-311. Definitions.**

As used in Sections 31A-22-312 and 31A-22-314:

2635 (1) "Authorized driver" means the person to whom the vehicle is rented and includes:

2636 (a) [~~his~~] the spouse of the person renting the vehicle if the spouse is a licensed driver satisfying the rental company's minimum age requirement;

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- (b) [his] the employer or coworker of the person renting the vehicle if the employer or coworker is engaged in business activity with the renter and if [they] the employer or coworker are licensed drivers satisfying the rental company's minimum age requirement;
- 2642 (c) any person who operates the vehicle during an emergency situation;
- 2643 (d) any person who operates the vehicle while parking the vehicle at a commercial establishment; or
- 2645 (e) any person expressly listed by the rental company on the rental agreement as an authorized driver.
- 2647 (2) "Damage" means any damage or loss to the rented vehicle resulting from a collision, including loss of use and any costs and expenses incident to the damage or loss.
- 2649 (3) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a private passenger motor vehicle provided by a rental company.
- 2651 (4) "Rental company" means any person or organization in the business of providing private passenger motor vehicles to the public.
- 2653 (5) "Renter" means any person or organization obtaining the use of a private passenger motor vehicle from a rental company under the terms of a rental agreement.
- 2659 Section 119. Section **31A-22-312** is amended to read:
- 2660 **31A-22-312. Liability for collision damage -- No security required -- No waiver -- Section inapplicable to rental companies disclosing charges.**
- 2658 (1) No rental company may, in rental agreements of 30 continuous days or less, hold any authorized driver liable for any damage except when:
- 2660 (a) the damage is caused intentionally by an authorized driver or as a result of [his] the authorized driver's willful and wanton misconduct;
- 2662 (b) the damage arises out of the authorized driver's operation of the vehicle while illegally intoxicated or under the influence of any illegal drug as defined or determined under the law of the state where the damage occurred;
- 2665 (c) the damage is caused while the authorized driver is engaged in any speed contest;
- 2666 (d) the rental transaction is based on information supplied by the renter with the intent to defraud the rental company;
- 2668 (e) the damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the use of the motor vehicle is substantially related to the nature of the criminal activity;
- 2671 (f) the damage arises out of the use of the motor vehicle to carry persons or property for hire; or



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- 2673 (g) the damage arises out of the use of the motor vehicle outside of the United States or Canada unless  
the use is specifically authorized by the rental agreement.
- 2675 (2) No security or deposit for damage in any form may be required or requested by the rental company  
during the rental period, or pending the resolution of any dispute.
- 2677 (3) No waiver may be offered to provide coverage for any of the exceptions listed in this section.
- 2679 (4) This section does not apply to any rental company:
- 2680 (a) whose advertising in this state clearly discloses all charges and costs incidental to the basic daily  
rental rate; and
- 2682 (b) that provides written notice to renters clearly printed on the rental agreement and prominently  
displayed at its place of business, that the renter's own motor vehicle insurance or [his] the renter's  
credit card agreement may cover any damage or loss to the rental vehicle.
- 2690 Section 120. Section **31A-22-401** is amended to read:
- 2691 **31A-22-401. Prohibited life insurance policy provisions.**  
No life insurance company may issue or deliver any life insurance policy subject to this  
chapter under Section 31A-21-101 which contains any provision:
- 2690 (1) forfeiting the policy for failure to repay any loan on the policy or to pay interest on the loan while  
the total indebtedness on the policy is less than its loan value, and in ascertaining the indebtedness  
due upon policy loans, the interest, if not paid when due, may be added to the principal of those  
loans and may bear interest at the same rate as the principal;
- 2695 (2) claiming that the policy was issued or became effective more than one year before the original  
application for the insurance is executed, if the insured would then be rated at an age more than  
one year younger than [his] the insured's age at the date of [his] the insured's application, unless the  
aggregate amount of the annual premiums for the whole term of the back-dated period is paid in  
cash;
- 2700 (3) allowing assessments or calls to be made upon policyholders; or
- 2701 (4) allowing an insurer to cancel or terminate a policy for a reason other than:
- 2702 (a) nonpayment of a premium when due; or
- 2703 (b) as allowed pursuant to Subsection 31A-21-105(2).

2708 Section 121. Section **31A-22-512** is amended to read:

2709 **31A-22-512. Individual insurability.**

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

2709 (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.

2717 Section 122. Section **31A-22-514** is amended to read:

2718 **31A-22-514. Incontestability.**

The 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 has been in force for two years from its date of issue. This provision shall also state that no statement made by any person insured under the policy relating to [his] the person's insurability may be used 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 unless it is contained in a written instrument signed by [him] the person. This type of provision does not preclude the assertion of defenses based upon provisions in the policy which relate to eligibility for coverage.

2728 Section 123. Section **31A-22-1005** is amended to read:

2729 **31A-22-1005. Payment as bar to recovery.**

Payment of compensation under a workers' compensation insurance policy, whether in whole or in part, by either the employer or the insurer, bars recovery by the employee or [his] the employee's dependents to the extent of the payment.

2733 Section 124. Section **31A-22-1007** is amended to read:

2734 **31A-22-1007. Employer's insolvency.**

Every workers' compensation policy or contract shall contain a provision that the insolvency of the employer and [his] the employer's discharge does not relieve the insurer from the payment of compensation for injuries or death sustained by an employee during the life of that policy or contract.

2739 Section 125. Section **31A-22-1102** is amended to read:

2740 **31A-22-1102. Policy and certificate forms.**

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- 2737 (1) Legal expense insurance may be written as individual, group, blanket, or franchise insurance. Each contractual obligation for legal expense insurance shall be evidenced by a policy. Each person insured under a group policy shall be issued a certificate of coverage.
- 2741 (2) Policies and certificates of legal expense insurance are subject to Section 31A-21-201.
- 2742 (3) The commissioner may not approve any form that does not meet all of the following requirements:
- 2744 (a) Policies shall contain a list and description of the legal services promised or the legal matters for which expenses are to be reimbursed, and any limits on the amounts to be reimbursed.
- 2747 (b) Certificates issued under group policies shall contain a full statement of the benefits provided, but may summarize the other terms of the master policy.
- 2749 (c) Policies promising legal services to be provided by a limited number of attorneys who have concluded provider contracts with the insurer, whether the attorney in an individual case is to be selected by the insured or by the insurer, shall provide for alternative benefits in case the insured is unable to find a participating attorney willing to perform the promised services or the attorney selected by the insurer is disqualified or otherwise unable to perform the promised services. The alternative benefit may consist of furnishing the services of an attorney selected and paid by the insurer or paying the fee of an attorney selected by the insured. The policy shall also provide a procedure that includes impartial review for settling disagreements about the grounds for demanding an alternative benefit.
- 2759 (d) No policy, except one issued by a mutual insurance company, may provide for assessments on policyholders or for reductions of benefits to maintain the insurer's solvency.
- 2762 (4) The commissioner may disapprove a policy or certificate form if ~~[he]~~ the commissioner finds that it:
- 2764 (a) is unfair, unfairly discriminatory, misleading, or encourages misrepresentation or misunderstanding of the contract;
- 2766 (b) provides coverage or benefits or contains other provisions that would endanger the solidity of the insurer; or
- 2768 (c) is contrary to law.
- 2769 (5) The commissioner may require the submission of relevant information ~~[he]~~ the commissioner considers to be reasonably necessary in determining whether to approve or disapprove a filing.
- 2776 Section 126. Section **31A-22-1305** is amended to read:
- 2777 **31A-22-1305. Persons authorized to issue annuities.**  
No person may issue an annuity to another person unless the issuer is:

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- 2775 (1) an insurer authorized to issue annuities under Chapter 5, Domestic Stock and Mutual Insurance  
Corporations, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers;
- 2777 (2) a domestic corporation created under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act,  
or other applicable law, or a foreign corporation conducted without profit, which is engaged solely  
in bona fide charitable, religious, missionary, educational, medical, or philanthropic activities; or
- 2781 (3) a natural person who issues an annuity to [his] the person's spouse, children, grandchildren, great-  
grandchildren, parents, grandparents, uncles, aunts, brothers, sisters, nieces, or nephews, whether  
those relationships are by birth, marriage, or legal adoption.

2789 Section 127. Section **31A-25-201** is amended to read:

2790 **31A-25-201. License and authority from insurers required.**

- 2787 (1) A person may not perform, offer to perform, or advertise any service as a third party administrator  
in Utah, without a valid license under Section 31A-25-203 and express authority from all insurers it  
represents. A person may not utilize the services of another as a third party administrator if [~~he~~] the  
person knows or should know that the other does not have a license or the insurer authority as  
required by law. The commissioner shall be notified of the commencement or termination of insurer  
authority in a form established by rules.
- 2794 (2) The commissioner may by rule exempt certain persons or classes of persons from the license  
requirement of Subsection (1) if the functions they perform do not require the special competence,  
trustworthiness, or regulatory surveillance made possible by licensing.
- 2798 (3) A contract is not invalid as a result of a violation of this section.

2803 Section 128. Section **31A-26-211** is amended to read:

2804 **31A-26-211. Claims liaison.**

Authorized insurers with employees engaged in insurance adjusting may be required by  
the commissioner to designate one or more natural persons to whom the commissioner or [his]  
the commissioner's staff may direct inquiries concerning the insurer's claims adjustments.  
Insurers shall report to the commissioner the name, title, business address, telephone number  
of, and any changes in its designees under this section.

2810 Section 129. Section **31A-26-212** is amended to read:

2811 **31A-26-212. Emergency license.**

In the event of a catastrophe or emergency which arises out of a disaster, act of God,  
riot, civil commotion, conflagration, or other similar occurrence, the commissioner shall, upon

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application, issue emergency licenses to persons who are not licensed adjusters. An emergency license shall be applied for within a week of beginning claims adjustment. It may remain in force for not more than 90 days, unless extended by the commissioner before it expires for an additional period of not more than 90 additional days. The insurer who contracts with an independent adjuster who is so licensed is responsible for all ~~his~~the independent adjuster's claims practices while so engaged, as if ~~he~~ the independent adjuster were a regular salaried employee. The fee for an emergency license is the same as the fee required of other licensed adjusters, unless the commissioner waives the fee.

2822 Section 130. Section **31A-28-217** is amended to read:

2823 **31A-28-217. Immunity.**

2820 (1) There is no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or ~~his~~ the commissioner's representatives, for any action or omission by them in effecting this part.

2824 (2) The state does not waive any defense under this part, including the defense of governmental immunity. The state is not liable for any action or omission of the association, its members, or their respective agents or employees. The state is not liable for any failure of the association to perform its duties or to fulfill its stated purpose under this part.

2833 Section 131. Section **34-23-303** is amended to read:

2834 **34-23-303. Civil action allowed.**

2831 (1) In addition to the administrative action authorized by Section 34-23-401, and criminal actions authorized by Sections 34-23-302 and 34-23-402, a minor employee may bring a civil action to enforce ~~his~~ the minor employee's right to a minimum wage under Section 34-23-301.

2835 (2)

. (a) An aggrieved minor employee is entitled to injunctive relief and may recover the difference between the wage paid and the minimum wage, plus interest.

2837 (b) The court may award court costs and attorney fees to the prevailing party.

2838 (3) An action brought under this section shall be brought within two years of the alleged violation.

2844 Section 132. Section **34-26-1** is amended to read:

2845 **34-26-1. Extent and condition of preference.**

If any property of any person is seized through any process of any court, or when ~~his~~a

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person's business is suspended by the act of creditors or is put into the hands of a receiver, assignee, or trustee, either by voluntary or involuntary action, the amount owing to workmen, clerks, traveling or city salesmen, or servants, for work or labor performed within five months next preceding the seizure or transfer of the property shall be considered and treated as preferred debts, and the workmen, clerks, traveling and city salesmen, and servants shall be preferred creditors, the first to be paid in full. If there are not sufficient proceeds to pay them in full, then the proceeds shall be paid to them pro rata, after paying costs. No officer, director, or general manager of a corporation employer or any member of an association employer or partner of a partnership employer is entitled to this preference.

2856 Section 133. Section **34-38-4** is amended to read:

2857 **34-38-4. Samples -- Identification and collection.**

In order to test reliably for the presence of drugs or alcohol, an employer may require samples from [his] the employer's employees and prospective employees, and may require presentation of reliable identification to the person collecting the samples. Collection of the sample shall be in conformance with the requirements of Section 34-38-6. The employer may designate the type of sample to be used for testing.

2863 Section 134. Section **34-38-7** is amended to read:

2864 **34-38-7. Employer's written testing policy -- Purposes and requirements for collection and testing -- Employer's use of test results.**

- 2862 (1) Testing or retesting for the presence of drugs or alcohol by an employer shall be carried out within the terms of a written policy which has been distributed to employees and is available for review by prospective employees.
- 2865 (2) Within the terms of [his] the employer's written policy, an employer may require the collection and testing of samples for the following purposes:
- 2867 (a) investigation of possible individual employee impairment;
- 2868 (b) investigation of accidents in the workplace or incidents of workplace theft;
- 2869 (c) maintenance of safety for employees or the general public; or
- 2870 (d) maintenance of productivity, quality of products or services, or security of property or information.
- 2872 (3) The collection and testing of samples shall be conducted in accordance with Sections 34-38-4, 34-38-5, and 34-38-6, and need not be limited to circumstances where there are indications of individual, job-related impairment of an employee or prospective employee.

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2876 (4) The employer's use and disposition of all drug or alcohol test results are subject to the limitations of  
Sections 34-38-8 and 34-38-13.

2882 Section 135. Section **34-39-2** is amended to read:

2883 **34-39-2. Definitions.**

As used in this chapter:

2881 (1) "Employment invention" means any invention or part thereof conceived, developed, reduced to  
practice, or created by an employee which is:

2883 (a) conceived, developed, reduced to practice, or created by the employee:

2884 (i) within the scope of [~~his~~] the employee's employment;

2885 (ii) on [~~his~~] the employer's time; or

2886 (iii) with the aid, assistance, or use of any of [~~his~~] the employer's property, equipment, facilities,  
supplies, resources, or intellectual property;

2888 (b) the result of any work, services, or duties performed by an employee for [~~his~~] the employer;

2890 (c) related to the industry or trade of the employer; or

2891 (d) related to the current or demonstrably anticipated business, research, or development of the  
employer.

2893 (2) "Intellectual property" means any and all patents, trade secrets, know-how, technology, confidential  
information, ideas, copyrights, trademarks, and service marks and any and all rights, applications,  
and registrations relating to them.

2900 Section 136. Section **34-39-3** is amended to read:

2901 **34-39-3. Scope of act -- When agreements between an employee and employer are  
enforceable or unenforceable with respect to employment inventions -- Exceptions.**

2899 (1) An employment agreement between an employee and [~~his~~]employer is not enforceable against the  
employee to the extent that the agreement requires the employee to assign or license, or to offer to  
assign or license, to the employer any right or intellectual property in or to an invention that is:

2903 (a) created by the employee entirely on [~~his~~] the employee's own time; and

2904 (b) not an employment invention.

2905 (2) An agreement between an employee and [~~his~~]employer may require the employee to assign or  
license, or to offer to assign or license, to [~~his~~] the employer any or all of [~~his~~] the employee's rights  
and intellectual property in or to an employment invention.

2908 (3) Subsection (1) does not apply to:

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- 2909 (a) any right, intellectual property or invention that is required by law or by contract between the employer and the United States government or a state or local government to be assigned or licensed to the United States; or
- 2912 (b) an agreement between an employee and [his-]employer which is not an employment agreement.
- 2914 (4) Notwithstanding Subsection (1), an agreement is enforceable under Subsection (1) if the employee's employment or continuation of employment is not conditioned on the employee's acceptance of such agreement and the employee receives a consideration under such agreement which is not compensation for employment.
- 2918 (5) Employment of the employee or the continuation of [his] the employee's employment is sufficient consideration to support the enforceability of an agreement under Subsection (2) whether or not the agreement recites such consideration.
- 2921 (6) An employer may require [his-]employees to agree to an agreement within the scope of Subsection (2) as a condition of employment or the continuation of employment.
- 2923 (7) An employer may not require [his-]employees to agree to anything unenforceable under Subsection (1) as a condition of employment or the continuation of employment.
- 2925 (8) Nothing in this chapter invalidates or renders unenforceable any employment agreement or provisions of an employment agreement unrelated to employment inventions.
- 2931 Section 137. Section **34-40-205** is amended to read:
- 2932 **34-40-205. Civil action allowed.**
- 2929 (1) In addition to the administrative and criminal actions authorized by this chapter, an employee may bring a civil action to enforce [his] the employee's rights under this chapter.
- 2932 (2)
- . (a) An aggrieved employee is entitled to injunctive relief and may recover the difference between the wage paid and the minimum wage, plus interest.
- 2934 (b) The court may award court costs and attorney fees to the prevailing party.
- 2935 (3) An action brought under this section shall be brought within two years of the alleged violation.
- 2941 Section 138. Section **34A-2-207** is amended to read:
- 2942 **34A-2-207. Noncompliance -- Civil action by employees.**
- 2939 (1)
- . (a) Employers who fail to comply with Section 34A-2-201 are not entitled to the benefits of this chapter or Chapter 3, Utah Occupational Disease Act, during the period of noncompliance, but shall be



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liable in a civil action to their employees for damages suffered by reason of personal injuries arising out of or in the course of employment caused by the wrongful act, neglect, or default of the employer or any of the employer's officers, agents, or employees, and also to the dependents or personal representatives of such employees when death results from such injuries.

- 2946 (b) In any action described in Subsection (1)(a), the defendant may not [~~avail himself of~~] use any of the following defenses:
- 2948 (i) the fellow-servant rule;
- 2949 (ii) assumption of risk; or
- 2950 (iii) contributory negligence.
- 2951 (2) Proof of the injury shall constitute prima facie evidence of negligence on the part of the employer and the burden shall be upon the employer to show freedom from negligence resulting in the injury.
- 2954 (3) An employer who fails to comply with Section 34A-2-201 is subject to Sections 34A-2-208 and 34A-2-212.
- 2956 (4) In any civil action permitted under this section against the employer, the employee shall be entitled to necessary costs and a reasonable attorney fee assessed against the employer.

2963 Section 139. Section **35A-4-102** is amended to read:

2964 **35A-4-102. Public policy -- General welfare requires creation of unemployment reserves --  
Employment offices.**

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Unemployment is therefore a subject of general interest and concern that requires appropriate action by the Legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and [~~his~~] the unemployed worker's family. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation with a nation-wide system of employment services, by devising appropriate methods for reducing the volume of unemployment and by the systematic accumulation of funds during periods of employment from which benefits may be paid for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of unemployment. The Legislature, therefore, declares that in its considered judgment the public good, and the

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general welfare of the citizens of this state require the enactment of this measure, under the police power of the state, for the establishment and maintenance of free public employment offices and for the compulsory setting aside of unemployment reserves to be used for the benefit of unemployed persons.

2983 Section 140. Section **35A-4-105** is amended to read:

2984 **35A-4-105. Department may be represented by attorneys in actions.**

2981 (1) In any civil action to enforce the provisions of this chapter the department may be represented by any qualified attorney who is employed by the department and is designated by it for this purpose, or at the department's request by the attorney general, or if the action is brought in the courts of any other state by any attorney qualified to appear in the courts of that state.

2986 (2) All criminal actions for violation of any provision of this chapter, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general of the state; or, at [~~his~~] the attorney general's request and under [~~his~~] the attorney general's direction, by the prosecuting attorney of any county in which the employing unit has a place of business or the violator resides.

2995 Section 141. Section **35A-4-207** is amended to read:

2996 **35A-4-207. Unemployment.**

2993 (1)

. (a) An individual is "unemployed" in any week during which [~~he~~] the individual performs no services and with respect to which no wages are payable to [~~him~~] the individual, or in any week of less than full-time work if the wages payable to [~~him~~] the individual with respect to the week are less than [~~his~~] the individual's weekly benefit amount.

2998 (b) The department shall prescribe rules applicable to unemployed individuals making distinctions in the procedure as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the department considers necessary.

3002 (2) The department may by rule prescribe in the case of individuals working on a regular attachment basis the existence of unemployment for periods longer than a week if:

3004 (a) it is a period of less than full-time work;

3005 (b) insofar as possible the loss of wages required as a condition of being considered unemployed in those periods shall be such as to allow comparable benefits, for comparable loss in wages, to those

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individuals working less than full-time in each week as would be payable on a weekly claim period basis to those individuals working full-time and not at all in alternate weeks.

3010 (3) Unemployment shall in no case be measured on a basis of longer than a four-week period.

3016 Section 142. Section **35A-4-402** is amended to read:

3017 **35A-4-402. Extended benefits.**

3014 (1) Except when the result would be inconsistent with the other provisions of this section or the rules of the department, the provisions of this chapter that apply to claims for or payments of regular benefits apply to claims for and payments of extended benefits.

3017 (2) An individual is eligible to receive extended benefits with respect to any week of unemployment in ~~his~~ the individual's eligibility period only if the division finds that with respect to that week the individual:

3020 (a) is an "exhaustee" as defined in this section;

3021 (b) has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

3024 (c) has satisfied the federal requirements as adopted by state regulation for the receipt of extended benefits.

3026 (3) The weekly extended benefit amount payable to an individual for a week of total unemployment in ~~his~~ the individual's eligibility period is an amount equal to the weekly benefit amount payable to ~~him~~ the individual during ~~his~~ the individual's applicable benefit year.

3030 (4) The total extended benefit amount payable to any eligible individual with respect to ~~his~~ the individual's applicable benefit year is the lesser of the following amounts:

3032 (a) 50% of the total amount of regular benefits which were payable to ~~him~~ the individual under this chapter in ~~his~~ the individual's applicable benefit year;

3034 (b) 13 times ~~his~~ the individual's weekly benefit amount which was payable to ~~him~~ the individual under this chapter for a week of total unemployment in the applicable benefit year; or

3037 (c) 39 times ~~his~~ the individual's weekly benefit amount which was payable to ~~him~~ the individual under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or deemed paid to ~~him~~ the individual under this chapter with respect to the benefit year.

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- (5) Notwithstanding any other provision of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade adjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.
- 3049 (6)
- (a) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the division shall make an appropriate public announcement.
- 3053 (b) Computations required by Subsection (7)(f) shall be made by the division, in accordance with regulations prescribed by the United States Secretary of Labor.
- 3055 (7) As used in this section:
- 3056 (a) "Extended benefit period" means a period that:
- 3057 (i) begins with the third week after a week for which there is a state "on" indicator; and
- 3059 (ii) ends with either:
- 3060 (A) the third week after the first week for which there is a state "off" indicator; or
- 3061 (B) after the 13th consecutive week of duration of that period, whichever occurs later; however, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.
- 3065 (b) There is a "state 'on' indicator" for this state for a week if the division determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter equaled or exceeded 120% of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years and that the rate equaled or exceeded 4% until the weeks beginning after September 25, 1982, at which time it will become 5%.
- 3072 (c) There is a "state 'off' indicator" for this state for a week if the division determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter was less than 120% of the average of the rates for the corresponding 13-week period

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ending in each of the preceding two calendar years or that the rate was less than 4% until the weeks beginning after September 25, 1982, at which time it will become 5%.

- 3079 (d) "Rate of insured unemployment," for purposes of Subsections (7)(b) and (7)(c), means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the Secretary of Labor, by the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.
- 3086 (e) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. Chapter 85, other than extended benefits.
- 3089 (f) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. Chapter 85, payable to an individual under the provisions of this section for weeks of unemployment in [his] the individual's eligibility period.
- 3093 (g) "Eligibility period" of an individual means the period consisting of the weeks in [his] the individual's benefit year which begin in an extended benefit period and, if [his] the individual's benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.
- 3097 (h) "Exhaustee" means an individual who, with respect to any week of unemployment in [his] the individual's eligibility period:
- 3099 (i) has received, prior to that week, all of the regular benefits that were available to [~~him~~] the individual under this chapter or any other state law, including dependent's allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85, in [his] the individual's current benefit year that includes such week. An individual, for the purposes of this subsection, shall be deemed to have received all of the regular benefits that were available to [~~him~~] the individual although, as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in [his] the individual's benefit year, [~~he~~] the individual may subsequently be determined to be entitled to added regular benefits; or
- 3109 (ii) has no, or insufficient, wages or employment or both on the basis of which [~~he~~] the individual could establish a new benefit year that would include that week, [his] the individual's benefit year having expired prior to that week; and

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- 3112 (iii) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, or any other federal laws as are specified in regulations issued by the Secretary of Labor and has not received, and is not seeking, unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada. However, if that [person] individual is seeking such benefits and the appropriate agency finally determines that [he] the individual is not entitled to benefits under that law [he] the individual is considered an "exhaustee," provided that the reference in this subsection to the Virgin Islands shall be inapplicable effective on the day on which the U. S. Secretary of Labor approves under Section 3304 (a) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.
- 3125 (i) "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a).
- 3132 Section 143. Section **35A-4-406** is amended to read:
- 3133 **35A-4-406. Claims for benefits -- Continuing jurisdiction -- Appeal -- Notice of decision -- Repayment of benefits fraudulently received.**
- 3131 (1)
- . (a) Claims for benefits shall be made and shall be determined by the division or referred to an administrative law judge in accordance with rules adopted by the department.
- 3134 (b) Each employer shall post and maintain in places readily accessible to individuals in [his] the employer's service printed statements concerning benefit rights, claims for benefits, and the other matters relating to the administration of this chapter as prescribed by rule of the department.
- 3138 (c) Each employer shall supply to individuals in [his] the employer's service copies of the printed statements or other materials relating to claims for benefits when and as the department may by rule prescribe. The printed statements and other materials shall be supplied by the division to each employer without cost to the employer.
- 3142 (2)
- . (a) Jurisdiction over benefits shall be continuous.
- 3143 (b) Upon its own initiative or upon application of any party affected, the division may on the basis of change in conditions or because of a mistake as to facts, review a decision allowing or disallowing in whole or in part a claim for benefits.

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- 3146 (c) The review shall be conducted in accordance with rules adopted by the department and may result in a new decision that may award, terminate, continue, increase, or decrease benefits, or may result in a referral of the claim to an appeal tribunal.
- 3149 (d) Notice of any redetermination shall be promptly given to the party applying for redetermination and to other parties entitled to notice of the original determination, in the manner prescribed in this section with respect to notice of an original determination.
- 3153 (e) The new order shall be subject to review and appeal as provided in this section.
- 3154 (f) A review may not be made after one year from the date of the original determination, except in cases of fraud or claimant fault as provided in Subsection (4).
- 3156 (3)
- . (a) The claimant or any other party entitled to notice of a determination as provided by department rule may file an appeal from the determination with the Division of Adjudication within 10 days after the date of mailing of the notice of determination or redetermination to the party's last-known address or, if the notice is not mailed, within 10 days after the date of delivery of the notice.
- 3161 (b) Unless the appeal or referral is withdrawn with permission of the administrative law judge, after affording the parties reasonable opportunity for a fair hearing, the administrative law judge shall make findings and conclusions and on that basis affirm, modify, or reverse the determination or redetermination.
- 3165 (c) The administrative law judge shall first give notice of the pendency of an appeal to the division, which may then be a party to the proceedings. The administrative law judge shall receive into the record of the appeal any documents or other records provided by the division, and may obtain or request any additional documents or records held by the division or any of the parties that the administrative law judge considers relevant to the proper determination of the appeal.
- 3171 (d) The parties shall be promptly notified of the administrative law judge's decision and shall be furnished with a copy of the decision and the findings and conclusions in support of the decision.
- 3174 (e) The decision is considered to be final unless, within 30 days after the date of mailing of notice and a copy of the decision to the party's last-known address, or in the absence of mailed notice, within 30 days after the delivery of the notice, further appeal is initiated in accordance with Section 35A-4-508 and Chapter 1, Part 3, Adjudicative Proceedings.
- 3179 (4)
- .

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- (a) Any person who, by reason of [his] that person's fraud, has received any sum as benefits under this chapter to which [he] the person was not entitled shall repay the sum to the division for the fund.
- 3182 (b) If any person, by reason of [his] that person's own fault, has received any sum as benefits under this chapter to which under a redetermination or decision pursuant to this section [he] the person has been found not entitled, [he] the person shall repay the sum, or shall, in the discretion of the division, have the sum deducted from any future benefits payable to [him] the person, or both.
- 3187 (c) In any case in which under this subsection a claimant is liable to repay to the division any sum for the fund, the sum shall be collectible in the same manner as provided for contributions due under this chapter.
- 3190 (5)
- . (a) If any person has received any sum as benefits under this chapter to which under a redetermination or decision [he] that person was not entitled, and it has been found that [he] the person was without fault in the matter, [he] the person is not liable to repay the sum but shall be liable to have the sum deducted from any future benefits payable to [him] the person.
- 3195 (b) The division may waive recovery of the overpayment if it is shown to the satisfaction of the division that the claimant has the inability to meet more than the basic needs of survival for an indefinite period lasting at least several months.
- 3202 Section 144. Section **36-19-1** is amended to read:
- 3203 **36-19-1. Conflict of interest -- Prohibition of benefit.**
- 3200 (1) A legislator, member of [his] the legislator's household, or client shall not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator unless the contract is let in compliance with state procurement policies and is open to the general public.
- 3204 (2) Any person violating this section shall be guilty of a class B misdemeanor.
- 3209 Section 145. Section **38-2-4** is amended to read:
- 3210 **38-2-4. Disposal of property by lienholder -- Procedure.**
- 3207 (1) Any party holding a lien upon personal property as provided in this chapter may dispose of the property in the manner provided in Subsection (2).
- 3209 (2)
- . (a) The lienor shall give notice to the owner of the property, to the customer as indicated on the work order, and to all other persons claiming an interest in or lien on it, as disclosed by the records of the



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Motor Vehicle Division, lieutenant governor's office, or of corresponding agencies of any other state in which the property appears registered or an interest in or lien on it is evidenced if known by the lienor.

- 3214 (b) The notice shall be sent by certified mail at least 30 days before the proposed or scheduled date of any sale and shall contain:
- 3216 (i) a description of the property and its location;
- 3217 (ii) the name and address of the owner of the property, the customer as indicated on the work order, and any person claiming an interest in or lien on the property;
- 3219 (iii) the name, address, and telephone number of the lienor;
- 3220 (iv) notice that the lienor claims a lien on the property for labor and services performed and interest and storage fees charged, if any, and the cash sum which, if paid to the lienor, would be sufficient to redeem the property from the lien claimed by the lienor;
- 3224 (v) notice that the lien claimed by the lienor is subject to enforcement under this section and that the property may be sold to satisfy the lien;
- 3226 (vi) the date, time, and location of any proposed or scheduled sale of the property and whether the sale is private or public, except that no property may be sold earlier than 45 days after completion of the repair work; and
- 3229 (vii) notice that the owner of the property has a right to recover possession of the property without instituting judicial proceedings by posting bond.
- 3231 (3) If the owner of the property is unknown or [his] the property owner's whereabouts cannot be determined, or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property, shall publish the notice required by this section once in a newspaper circulated in the county where the vehicle is held.
- 3236 (4) A lienee may have [his] the lienee's property released from any lien claimed on it under this chapter by filing with the clerk of a court a cash or surety bond, payable to the person claiming the lien, and conditioned for the payment of any judgment that may be recovered on the lien, with costs, interest, and storage fees.
- 3240 (5)
- . (a) The lienor has 60 days after receiving notice that the lienee has filed the bond provided in Subsection (4) to file suit to foreclose [his] the lien.

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- 3242 (b) If the lienor fails to timely file an action, the clerk of the court shall release the bond.
- 3243 (6) Property subject to lien enforcement under this section may be sold by the lienor at public or private sale; however, in the case of a private sale, every aspect of the sale, including the method, manner, time, place, and terms shall be commercially reasonable.
- 3246 (7) This section may not be construed to affect an owner's right to redeem ~~[his]~~ the owner's property from the lien at any time prior to sale by paying the amount claimed by the lienor for work done, interest, and storage fees charged and any costs incurred by the repair shop for using enforcement procedures under this section.
- 3254 Section 146. Section **38-3-5** is amended to read:
- 3255 **38-3-5. When attachment will issue -- Determination of priorities.**
- Upon the filing of such complaint, affidavit and bond it shall be the duty of the court wherein the same are filed to issue a writ of attachment to the proper officer, commanding ~~[him]~~ the officer to seize the property of the defendant subject to such lien, or so much thereof as will satisfy the demand, and to make a determination of the priorities of the claims, liens, and security interests in such property.
- 3261 Section 147. Section **38-7-2** is amended to read:
- 3262 **38-7-2. Notice of lien required -- Filing with district court -- Mailing to injured person, heirs or legal representative, and insurance carrier.**
- A hospital lien upon damages recovered or to be recovered for personal injuries or death shall be effective if:
- 3262 (1) a verified written notice is filed in the district court of the county in which the hospital asserting the lien is located containing:
- 3264 (a) an itemized statement of the services rendered to the injured person and the dates of the services;
- 3266 (b) the name and address of the hospital making the claim;
- 3267 (c) the name of the person, firm, or corporation alleged to be liable to the injured party for the injuries and damages sustained; and
- 3269 (d) the full name and address of the injured person;
- 3270 (2) the hospital sends by certified mail with return receipt requested, prior to the payment of any money to the injured person or ~~[his]~~ the injured person's attorney or heirs or legal representatives as compensation for the injuries and/or damages sustained, a copy of the written notice, together with

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a statement of the date of filing, to the person, firm, or corporation alleged to be liable to the injured party for the injuries and/or damages sustained; and

3276 (3) the hospital mails a copy of the written notice by certified mail with return receipt requested to  
the home office of any insurance carrier that has insured the person, firm, or corporation against  
liability, if the name and address is known.

3283 Section 148. Section **38-10-102.1** is amended to read:

3284 **38-10-102.1. Perfection of lien -- Notice of subcontractor's claim -- Information required to  
be provided -- Payments to be held in trust.**

3282 (1)

(a) To perfect a lien a subcontractor must comply with the requirements of this section and Section  
38-10-105.

3284 (b) This section shall apply only to a subcontractor's claim or a portion of a claim for amounts more  
than \$5,000, for work performed upon or materials or equipment furnished for each production unit.

3287 (2) A subcontractor shall provide notice of a subcontractor's claim to the owner and operator designated  
by the owner within 20 days after the commencement of work or the furnishing of materials or  
equipment.

3290 (3) The notice shall:

3291 (a) be delivered, or mailed by certified mail, return receipt requested, to the:

3292 (i) owner; and

3293 (ii) operator designated by the owner;

3294 (b) be considered delivered when deposited in the mail; and

3295 (c) contain a statement setting forth the following information:

3296 (i) identification of the lien claimant by full name, address, and telephone number;

3297 (ii) the name of the person by whom [~~he~~] the subcontractor was employed or to whom [~~he~~] the  
subcontractor furnished material or equipment; and

3299 (iii) a description of the property comprising the production unit.

3300 (4) Failure to deliver or mail the notice shall discharge and satisfy the lien attaching to the interest of the  
owner to the extent the owner pays a contractor or operator [~~his~~] the contractor's or operator's share  
of all, or part, of the lien claimant's agreed contract price.

3303 (5)

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(a) Any contractor or subcontractor shall provide, in writing, to each person with whom [he] the contractor or subcontractor contracts:

3305 (i) the full name and address of the:

3306 (A) owner of the production unit; and

3307 (B) the operator designated by the owner; and

3308 (ii) a description of the property comprising the production unit.

3309 (b) Failure to provide the information required under this section within three days after the work is commenced or the materials and equipment are furnished shall entitle the claimant to an award of costs and [attorneys'] attorney fees in an action against the person to enforce the contract.

3313 (6) Any contractor, operator, or subcontractor who receives payment for work performed upon, or material or equipment furnished for any production unit, shall hold all payments in trust for the person with whom [he] the contractor, operator, or subcontractor contracts for work upon, or the furnishing of materials or equipment for the production unit, for any amount remaining unpaid under the contract.

3322 Section 149. Section **38-10-108** is amended to read:

3323 **38-10-108. Limitation upon owner's liability.**

Except as provided in Section 38-10-102 and Section 38-10-114, nothing in this chapter shall be construed to fix a greater liability against the owner than the price or sum agreed by the owner to be paid for [his] a contractor's or subcontractor's share of the work performed or the materials or equipment furnished.

3328 Section 150. Section **38-10-109** is amended to read:

3329 **38-10-109. Limitation on liability for other owners in production unit if notice provided -- Contents of notice -- Filing of notice -- Time for filing -- Failure to file does not affect other defenses.**

3328 (1) Where work is performed or materials or equipment are furnished for any production unit under a contract with an owner of an interest in the production unit, any interest of any other owner in the production unit shall not be subject to a lien under this chapter, if such other owner gives written notice that [he] the other owner will not be responsible for work performed or materials or equipment provided.

3333 (2) Written notice shall be:

3334 (a) in recordable form;

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- 3335 (b) filed with the county recorder of the county where the production unit is located; and
- 3336 (c) filed within 10 working days after the latter of:
- 3337 (i) the owner obtaining knowledge of the performance of such work or the providing of such materials  
or equipment; or
- 3339 (ii) the execution by the last party of:
- 3340 (A) a farmout agreement;
- 3341 (B) a lease or sublease;
- 3342 (C) an operating agreement;
- 3343 (D) an assignment of less than 100% of the lessee's interest or operating rights under a lease;
- 3345 (E) a sales contract; or
- 3346 (F) an option agreement.
- 3347 (3) Failure to file under this section shall not impair any other defense available to such owner.
- 3353 Section 151. Section **40-1-6** is amended to read:
- 3354 **40-1-6. Affidavit of performance of annual labor or payment of maintenance fee.**
- 3351 (1) As used in this section, "assessment work" means the performance of labor or making of  
improvements on or for the benefit of a mining claim.
- 3353 (2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the owner of an  
unpatented lode or placer mining claim, [-]or a mill or tunnel site claim or someone [-]on [his] the  
owner's behalf, shall record an affidavit in the office of the county recorder of the county in which  
the claim is located setting forth:
- 3357 (a) the name and address of the owner of the claim;
- 3358 (b) the name of the claim and the serial number, if any, assigned to the claim by the United States  
Bureau of Land Management;
- 3360 (c) if assessment work was required to be performed under 30 U.S.C. Sec. 28 or other federal law to  
maintain the claim, a statement that the annual assessment work required to maintain the claim was  
performed; and
- 3363 (d) if the assessment work was not required to be performed under 30 U.S.C. Sec. 28 or other federal  
law, a statement that it is the intention of the owner to hold the claim, and if a claim maintenance fee  
was paid as required by the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66 or other  
federal law, a statement that the fee was paid in a timely manner.
- 3368 (3) The affidavit, or a certified copy, shall be prima facie evidence of the facts stated in the affidavit.

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3370 (4) The amendments made in this section do not affect any act or right accruing or which has accrued or  
been established or any suit or proceeding commenced before May 1, 1995.

3377 Section 152. Section **40-8-19** is amended to read:

3378 **40-8-19. Transfer of mining operation under approved notice of intention.**

Whenever an operator succeeds to the interest of another operator who holds an approved notice of intention or revision covering a mining operation, by sale, assignment, lease, or other means, the division may release the first operator from [his] the first operator's responsibilities under [his] the first operator's approved notice of intention, including surety, provided the successor assumes all of the duties of the former operator, to the satisfaction of the division, under this approved notice of intention, including its then approved reclamation plan and the posting of surety. Upon the satisfactory assumption of such responsibilities by the successor operator, under conditions approved by the division, the approved notice of intention shall be transferred to the successor operator.

3388 Section 153. Section **40-8-23** is amended to read:

3389 **40-8-23. Effective dates -- Exceptions.**

This act shall become effective 60 days after adjournment of the Legislature except as follows:

3388 (1) Mining operations which are active on the effective date of this act will be required to prepare and submit a notice of intention on or before July 1, 1977, and shall be authorized to continue such existing operations until the operator obtains approval of [his] a notice of intention. Such approval shall be obtained by the operator within 36 months from the date of submission of this notice. Subsequent to approval of the notice of intention, the operator shall be bound by the provisions of the approved notice of intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.

3395 (2) Mining operations which are active on the effective date of this act and which are suspended or terminated on or before July 1, 1977, shall advise the division of this fact before July 10, 1977, and shall not be required to submit a notice of intention.

3398 (3) Mining operations which are inactive on the effective date of this act and which resume operations on or before July 1, 1977, shall be required to prepare and submit a notice of intention within 12 months following the effective date of this act or within six months of the resumption of such operations, whichever is earlier, and shall be authorized to conduct operations as described in the

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notice of intention until the operator obtains approval of [his] a notice of intention. Such approval shall be obtained by the operator within 36 months from the date of submission of the notice. Subsequent to approval of the notice of intention the operator shall be bound by the provisions of the approved notice of intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.

- 3407 (4) The board and division, in the initial application of this act and until July 1, 1977, shall not be bound by the 30 day time limitation within which to take action on a notice of intention; but all notices of intention filed before July 1, 1977, shall be acknowledged as received within 30 days of receipt and action shall be commenced by the division within 12 months from the date of receipt.
- 3412 (5) This act and the rules and regulations promulgated under it shall be fully effective for all operators and mining operations active on the effective date of this act or commenced or reactivated on and after July 1, 1977.

3419 Section 154. Section **40-10-5** is amended to read:

3420 **40-10-5. Activities exempted from chapter.**

This chapter does not apply to the following activities:

- 3418 (1) the extraction of coal by a landowner for [his] the landowner's own noncommercial use from land owned or leased by [him] the landowner; or
- 3420 (2) the extraction of coal as an incidental part of federal, state, or local government-financed highway or other construction under rules established by the division.

3427 Section 155. Section **40-10-19** is amended to read:

3428 **40-10-19. Information provided by permittees to division -- Inspections by division -- Signs required at operations entrances -- Violations reported by reclamation officers -- Copies of records and reports available to public.**

- 3427 (1) For the purpose of developing, administering, and enforcing any permit under this chapter, or of determining whether any person is in violation of any requirement of this chapter, the division shall require any permittee to provide information relative to surface coal mining and reclamation operations as the division deems reasonable and necessary in the division's rules.
- 3432 (2) The authorized representatives of the division, without advance notice and upon presentation of appropriate credentials:

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- (a) shall have the right of entry into, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under Subsection (2) are located; and
- 3437 (b) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this chapter. As required by Subsection 40-8-17(2), this entry and access are conditions to obtaining an approved state permit to conduct surface mining operations.
- 3441 (3) The inspections by the division shall:
- 3442 (a) occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit;
- 3445 (b) occur without prior notice to the permittee or [his] the permittee's agents or employees except for necessary onsite meetings with the permittee; and
- 3447 (c) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.
- 3449 (4) Each permittee shall conspicuously maintain at the entrances to the surface coal mining and reclamation operations a clearly visible sign which sets forth the names, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.
- 3453 (5) Each reclamation officer, upon detection of each violation of any requirement of this chapter, shall forthwith inform the operator in writing and shall report in writing the violation to the division.
- 3456 (6) Copies of any records, reports, inspection materials, or information obtained under this chapter by the division shall be made immediately available to the public.
- 3462 Section 156. Section **40-10-20** is amended to read:
- 3463 **40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation.**
- 3462 (1)
- . (a) Any permittee who violates any permit condition or other provision of this chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of a cessation order under Section 40-10-22, the civil penalty shall be assessed.



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- 3466 (b)
- . (i) The penalty may not exceed \$5,000 for each violation.
- 3467 (ii) Each day of a continuing violation may be deemed a separate violation for purposes of the penalty assessments.
- 3469 (c) In determining the amount of the penalty, consideration shall be given to:
- 3470 (i) the permittee's history of previous violations at the particular surface coal mining operation;
- 3472 (ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;
- 3474 (iii) whether the permittee was negligent; and
- 3475 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.
- 3477 (2)
- . (a) Within 30 days after the issuance of a notice or order charging that a violation of this chapter has occurred, the division shall inform the permittee of the proposed assessment.
- 3480 (b) The person charged with the penalty shall then have 30 days to pay the proposed assessment in full, or request an informal conference before the division.
- 3482 (c) The informal conference held by the division may address either the amount of the proposed assessment or the fact of the violation, or both.
- 3484 (d) If the permittee who requested the informal conference and participated in the proceedings is not in agreement with the results of the informal conference, the permittee may, within 30 days of receipt of the decision made by the division in the informal conference, request a hearing before the board.
- 3488 (e)
- . (i) Prior to any review of the proposed assessment or the fact of a violation by the board, and within 30 days of receipt of the decision made by the division in the informal conference, the permittee shall forward to the division the amount of the proposed assessment for placement in an escrow account.
- 3492 (ii) If the operator fails to forward the amount of the penalty to the division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.
- 3496 (iii) If, through administrative or judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the division shall within 30 days remit the appropriate amount to the operator with interest accumulated.

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- 3500 (3)
- . (a) A civil penalty assessed by the division shall be final only after the person charged with a violation described under Subsection (1) has been given an opportunity for a public hearing.
- 3503 (b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.
- 3507 (c) When appropriate, the board shall consolidate the hearings with other proceedings under Section 40-10-22.
- 3509 (d) Any hearing under this section shall be of record and shall be conducted pursuant to board rules governing the proceedings.
- 3511 (e) If the person charged with a violation fails to [~~avail himself of~~] use the opportunity for a public hearing, a civil penalty shall be assessed by the division after the division:
- 3513 (i) has determined:
- 3514 (A) that a violation did occur; and
- 3515 (B) the amount of the penalty which is warranted; and
- 3516 (ii) has issued an order requiring that the penalty be paid.
- 3517 (4) At the request of the board, the attorney general may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil penalty owed under this chapter.
- 3520 (5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order issued under Section 40-10-22 or any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.
- 3526 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision issued under Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections (1) and (5).

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(7) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or any order or decision issued by the board under this chapter shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

3539 (8)

(a) Any operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection 40-10-22(1) within the period permitted for its correction shall be assessed a civil penalty of not less than \$750 for each day during which the failure or violation continues.

3543 (b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection 40-10-22(1) may not end until:

3545 (i) the entry of a final order by the board, in the case of any review proceedings initiated by the operator in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements; or

3550 (ii) the entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation.

3556 Section 157. Section **40-10-29** is amended to read:

3557 **40-10-29. Other enforcement and protection rights unaffected -- Operator to replace adversely affected water supply of legitimate users.**

3556 (1) Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, [his] the person's interest in water resources affected by a surface coal mining operation.

3559 (2) The operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of [his] the owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where this supply has been affected by contamination, diminution, or interruption proximately resulting from the surface coal mine operation.

3567 Section 158. Section **41-1a-224** is amended to read:

3568 **41-1a-224. Registration of specially constructed, reconstructed, or foreign vehicles -- Surrender of foreign registration.**

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- 3567 (1) If the vehicle to be registered is a specially constructed, reconstructed, or foreign vehicle, that fact shall be stated in the application.
- 3569 (2) The owner of a foreign vehicle that has been registered outside of this state shall surrender to the division all registration cards, certificates of title, or other evidence of foreign registration in [~~his~~] the owner's possession or under [~~his~~] the owner's control, except as provided in Section 41-1a-223.
- 3576 Section 159. Section **41-1a-607** is amended to read:
- 3577 **41-1a-607. Assignment by lienholder.**
- 3575 (1)
- . (a) Any person holding a lien or encumbrance upon a vehicle, vessel, or outboard motor, other than a lien dependent solely upon possession, may assign [~~his~~] the person's title or interest in or to the vehicle, vessel, or outboard motor to a person other than the owner without the consent of and without affecting the interest of the owner or the registration of the vehicle, vessel, or outboard motor.
- 3580 (b) If assignment of the lien or encumbrance in any way modifies or affects the owner's repayment agreement, the lien or encumbrance holder shall give to the owner a written notice of the assignment.
- 3583 (2) Upon request to the division and upon receipt of a certificate of title assigned by the holder of a lien or encumbrance shown on it and giving the name and address of the assignee, accompanied by the fee provided by law, the division shall issue a new certificate of title.
- 3590 Section 160. Section **41-1a-608** is amended to read:
- 3591 **41-1a-608. Release by lienholder to owner.**
- 3589 (1) A person holding a lien or encumbrance as shown upon a certificate of title upon a vehicle or vessel may release the lien or encumbrance or assign [~~his~~] the person's interest to the owner without affecting the registration of the vehicle or vessel.
- 3592 (2) The division shall issue a new certificate of title without a lien previously recorded upon receiving:
- 3594 (a) a certificate of title:
- 3595 (i) upon which a lienholder has released or assigned [~~his~~] the lienholder's interest to the owner; or
- 3597 (ii) not so endorsed but accompanied by a legal release from a lienholder of [~~his~~] the lienholder's interest in or to a vehicle, vessel, or outboard motor;
- 3599 (b) an application properly completed; and

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3600 (c) the proper fee.

3604 Section 161. Section **41-1a-708** is amended to read:

3605 **41-1a-708. Owner not liable for negligent operation after transfer.**

The owner of a vehicle or vessel who has made a bona fide sale or transfer of [~~his~~]the owner's title or interest and who has delivered to the purchaser or transferee possession of the vehicle or vessel, the certificate of registration, and the properly endorsed certificate of title to the vehicle or vessel is not liable for any damages thereafter resulting from negligent operation of the vehicle or vessel by another.

3611 Section 162. Section **41-1a-801** is amended to read:

3612 **41-1a-801. Altered or changed identification number -- State assigned identification number.**

- 3611 (1) The owner of a vehicle required to be registered [-]under this chapter, the identification number of which has been altered, removed, defaced, or has not been placed on it shall make application in the form prescribed by the division for a state assigned identification number.
- 3615 (2) The owner shall furnish [-]information that will satisfy the division that [~~he~~] the owner is the owner of the vehicle and furnish information to identify the vehicle with the registration of the vehicle for the current year, at which time the division shall assign a state identification number for the vehicle.
- 3619 (3) A record of state assigned numbers shall be maintained by the division.
- 3620 (4) The state assigned identification number is the identification number of the vehicle when:
- 3622 (a) the owner has stamped the state assigned identification number upon the vehicle as directed by the division;
- 3624 (b) a qualified identification number inspector has inspected and found the state assigned identification number stamped upon the vehicle as directed;
- 3626 (c) the owner has provided the division with a certificate of inspection; and
- 3627 (d) the owner has submitted an application for a certificate of title.

3631 Section 163. Section **41-1a-1301** is amended to read:

3632 **41-1a-1301. Unpaid fees and penalty -- Lien -- Seizure and sale.**

3630 (1)

. (a) Every registration fee and penalty not paid by the due date is a lien upon all:

- 3631 (i) the unexempt personal property of the owner or operator of the vehicle, vessel, or outboard motor; and

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(ii) interest or equity of the owner or operator in all personal property, including vehicles, vessels, or outboard motors used by the owner or operator in the conduct or operation of ~~his~~ the owner's or operator's business.

3636 (b) The properties and vehicles, vessels, or outboard motors may be held under warrant, issued by the commission, and sold in accordance with the law applicable to personal property taxes.

3639 (2) Delinquency is a ground for the issuance of a writ of attachment against the owner or operator.

3644 Section 164. Section **41-1a-1313** is amended to read:

3645 **41-1a-1313. Third degree felony to possess motor vehicle, trailer, semitrailer, or parts without identification number -- Presumption of knowledge.**

3644 (1) It is a third degree felony for a person to have in ~~his~~ the person's possession any motor vehicle, trailer, or semitrailer, or any part or parts of a motor vehicle, trailer, or semitrailer, from which any identification number has been removed, defaced, destroyed, obliterated, or so covered as to be concealed, or where the identification number has been altered or changed in any manner.

3649 (2) A person having possession of any motor vehicle, trailer, or semitrailer or part of them under this section is presumed prima facie to have knowledge of this condition.

3654 Section 165. Section **41-1a-1316** is amended to read:

3655 **41-1a-1316. Receiving or transferring stolen motor vehicle, trailer, or semitrailer -- Penalty.**

It is a second degree felony for a person:

3655 (1) with intent to procure or pass title to a motor vehicle, trailer, or semitrailer that ~~he~~ the person knows or has reason to believe has been stolen or unlawfully taken to receive or transfer possession of the motor vehicle, trailer, or semitrailer from or to another; or

3658 (2) to have in ~~his~~ the person's possession any motor vehicle, trailer, or semitrailer that ~~he~~ the person knows or has reason to believe has been stolen or unlawfully taken if ~~he~~ the person is not a peace officer engaged at the time in the performance of ~~his~~ the peace officer's duty.

3665 Section 166. Section **41-1a-1317** is amended to read:

3666 **41-1a-1317. Selling or buying without identification numbers -- Penalty.**

It is a second degree felony for a person to knowingly buy, receive, dispose of, sell, offer for sale, or have in ~~his~~ that person's possession any motor vehicle, trailer, semitrailer, or engine removed from a motor vehicle, from which the identification number has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the motor vehicle or engine.

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3672 Section 167. Section **41-3-207** is amended to read:

3673 **41-3-207. New motor vehicle dealer's license -- Change, addition, or loss of franchise**  
**-- Notification -- Relinquishment of license and relicensing as used motor vehicle dealer --**  
**Continuance in business to dispose of stock.**

3673 (1) If a dealer changes to, adds, cancels, or loses a franchise for the sale of new motor vehicles [~~he~~] the  
dealer shall immediately notify the administrator.

3675 (2)

(a) If the dealer has cancelled or lost a franchise, the administrator shall determine whether the dealer  
should be licensed as a used motor vehicle dealer.

3677 (b) If the administrator determines that the dealer should be licensed as a used motor vehicle dealer,  
[~~he~~] the administrator shall issue to the dealer a used motor vehicle dealer's license.

3680 (c) A dealer relicensed as a used motor vehicle dealer may continue to sell new motor vehicles for up  
to six months from the date of the relicensing, to enable the dealer to dispose of [~~his~~] the dealer's  
existing stock of new motor vehicles.

3686 Section 168. Section **41-3-208** is amended to read:

3687 **41-3-208. Salesperson's license -- Relinquishment upon loss or change of employment --**  
**Notice to salesperson -- New license required.**

3686 (1) If a salesperson is discharged from or leaves [~~his~~] the salesperson's employer, the dealer who last  
employed the salesperson shall return the salesperson's license to the administrator.

3689 (2) The salesperson shall be notified at [~~his~~] the salesperson's last known place of residence that  
[~~his~~] the salesperson's license has been returned to the administrator.

3691 (3) A person may not act as a motor vehicle salesperson until a new license is procured.

3695 Section 169. Section **41-3-505** is amended to read:

3696 **41-3-505. Special plates -- Application -- Security requirements.**

3694 (1) A dealer, dismantler, manufacturer, remanufacturer, or transporter may apply to the division upon  
the appropriate form for one or more special plates.

3696 (2) The applicant shall also submit proof of [~~his~~] the applicant's status as a licensed dealer, dismantler,  
manufacturer, remanufacturer, or transporter as required by the [-]division.

3698 (3) The applicant shall also establish to the satisfaction of the division that [~~he~~] the applicant complies  
with the security requirements of Sections 31A-22-302 and 31A-22-303.

3703 Section 170. Section **41-3-506** is amended to read:

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3704           **41-3-506. Special plates -- Expiration.**

- 3702       (1) A special plate issued expires:
- 3703       (a) on June 30 each year; or
- 3704       (b) upon the cancellation, suspension, or revocation of the licensee's license.
- 3705       (2) Under Subsection (1)(b), the plates shall be returned to the licensee upon reinstatement of [~~his~~] the licensee's license.
- 3707       (3) A new plate or plates, or renewal decal, for the ensuing year may be obtained by the licensee submitting a new application to the division and paying the dealer, dismantler, manufacturer, or transporter plate fee provided by law.

3713           Section 171. Section **41-3-508** is amended to read:

3714           **41-3-508. Special plates -- Suspension or revocation -- Grounds -- Procedure -- Appeal -- Confiscation.**

- 3713       (1) The division may suspend or revoke the special plate or plates issued to a dealer, dismantler, manufacturer, remanufacturer, or transporter if it determines that the person:
- 3715       (a) is not lawfully entitled to them;
- 3716       (b) has made or knowingly permitted illegal use of the plates;
- 3717       (c) has committed fraud in the registration of motor vehicles; or
- 3718       (d) failed to give notices of sales or transfers required under this chapter.
- 3719       (2)
- .       (a) Suspension or revocation of special plates takes effect immediately upon written notification to the licensee by the division.
- 3721       (b) Upon notification, the licensee shall immediately return all special plates to the division.
- 3723       (c) Failure to return the plates or permitting their continued use is a violation of this chapter.
- 3725       (3)
- .       (a) If a licensee desires to appeal the division's suspension or revocation, [~~he~~] the licensee shall file a written notice of appeal with the administrator within 10 days of the suspension or revocation.
- 3728       (b) Upon receipt of the notice, the administrator shall schedule a hearing for not more than 20 days from the date the written appeal is received.
- 3730       (c) The licensee may not continue to use or possess any special plates that have been suspended or revoked.
- 3732       (d) The hearing and subsequent appeal process are in accordance with the procedures in this chapter.



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- 3734 (4)
- . (a) A peace officer may confiscate any special plate that [he] the peace officer has reason to believe is being used illegally.
- 3736 (b) A special plate confiscated under this chapter or Title 41, Chapter 1a, Motor Vehicle Act, may not be returned to the licensee if the administrator determines that the plate was being used illegally.
- 3742 Section 172. Section **41-3-803** is amended to read:
- 3743 **41-3-803. Consignment sales.**
- 3741 (1) A consignor may take possession of [his] the consignor's consigned vehicle at any time the consigned vehicle is in the possession of a consignee, provided that the consignor:
- 3743 (a) has notified the consignee in writing that [he] the consignor{ ~~§~~ → {} {} { esignor{}} { consignor}{}} ←~~§~~ } will take possession of the consigned vehicle; and
- 3745 (b) has paid all outstanding charges owing to the consignee that have been agreed to by the consignor in accordance with Subsection (2).
- 3747 (2) The agreed upon charges under Subsection (1)(b) shall be:
- 3748 (a) stated on a form designed by the department; and
- 3749 (b) included with the written consignment agreement.
- 3750 (3) A consignee who sells a consigned vehicle shall report to the consignor in writing the exact selling price of the consigned vehicle under either of the following circumstances:
- 3752 (a) the consignor and consignee agree in writing that the consignor shall receive a percentage of the selling price upon the sale of the vehicle; or
- 3754 (b) the consignor and consignee renegotiate in writing the selling price of the vehicle.
- 3755 (4) When a consignee sells a consigned vehicle:
- 3756 (a) the consignee, within seven calendar days of the date of sale, must give written notice to the consignor that the consigned vehicle has been sold; and
- 3758 (b) the consignee, within 21 calendar days of the date of sale, or within 15 calendar days of receiving payment in full for the consigned vehicle, whichever date is earlier, shall remit the payment received to the consignor, unless the agreement to purchase the consigned vehicle has been rescinded before expiration of the 21 days.
- 3762 (5) If the agreement to purchase the consigned vehicle has for any reason been rescinded before the expiration of 21 calendar days of the date of sale, the consignee shall within five calendar days thereafter give written notice to the consignor that the agreement to purchase has been rescinded.

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- 3766 (6) Vehicles on consignment shall be driven with the consignee's dealer plates. All other license plates or registration indicia must be removed from the vehicle.
- 3768 (7) Prior to driving a consigned vehicle on the consignee's dealer plates, the consignee and the consignor shall execute a written consignment agreement that states:
- 3770 (a) the party responsible for damage or misuse to a consigned vehicle; and
- 3771 (b) the permitted uses a consignee may make of a consigned vehicle.
- 3772 (8) The consignee shall keep the written consignment agreement on file at [~~his~~] the consignee's principal place of business.
- 3777 Section 173. Section **41-12a-104** is amended to read:
- 3778 **41-12a-104. Rules of construction.**
- 3776 (1) If a person maintains owner's security under this chapter, it does not limit [~~his~~] the person's liability to the face amount of the owner's security.
- 3778 (2) Nothing in this chapter prevents the plaintiff in any action at law from relying for relief upon the other processes provided by law.
- 3780 (3) This chapter is cumulative with the requirements of the laws of this state requiring policies of motor vehicle insurance against liability. This subsection does not preclude compliance through a single policy which, by its terms or by an appropriate endorsement, satisfies the requirements of both applicable laws.
- 3787 Section 174. Section **41-12a-411** is amended to read:
- 3788 **41-12a-411. Duration of proof of owner's or operator's security.**
- 3786 (1) Except as otherwise provided under this section, any person required to give proof of owner's or operator's security shall maintain that proof with the department for a period of three years from the date the filing of proof was last requested. Subject to Subsection (2), the department shall:
- 3790 (a) upon request, consent to the immediate cancellation of any bond or certificate of insurance;
- 3792 (b) direct the state treasurer to return to the person entitled to it any money or securities deposited pursuant to this chapter as proof of owner's or operator's security; or
- 3794 (c) waive the requirement of filing proof, if the person on whose behalf the proof was filed dies or becomes permanently incapacitated to operate a motor vehicle or if the person who has given proof surrenders [~~his~~] the person's registration to the department, except that if [~~he~~] that person applies for a registration within three years from the date proof was originally required, the application shall be

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refused unless the applicant reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

3801 (2)

(a) The department may not consent to the cancellation of any bond or the return of any money or securities if any action for damages upon a liability covered by that proof is then pending, if:

3804 (i) any judgment of liability is unsatisfied; or

3805 (ii) the person who filed the bond or deposited the money or securities has, within one year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others.

3809 (b) An affidavit of the applicant is sufficient evidence in the absence of contrary evidence in the records of the department if the affidavit declares:

3811 (i) the nonexistence of liability or accidents;

3812 (ii) that the person has been released from all liability; or

3813 (iii) that the person has been finally adjudicated not to be liable for the injury or damage.

3818 Section 175. Section **41-12a-503** is amended to read:

3819 **41-12a-503. Conditions to license, registration, and privilege renewal.**

The license, registration, and nonresident's operating privilege suspended under Subsection 41-12a-501(3) remain suspended and may not be renewed nor may that license or registration be issued until one of the following is satisfied:

3820 (1) The person deposits or has deposited on [his] that person's behalf the post-accident security required under Subsection 41-12a-501(1).

3822 (2) One year has elapsed following the effective date of the suspension and evidence satisfactory to the department has been filed that during that period no action for damages arising out of the accident has been commenced.

3825 (3) Evidence satisfactory to the department has been filed with it of a release from liability, of a final adjudication of nonliability, or of a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident. In the event of default in the payment of any installment under such an agreement, upon receiving notice of the default, the department shall suspend the license and registration or nonresident's operating privilege of the person defaulting. This license, registration, or nonresident's operating privilege may not be restored until either:

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- 3833 (a) The person deposits and thereafter maintains security as required under Subsection 41-12a-501(1).  
3835 (b) One year has elapsed following the date when the security was required and during that period no action upon the agreement has been instituted in a Utah court.

3840 Section 176. Section **41-12a-506** is amended to read:

3841 **41-12a-506. Application to persons without license or registration.**

If the operator or the owner of a motor vehicle involved in an accident in Utah has no license or registration in Utah, or is a nonresident, [he] the operator or owner may not obtain a license or registration in Utah until [he] the operator or owner has complied with the requirements of this chapter to the extent that would be necessary if, at the time of the accident, [he] the operator or owner held a Utah license and registration.

3847 Section 177. Section **41-12a-507** is amended to read:

3848 **41-12a-507. Cooperation with other states.**

- 3846 (1) When a nonresident's operating privilege is suspended under this chapter, the department shall send a certified copy of the record of the action to the official in charge of the issuance of licenses and registration certificates in the state in which the nonresident resides, if the law of the other state provides for action similar to that provided for in Subsection (2).
- 3851 (2) Upon receipt of certification from the official of another state that the operating privilege of a Utah resident has been suspended in the other state for failure to deposit post-accident security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the deposit in Utah, the department shall suspend the license of the resident if [he] the resident was the operator, and all of [his] the resident's registrations if [he] the resident was the owner of a motor vehicle involved in the accident. These suspensions continue until the Utah resident furnishes evidence of [his] the resident's compliance with the law of the other state relating to the deposit of post-accident security.

3863 Section 178. Section **41-12a-509** is amended to read:

3864 **41-12a-509. Custody and terms of post-accident security deposits.**

Post-accident security deposited in compliance with Subsection 41-12a-501(1) shall be placed by the department in the custody of the state treasurer and may be applied only to the payment of judgments rendered against the persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of the accident, or within one year after the date of deposit of any security

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under Subsection 41-12a-503(3)(a), or to the payment in settlement, agreed to by the depositor, of claims arising out of the accident. The deposit or any balance of it shall be returned to the depositor or [his] the depositor's personal representative when evidence satisfactory to the department has been provided that the conditions of either Subsection 41-12a-503(2) or (3) have been satisfied.

3875 Section 179. Section **41-12a-511** is amended to read:

3876 **41-12a-511. Failure to satisfy judgment.**

- 3874 (1) Whenever any person fails within 60 days to satisfy any judgment, it is the duty of the clerk of the court or of the judge of a court which has no clerk in which any such judgment is rendered in Utah, upon the written request of the judgment creditor or [his] the creditor's attorney, to forward to the department immediately after the expiration of the 60 days, a certified copy of the judgment.
- 3879 (2) The department, upon the receipt of a certified copy of a judgment, shall suspend the license and registration and any nonresident's operating privilege of any person against whom the judgment was rendered, except as provided in Subsection (5) and Section 41-12a-513.
- 3883 (3) Except as provided under Subsection (5) and Section 41-12a-513, a license, registration, and nonresident's operating privilege suspended under Subsection (2) remains suspended and may not be renewed nor may that license or registration be thereafter issued in the name of the same person, including a person not previously licensed, unless every such judgment is stayed or satisfied in full within the meaning of Section 41-12a-512, and until the person files proof of owner's or operator's security.
- 3889 (4) If the judgment debtor named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the judgment debtor is a resident.
- 3893 (5) If the judgment creditor consents in writing, in a form the department prescribes, that the judgment debtor be allowed license and registration or nonresident's operating privilege, they may be allowed by the department for six months from the date of the consent and thereafter until that consent is revoked in writing, notwithstanding the default in the payment of the judgment or of any installments thereof prescribed in Section 41-12a-513, if the judgment debtor furnishes proof of owner's security.

3902 Section 180. Section **41-12a-604** is amended to read:

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3903           **41-12a-604. Suspension of license.**

- 3901       (1) A person convicted of a class A or a class B misdemeanor under this chapter, in addition to any other penalties which are imposed by law, shall have [his] the person's operator's license suspended by the department.
- 3904       (2) Whenever any person is convicted of an offense for which this chapter mandates the suspension of [his] that person's license or the registration of [his] that person's motor vehicle, and that person does not produce proof of owner's or operator's security at the time of [his] that person's appearance, the court in which the conviction takes place shall require the surrender to it of all pertinent evidences of registration, including all registration cards, license plates, nonresident temporary permits, and other similar materials then held by the person so convicted. This court shall then forward the registration materials to the Motor Vehicle Division of the State Tax Commission and send the Driver License Division a record of the conviction. If the person so convicted secures a judgment of acquittal or reversal of this conviction in any appellate court, the department shall reinstate [his] that person's driver license or privilege and the Motor Vehicle Division shall reinstate the registration of [his] that person's motor vehicle immediately upon receipt of a certified copy of the judgment of acquittal or reversal.
- 3917       (3) If the owner has surrendered the owner's registration materials to the Motor Vehicle Division, the owner may, unless otherwise prohibited by law, apply for a new registration, by providing proof of owner's security.

3923           Section 181. Section **42-3-1** is amended to read:

3924           **42-3-1. Commissioner of agriculture and food to register names.**

Any owner of a farm in this state may have the name of [his] the owner's farm, together with a brief description of [his] the owner's lands to which such name applies, recorded in a register kept for the purpose in the office of the commissioner of agriculture and food, and the commissioner of agriculture and food shall furnish to such landowner a proper certificate setting forth such name and a brief description of such lands. When any name shall have been so recorded it shall not be recorded as the name of any other farm.

3931           Section 182. Section **45-2-2** is amended to read:

3932           **45-2-2. Libel and slander defined.**

As used in this chapter:

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(1) "Libel" means a malicious defamation, expressed either by printing or by signs or pictures or the like, tending to blacken the memory of [one] an individual who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of [one] an individual who is alive, and thereby to expose [him] the individual to public hatred, contempt or ridicule.

3936 (2) "Slander" means any libel communicated by spoken words.

3940 Section 183. Section **45-2-7** is amended to read:

3941 **45-2-7. Limitations and restrictions -- Immune from liability -- Due care.**

Except as provided in Section 45-2-1.5, nothing in this act contained shall be construed to relieve any person broadcasting over a radio or television station from liability under the law of libel, slander, or defamation. Nor shall anything else in this act be construed to relieve any person, firm, or corporation owning or operating a radio or television broadcasting station or network from liability under the law of libel, slander, or defamation on account of any broadcast prepared or made by any such person, firm, or corporation or by any officer or employee thereof in the course of [his] the officer's or employee's employment. In no event, however, shall any such person, firm, or corporation be liable for any damages for any defamatory statement or act published or uttered in or as a part of a visual or sound broadcast unless it shall be alleged and proved by the complaining party that such person, firm, or corporation has failed to exercise due care to prevent the publication or utterance of such statement or act in such broadcast. Bona fide compliance with any federal law or the regulation of any federal regulatory agency shall be deemed to constitute such due care as hereinabove mentioned.

3956 Section 184. Section **47-1-5** is amended to read:

3957 **47-1-5. Order of abatement -- Execution -- Sale of personal property -- Padlocking.**

If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case. The order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, and movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and shall further direct the effective closing of the building or place against its use for any purpose, and the keeping of it so closed for a period of one year, unless sooner released. If any person shall break and enter or use a building, structure, or place so directed to be closed, [he] that person shall be punished as for

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contempt as provided in Section 47-1-4. For removing and selling the movable property the officer shall be entitled to charge and receive the same fees as for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

3971 Section 185. Section **47-2-6** is amended to read:

3972 **47-2-6. Owners may reclaim -- Damages -- Taxes.**

Any person owning any horses which are running at large in any county in which the county executive has given notice of intention to make a drive, as provided in this chapter, may within 30 days after the posting or the first publication of the notice mentioned in Section  
3973 47-2-4 file with the county executive a description of such horses claimed by ~~him~~ the person, giving the marks and brands, if any, which appear thereon, and, if the county executive shall take into its possession any horses so claimed, it shall by registered letter addressed to the owner or claimant of such horses notify ~~him~~ the owner or claimant that the same may be claimed within 10 days from the mailing of such notice; and such owner or claimant shall be permitted upon application to the county legislative body to take possession of such horses upon payment of the expense of caring for the same from the date of capture. If any horses are killed by order of the county executive under the provisions of this chapter, a description of which has been reported by the owner thereof to the county legislative body, and ownership of such animals can be satisfactorily established, such owner shall receive as damage therefor a sum not exceeding \$10 for each animal; provided, that ~~he~~ the owner has paid all taxes assessed against said animal; provided further, that payment of such claims may be made only from proceeds of sales of captured horses.

3989 Section 186. Section **51-7-9** is amended to read:

3990 **51-7-9. Quarterly reports by state treasurer -- Audit of accounts of state treasurer -- Report of audit -- Employment of investment staff and services.**

The state treasurer shall report not less often than quarterly to each participating state officer, board, commission, institution, department, division, agency, or other similar instrumentality, or political subdivision, the activities, investments, and performance of ~~his~~ the state treasurer's office during the preceding period. The accounts of the state treasurer shall be audited annually under the direction of the state auditor. The report of this audit shall be open for inspection by the public in the offices of the state auditor and the state treasurer and a



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copy of it shall be submitted to the legislature through the Office of the Legislative Fiscal Analyst. The state treasurer is authorized, within the limits of available appropriations, to employ such investment staff and secure such financial, investment, and other technical services [he] the state treasurer considers necessary to properly carry out [~~his~~]the state treasurer's responsibilities under this chapter.

4003 Section 187. Section **51-7-18.1** is amended to read:

4004 **51-7-18.1. Qualified depositories list -- Reports -- Treatment of confidential information --  
Powers -- Staff -- Limits on powers.**

4003 (1)

. (a) The council shall provide a list of qualified depositories to each public treasurer at least semiannually.

4005 (b) The list shall include:

4006 (i) the name of each qualified depository; and

4007 (ii) the maximum amount of public funds that each qualified depository is eligible to hold.

4009 (2) In determining the maximum amount of public deposits for a qualified depository, the council may not designate a maximum amount for any qualified depository that is more than twice that depository's capital as defined by council rule.

4012 (3)

. (a) The council may require each qualified depository to submit monthly reports to the commissioner of Financial Institutions disclosing the amount of public funds held by the depository at the close of business on a day designated by the council.

4015 (b) The council may also require the qualified depository to include in the report:

4016 (i) information about the character and condition of the qualified depository's assets;

4017 (ii) information about the qualified depository's deposits and other liabilities;

4018 (iii) information about the qualified depository's capital; and

4019 (iv) any other information that the council considers necessary in order for it to fulfill its responsibilities under this chapter.

4021 (c) The council shall require that any reports submitted be verified by the oath or affirmation of the president or vice-president of the qualified depository.

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- (d) Any officer of a qualified depository who knowingly makes or causes to be made any false statement or report to the council or any false entry in the books or accounts of the qualified depository is guilty of a class A misdemeanor.
- 4026 (4)
- . (a) Notwithstanding Section 7-1-802, the commissioner may disclose necessary information about the condition of any qualified depository to the council to assist it in evaluating the eligibility of any qualified depository to receive and hold public funds.
- 4030 (b) If the secretary of the council or any member of the council discloses confidential information obtained from the commissioner under this subsection, [he] the secretary or council member is guilty of a class A misdemeanor.
- 4033 (c) If any member of the council discloses confidential information obtained from the commissioner under this subsection, the governor shall remove [him] the council member from [his] the council member's position.
- 4036 (5) Upon the vote of at least three of the council members, the commissioner shall require any qualified depository to:
- 4038 (a) surrender deposits of public funds that exceed the amount that the qualified depository may legally hold under authority of this chapter and council rule; or
- 4040 (b) pledge collateral security for those excess deposits.
- 4041 (6)
- . (a) If the commissioner orders the qualified depository to pledge collateral security for the excess deposits, the collateral security pledged shall have a market value determined upon the last day of the month of:
- 4044 (i) 110% of the amount of the excess deposits, if the collateral consists of obligations of or fully guaranteed by the United States or its agencies as to principal and interest, a segregated earmarked deposit account, or notes, drafts, bills of exchange, or bankers' acceptances that are eligible for rediscount or purchase by a federal reserve bank;
- 4049 (ii) 120% of the amount of the excess deposits, if the collateral consists of obligations of the state of Utah or any of its political subdivisions; and
- 4051 (iii) 130% of the amount of the excess deposits, if the collateral consists of obligations of other readily marketable bonds, notes, or debentures.

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- (b) The qualified depository shall deposit any collateral pledged to secure excess deposits with the state treasurer.
- 4055 (c) The state treasurer may not release the collateral until [he] the state treasurer has received written confirmation from the commissioner that the qualified depository:
- 4057 (i) has relinquished the excess deposits; or
- 4058 (ii) is in compliance with this chapter and council rules.
- 4059 (7) Any qualified depository that fails to comply with a written order issued by the commissioner under authority of this section within 15 days of receipt of the order is ineligible to receive or renew any deposits or investments of public funds until it receives written authorization to do so from the council.
- 4063 (8) In addition to the requirements set forth by rule, in order to be certified as a qualified depository as defined in Section 51-7-3, a depository institution shall pay to the commissioner an annual certification fee of \$250 due April 1 of each year.

4069 Section 188. Section **53-7-211** is amended to read:

4070 **53-7-211. Fire investigations by fire marshal.**

- 4068 (1) If the division is of the opinion that further investigation of a fire is necessary, the state fire marshal, [his] or the state marshal's deputy[, ] or representative, may:
- 4070 (a) join the investigation in cooperation with the fire officers who have been conducting it;
- 4072 (b) upon the request of the chief fire official of the political subdivision, assume control of the investigation and direct it; or
- 4074 (c) conduct an independent investigation if necessary.
- 4075 (2) A fire officer who has conducted or is conducting the investigation shall cooperate in every possible way with the state fire marshal, [his] the state fire marshal's deputy, and the state fire marshal's representative to further the purpose of the investigation.
- 4078 (3) The county attorney or district attorney of the county in which the fire occurred shall, upon the request of the state fire marshal, [his] or the state fire marshal's deputy[, ] or representative, assist in the investigation.

4084 Section 189. Section **53-7-212** is amended to read:

4085 **53-7-212. Powers of fire marshal in respect to investigation.**

In investigating any fire the state fire marshal and [his] the state fire marshal's deputy may:

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- 4085 (1) subpoena witnesses;
- 4086 (2) compel their attendance and testimony; and
- 4087 (3) require the production of books, papers, documents, records, and other tangible items that constitute or may contain evidence relevant to the investigation in the judgment of the state fire marshal or [his] the state fire marshal's deputy.

4093 Section 190. Section **53-7-213** is amended to read:

4094 **53-7-213. Criminal charges resulting from investigation -- Procedure.**

If the state fire marshal, [his] or the state fire marshal's deputy[-] or representative, or any other officer participating in the investigation of any fire[-] believes that there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, [he] the officer participating in the investigation shall furnish the county attorney or district attorney of the county in which the crime occurred with [his-]evidence and request the county attorney or district attorney to commence the proper procedures to charge the person with the appropriate crime.

4102 Section 191. Section **53-7-214** is amended to read:

4103 **53-7-214. Insurance company reports of fires.**

- 4101 (1) The state fire marshal, [his] the state fire marshal's deputy, and investigator may, in writing, require any insurance company transacting business in this state to release to the state fire marshal all relevant information or evidence found important by the state fire marshal, [his] the state fire marshal's deputy, and investigator that the company may have in its possession, relating to any fire loss in this state in which the company has an insuring interest. Relevant information includes:
- 4107 (a) insurance policy information related to a fire loss under investigation and any application for the policy;
- 4109 (b) available policy premium payment records;
- 4110 (c) history of previous claims made by the insured; and
- 4111 (d) material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence related to the investigation.
- 4113 (2)
- . (a) Every insurance company transacting business in the state must file with the division a report of any fire of suspicious origin.
- 4115 (b) The report shall show:

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- 4116 (i) the name of the insured;
- 4117 (ii) the location of the property burned;
- 4118 (iii) the probable cause of the fire;
- 4119 (iv) the occupancy of the property burned;
- 4120 (v) the construction of the building or structure burned;
- 4121 (vi) the market value of the property involved;
- 4122 (vii) the actual loss;
- 4123 (viii) the insurance carried;
- 4124 (ix) the insurance paid;
- 4125 (x) the apportionment of loss where more than one company was on the risk; and
- 4126 (xi) if a motor vehicle or building is involved in any fire loss, a description of the motor vehicle or building.
- 4128 (c) In case of a fire of suspicious or incendiary origin, a preliminary report shall be made immediately through some officer or representative of the insurance company, showing:
- 4131 (i) the name of the insured;
- 4132 (ii) the date of the fire;
- 4133 (iii) the location;
- 4134 (iv) occupancy; and
- 4135 (v) other facts and circumstances tending to establish the cause or origin of the fire.
- 4136 (3) All persons making an adjustment occasioned by a loss due to a fire of suspicious or incendiary origin in this state shall, upon written request, send to the division a copy of the final adjustment immediately after the adjustment is made, signed by the person making the adjustment.
- 4140 (4) Any insurance company or person acting in its behalf or any person making adjustments occasioned by a loss due to fire who releases information, whether oral or written, pursuant to Subsection (1), (2), or (3) is immune from any liability for the release of this information arising out of a civil action or penalty resulting from a criminal prosecution.
- 4147 Section 192. Section **53-9-112** is amended to read:
- 4148 **53-9-112. Issuance of license and identification card to applicant -- License period -- Expiration of application -- Transfer of license prohibited.**
- 4147 (1) The commissioner shall issue a license to an applicant who complies with the provisions of this chapter. Each license issued under this chapter shall:

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- 4149 (a) contain the name and address of the licensee and the number of the license, its agency, registrant, or  
apprentice license designation; and
- 4151 (b) be issued for a period of two years.
- 4152 (2) On the issuance of a license, an identification card shall:
- 4153 (a) be issued without charge to the licensee; and
- 4154 (b) state on its face whether the bearer holds an agency, registrant, or apprentice license.
- 4155 (3)
- . (a) A registrant identification card shall state that the licensee is under the direction of a licensed agency  
and may not do investigative work independently for the public.
- 4157 (b) An apprentice identification card shall state that the licensee is under the direct supervision of a  
licensed agency and may not do investigative work independently for the public.
- 4160 (4) Upon request by any person, the licensee shall immediately identify the name, business address,  
and phone number of the licensed agency for which the licensee is an employee or independent  
contractor.
- 4163 (5)
- . (a) On notification by the commissioner to an applicant that the license is not complete, or is not ready  
for issuance pending additional information, the applicant shall complete the application process and  
provide the additional information within 90 days.
- 4167 (b) Failure to complete the process shall result in the application being cancelled and all fees forfeited.
- 4169 (c) Subsequent application by the same applicant requires the payment of all application and license  
fees prescribed in Section 53-9-111.
- 4171 (6) A licensee shall notify the commissioner of any change in the name or address of [his] the licensee's  
business within 60 days of the change and failure to so notify will result in the automatic suspension  
of the license. To relieve the suspension, the licensee must apply for reinstatement and pay the fee  
prescribed in Section 53-9-111.
- 4175 (7) A license issued under this chapter is not transferable or assignable.
- 4179 Section 193. Section **53-9-116** is amended to read:
- 4180 **53-9-116. Divulging investigative information -- False reports prohibited.**
- 4178 (1) Except as otherwise provided by this chapter, a licensee may not divulge or release to anyone other  
than [his] the licensee's client or employer the contents of an investigative file acquired in the course  
of licensed investigative activity. However, the board shall have access to investigative files if the

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client for whom the information was acquired, or [~~his~~] the client's lawful representative, alleges a violation of this chapter by the licensee or if the prior written consent of the client to divulge or release the information has been obtained.

- 4185 (2) A licensee may not willfully make a false statement or report to a client, employer, the board, or  
any authorized representative of the department, concerning information acquired in the course of  
activities regulated by this chapter.
- 4188 (3) The licensee shall submit investigative reports to a client at times and in the manner agreed upon  
between the licensee and the client.
- 4190 (4) Upon demand by the client, the licensee shall divulge to the client the results of an investigation if  
payment in full has been tendered for the charges levied.
- 4192 (5) The licensee has full right to withdraw from any case and refund any portion of a retainer for which  
investigative work has not been completed.

4197 Section 194. Section **53-10-206** is amended to read:

4198 **53-10-206. Collection of information.**

The commissioner and persons designated by [~~him~~] the commissioner may require all  
peace officers, the warden of the state prison, the keeper of any jail or correctional institution,  
or superintendent of the state hospital to obtain information that will aid in establishing the  
records required to be kept.

4203 Section 195. Section **53-10-207** is amended to read:

4204 **53-10-207. Peace officers, prosecutors, and magistrates to supply information to state and  
F.B.I. -- Notification of arrest based on warrant.**

- 4203 (1) Every peace officer shall:
- 4204 (a) cause fingerprints of persons [~~he~~] the peace officer has arrested to be taken on forms provided by the  
division and the Federal Bureau of Investigation;
- 4206 (b) supply information requested on the forms; and
- 4207 (c) forward without delay both copies to the division, which shall forward the F.B.I. copy to the  
Identification Division of the Federal Bureau of Investigation.
- 4209 (2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor declines to  
prosecute, or investigative action as described in Section 77-2-3 is terminated, the prosecutor or law  
enforcement agency shall notify the division of this action within 14 working days.

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(3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure that each felony defendant has been fingerprinted and an arrest and fingerprint form is transmitted to the division. In felony cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of the county to:

- 4218 (a) cause fingerprints of each felony defendant to be taken on forms provided by the division;  
4220 (b) supply information requested on the forms; and  
4221 (c) forward without delay both copies to the division.  
4222 (4) If an arrest is based upon information about the existence of a criminal warrant of arrest or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer shall without delay notify the division of the service of each warrant of arrest or commitment, in a manner specified by the division.

4229 Section 196. Section **53-11-107** is amended to read:

4230 **53-11-107. Licenses -- Classifications -- Prohibited acts.**

4228 (1) Licenses under this chapter are issued in the classifications of:

- 4229 (a) bail enforcement agent;  
4230 (b) bail recovery agent; or  
4231 (c) bail recovery apprentice.

4232 (2) A person may not:

- 4233 (a) act or assume to act as, or [~~represent himself~~] claim to be, a licensee unless [he] the person is licensed under this chapter; or  
4235 (b) falsely represent that [he] the person is employed by a licensee.  
4236 (3) The commissioner shall issue licenses to applicants who qualify for them under this chapter.  
4238 (4) A license issued under this chapter is not transferable or assignable.

4242 Section 197. Section **53-11-108** is amended to read:

4243 **53-11-108. Licensure -- Basic qualifications.**

An applicant for licensure under this chapter shall meet the following qualifications:

- 4242 (1) An applicant shall be:  
4243 (a) at least 21 years [~~of age~~] old;  
4244 (b) a citizen or legal resident of the United States; and  
4245 (c) of good moral character.  
4246 (2) An applicant may not:



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- 4247 (a) have been convicted of:
- 4248 (i) a felony;
- 4249 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
- 4250 (iii) any act of personal violence or force on any person or convicted of threatening to commit any act  
of personal violence or force against another person;
- 4252 (iv) any act constituting dishonesty or fraud;
- 4253 (v) impersonating a peace officer; or
- 4254 (vi) any act involving moral turpitude;
- 4255 (b) be on probation, parole, community supervision, or named in an outstanding arrest warrant; or
- 4257 (c) be employed as a peace officer.
- 4258 (3) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good  
standing within that state or jurisdiction.
- 4260 (4)
- . (a) The applicant shall also have completed a training program of not less than 16 hours that is  
approved by the board and includes:
- 4262 (i) instruction on the duties and responsibilities of a licensee under this chapter, including:
- 4264 (A) search, seizure, and arrest procedure;
- 4265 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and
- 4266 (C) specific duties and responsibilities regarding entering an occupied structure to carry out functions  
under this chapter;
- 4268 (ii) the laws and rules relating to the bail bond business;
- 4269 (iii) the rights of the accused; and
- 4270 (iv) ethics.
- 4271 (b) The program may be completed after the licensure application is submitted, but shall be completed  
before a license may be issued under this chapter.
- 4273 (5) If the applicant desires to carry a firearm as a licensee, the applicant shall:
- 4274 (a) successfully complete a course regarding the specified types of weapons [he] the applicant plans to  
carry. The course shall:
- 4276 (i) be not less than 16 hours;
- 4277 (ii) be conducted by any national, state, or local firearms training organization approved by the Criminal  
Investigations and Technical Services Division created in Section 53-10-103; and

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- 4280 (iii) provide training regarding general familiarity with the types of firearms to be carried, including:  
4282 (A) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and  
4284 (B) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use  
of deadly force, transportation, and concealment; and  
4286 (b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.
- 4290 Section 198. Section **53-11-111** is amended to read:  
4291 **53-11-111. Licensure -- Bail recovery agent -- Requirements and limitations.**  
4289 (1)
- . (a) In addition to the requirements in Sections 53-11-108 and 53-11-113, an applicant for licensure as  
a bail recovery agent shall meet all of the requirements under Section 53-11-109, but instead of the  
experience requirement under Subsection 53-11-109(1)(a), a bail recovery agent applicant shall have  
a minimum of 1,000 hours of experience consisting of either actual bail recovery work, or work as a  
law enforcement officer for a federal, state, or local governmental agency.
- 4295 (b) The applicant shall substantiate the experience claimed under Subsection (1) as qualifying  
experience and shall provide:
- 4297 (i) the exact details as to the character and nature of the experience on a form prescribed by the  
department; and  
4299 (ii) certification by the applicant's employers, which is subject to independent verification by the board.
- 4301 (c) If an applicant is unable to supply written certification of experience from an employer in whole or  
in part, an applicant may offer written certification from persons other than an employer covering  
the same subject matter for consideration by the board.
- 4305 (d) The burden of proving completion of the required experience is on the applicant.
- 4306 (2) An applicant for license renewal shall have completed not less than eight hours of continuing  
classroom instruction.
- 4308 (3) A bail recovery agent may work as a licensee under this chapter only as an employee of or as an  
independent contractor with a bail bond agency. A bail recovery agent may not:
- 4310 (a) advertise [~~his~~] the agent's services;  
4311 (b) provide services as a licensee under this chapter directly for members of the public; or  
4313 (c) employ or hire as independent contractors bail enforcement agents, bail recovery agents, or bail  
recovery apprentices.
- 4318 Section 199. Section **53-11-116** is amended to read:

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- 4319           **53-11-116. Issuance of license and card to applicant -- License period -- Expiration of**  
**application -- Transfer of license prohibited.**
- 4318   (1)
- .   (a) The board shall issue a license to an applicant who complies with the provisions of this chapter.
- 4320   (b) Each license shall:
- 4321   (i) contain the name and address of the licensee, the classification of license, and the number of the  
      license; and
- 4323   (ii) be issued for a period of two years.
- 4324   (2)
- .   (a) When the board issues the license, it shall also issue an identification card the design of which shall  
      be approved by the commissioner in accordance with Section 53-11-116.5.
- 4327   (b) The identification card shall be issued without charge to the licensee if an individual, or if the  
      licensee is an agency, to each of its licensed employees and contract employees, and is evidence the  
      licensee and [~~his~~] the licensee's employees and contract employees are licensed under this chapter.
- 4331   (3)
- .   (a) If an identification card issued to a person states on it any bail bond agencies for which the  
      cardholder works, that person shall return the card to the employer upon termination of [~~his~~] the  
      person's work relationship with the bail bond agency licensee.
- 4334   (b) Within five days the licensee shall mail or deliver the card to the commissioner for cancellation.
- 4336   (4)
- .   (a) When the commissioner notifies an applicant that licensure as a bail bond recovery agency is ready  
      for issuance, the applicant shall complete the application process within 90 days.
- 4339   (b) Failure to complete the process results in cancellation of the application and forfeiture of all fees  
      paid to that point.
- 4341   (c) Subsequent application by the same applicant requires the payment of all application and license  
      fees prescribed in Section 53-11-115.
- 4343   (5) A bail bond agency licensee shall notify the commissioner of any change in the name or address of  
      [~~his~~] the bail bond agency licensee's business and of any change of employees or contract employees  
      within 30 days after the change.
- 4346   (6)
- .

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(a) All new employees and contract employees of an agency who are licensed under this chapter shall submit applications on forms prescribed by the board.

4348 (b) Upon board approval, identification cards shall be issued without charge.

4352 Section 200. Section **53-11-122** is amended to read:

4353 **53-11-122. Requirements during search and seizure -- Notification of law enforcement agency.**

A bail enforcement agent, bail recovery agent, or bail recovery apprentice shall observe the following requirements before taking action authorized under this chapter:

4354 (1) identify himself or herself as a "bail enforcement agent," "bail recovery agent," or "bail recovery apprentice"; and

4356 (2) comply with the notification requirements of Section 53-11-123.

4360 Section 201. Section **53-11-123** is amended to read:

4361 **53-11-123. Notification of local law enforcement.**

4359 (1)

(a) A bail enforcement agent or bail recovery agent who is searching for or planning to apprehend a person shall notify the local law enforcement agency if the search or apprehension will be conducted in an occupied structure within that law enforcement agency's jurisdiction.

4363 (b) When possible, notification shall be provided before taking action, but always within 24 hours of taking action.

4365 (c) When a bail enforcement agent or bail recovery agent is preparing to enter an occupied structure to carry out an arrest, [~~he~~] the agent shall verbally advise the local law enforcement agency of [~~his~~] the agent's location and intended action prior to acting.

4369 (2) A bail enforcement agent, bail recovery agent, and bail recovery apprentice shall each carry [~~with him~~] a written document providing proof and cause for the actions [~~he~~] the agent or apprentice is taking as a licensee, and shall make the document available to local law enforcement agencies upon request.

4376 Section 202. Section **53-13-113** is amended to read:

4377 **53-13-113. Authority of peace officers to administer oaths.**

A peace officer, as defined in Section 53-1-102, who is acting within the scope of [~~his or her~~] the peace officer's official duties may administer oaths.

4380 Section 203. Section **53B-13-102** is amended to read:

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### 4381 **53B-13-102. Definitions.**

As used in this chapter:

- 4380 (1) "Bonds" means the bonds authorized to be issued by the board under this chapter, and may consist of bonds, notes, or debt obligations evidencing an obligation to repay borrowed money and payable solely from revenues and other money of the board pledged for repayment.
- 4384 (2) "Eligible borrower" means a person, or the parent of a person, who is eligible to borrow under regulations applicable to the student loan program.
- 4386 (3) "Eligible institution" means an institution which is approved by the board and the United States Secretary of Education for purposes of the guaranteed loan program.
- 4388 (4) "Obligations" means student loan notes and other debt obligations reflecting loans to students which the board may take, acquire, buy, sell, or endorse under this chapter, and may include a direct or indirect interest in the whole or any part of the notes or obligations.
- 4392 (5) "Resolution," when used in relation to the issuance of bonds, means the resolution or trust agreement securing the bonds.
- 4394 (6) "Student" means a person who, under rules promulgated by the board, is enrolled or accepted for enrollment at an eligible institution and who is making suitable progress in ~~his~~ the person's education toward obtaining a degree or other appropriate certification in accordance with standards acceptable to the board.

4401 Section 204. Section **53B-13-110** is amended to read:

### 4402 **53B-13-110. Default by board -- Appointment of a trustee -- Powers of the trustee and bondholders.**

- 4401 (1) If the board defaults in the payment of principal of or interest on an issue of bonds after the issue becomes due, whether at maturity or upon call for redemption, and the default continues for 30 days, or if the board fails or refuses to comply with this chapter, or defaults in an agreement made with the holders of an issue of bonds, the holders of 25% of the aggregate principal amount of the bonds of the issue then outstanding, may appoint a trustee to represent all holders of that issue of bonds for the purposes provided in this section.
- 4408 (2) The trustee may, and upon written request of the holders of 25% of the aggregate principal amount of the bonds of the issue then outstanding shall, in ~~his~~ the trustee's own name by action or proceeding enforce all rights of the bondholders including the following:

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- (a) bringing an action to require the board to collect fees, charges, interest, and amortization payments of loans made by it adequate to carry out the agreement as to, or pledge of, the fees, charges, interest, and amortization payment on the loans and other properties;
- 4416 (b) bringing an action to require the board to carry out other agreements with the holders of the bonds and to perform its duties under this chapter;
- 4418 (c) bringing an action upon the bonds; or
- 4419 (d) bringing an action to require the board to account as if it were the trustee of an express trust for the holders of the bonds due and payable, and if all defaults are made good, then, with the consent of the holders of 25% of the principal amount of the issue of bonds then outstanding, to annul the declaration and its consequences.
- 4423 (3) The holders of bonds and the trustee authorized by this section shall have all of the rights to which they are entitled by virtue of provisions included in the bonds or otherwise available to them under law.
- 4429 Section 205. Section **53B-13-114** is amended to read:
- 4430 **53B-13-114. Mandamus in Supreme Court -- Precedence.**
- 4428 (1) If an official required by the proceeding authorizing bonds under this chapter to sign the bonds refuses to affix [~~his~~] the official's signature to [~~them~~] the bonds, or if the attorney general refuses to certify the bonds as legal obligations, alleging illegality of the bonds, the board may bring an original action in mandamus in the Supreme Court of Utah.
- 4432 (2) The importance to the state and its inhabitants of the program of loans to eligible borrowers is such that this action brought in the Supreme Court should be given precedence over the other matters pending before the court, and the court is requested to give this action precedence and to render its decision concerning it at the earliest possible time.
- 4440 Section 206. Section **53C-1-301** is amended to read:
- 4441 **53C-1-301. Director -- Term -- Compensation -- Removal from office.**
- 4439 (1)
- . (a) The board, with the consent of the governor, shall select the director on the basis of outstanding professional qualifications pertinent to the purposes and activities of the trust.
- 4442 (b) If the governor withholds [~~his~~] consent from a candidate agreed upon by the board, [~~he~~] the governor shall give [~~his~~] reasons in writing to the board.
- 4444 (2) The director shall serve a term of four years, or until a successor is selected and qualified.

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- 4446 (3) When a vacancy occurs in the office of the director, the vacancy shall be filled pursuant to  
Subsection (1) for the remainder of the term.
- 4448 (4)
- . (a) The board:
- 4449 (i) shall establish the compensation of the director; and
- 4450 (ii) annually report the director's compensation to the Legislature.
- 4451 (b) The compensation and performance of the director shall be examined each year as part of the  
board's budget review process.
- 4453 (5)
- . (a) The board may remove the director from office for cause by a majority vote of the board.
- 4455 (b)
- . (i) The governor may petition the board for removal of the director for cause.
- 4456 (ii) The board shall hold a hearing on the governor's petition within 60 days after its receipt.
- 4458 (iii) If after the hearing the board finds by a preponderance of the evidence cause for removal, it shall  
remove the director from office by a majority vote.
- 4463 Section 207. Section **53C-2-412** is amended to read:
- 4464 **53C-2-412. Land subject to federal mineral lease.**
- 4462 (1) With respect to any tract of land in which the trust acquires or has acquired any interest subject to  
an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a  
petition seeking extension of the permit or lease or any other action as may be necessary to give to  
the lessee or permittee any and all rights, privileges, and benefits which [~~he~~] the lessee or permittee  
would have had under the permit or lease had the trust not acquired its interest in the tract.
- 4468 (2) In consideration of the voluntary termination by the federal lessee or permittee of [~~his~~] the lease  
or permit as it relates to that tract, the director may issue to that lessee or permittee a lease of the  
acquired tract or any portion of that tract for recovery of the same mineral substances, granting the  
lessee or permittee all the rights, privileges, and benefits with reference to that tract which [~~he~~] the  
lessee or permittee would have had by reason of [~~his~~] the lessee's lease or permittee's permit from  
the United States had the state not acquired its interest in the tract.
- 4478 Section 208. Section **53C-5-101** is amended to read:
- 4479 **53C-5-101. Management of range resources.**
- 4477

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- (1) The director is responsible for the efficient management of all range resources on lands under the director's administration, consistent with [his] the director's fiduciary duties of financial support to the beneficiaries.
- 4480 (2) This management shall be based on sound resource management principles.
- 4484 Section 209. Section **54-7-3** is amended to read:
- 4485 **54-7-3. Subpoena -- Witness fees -- Depositions.**
- 4483 (1)
- . (a) The commission and each commissioner may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and other evidence in any inquiry, investigation, hearing, or proceeding in any part of the state.
- 4487 (b)
- . (i) Each witness who appears by order of the commission or a commissioner shall receive the same fees and mileage for [his] the witness's attendance that are allowed by law to a witness in the district court.
- 4490 (ii) The party at whose request the witness is subpoenaed shall pay the witness and mileage fee.
- 4492 (iii) When any witness who has not been required to attend at the request of any party is subpoenaed by the commission, [his] the witness's fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid.
- 4496 (iv) Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may at the time of service, demand the fee to which [he] the witness is entitled for travel to and from the place at which [he] the witness is required to appear and one day's attendance.
- 4500 (v) If the witness demands the fees at the time of service and [they] the fees are not paid at that time, [he] the witness is not required to attend the hearing.
- 4502 (vi) All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action instituted by the person to whom the fees are payable.
- 4505 (vii) No witness furnished with free transportation receives mileage for the distance [he] the witness may have traveled.
- 4507 (2) The commission or any commissioner or any party may in any investigation before the commission cause the depositions of witnesses residing within or without the state to be taken in the manner



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prescribed by law for depositions in civil actions in the district courts of this state, and may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

4515 Section 210. Section **54-7-25** is amended to read:

4516 **54-7-25. Violations by utilities -- Penalty.**

- 4514 (1) Any public utility that violates or fails to comply with this title or any rule or order issued under this title, in a case in which a penalty is not otherwise provided for that public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each offense.
- 4518 (2) Any violation of this title or any rule or order of the commission by any corporation or person is a separate and distinct offense. In the case of a continuing violation, each day's continuance of the violation shall be a separate and distinct offense.
- 4521 (3) In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility acting within the scope of [his] the officer's, agent's, or employee's official duties or employment shall in each case be deemed to be the act, omission, or failure of that public utility.

4528 Section 211. Section **56-1-21.5** is amended to read:

4529 **56-1-21.5. Railroad special agents.**

- 4527 (1)
- . (a) A railroad company may appoint one or more persons to be designated by the railroad company as a railroad special agent for the protection of railroad property and the protection of the persons and property of railroad passengers and employees.
- 4530 (b) While engaged in the conduct of employment, each appointed railroad special agent may possess and exercise the powers of a special function officer.
- 4532 (c) The special function officer authority may be exercised only:
- 4533 (i) in the protection of passengers and employees on or about railroad premises and in the protection of property belonging to passengers, or belonging to or under the control of the railroad employing the special agents; and
- 4536 (ii) in preventing and making arrest for a violation of law upon the premises or in connection with the property.

4538 (2)

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(a) A person appointed by a railroad company to act as a railroad special agent shall, prior to appointment, meet the qualifications established for special function officers, pursuant to Section 53-13-105, or as otherwise provided by law.

4541 (b)

(i) Before the appointee performs any duties as a special agent, the railroad company shall file the name of the appointee with the commissioner of the Department of Public Safety.

4544 (ii) If the appointee meets qualifications for a special function officer, the commissioner of the Department of Public Safety shall issue to the special agent a certificate of authority to act as a peace officer, to continue in effect during [his] the special agent's employment by the railroad unless revoked by the commissioner for cause.

4549 (3)

(a) A railroad company appointing a special agent is responsible for any liability arising from the acts or omissions of the special agent within the scope of railroad employment, but is entitled to any defense to liability that may be available to other peace officers.

4553 (b) Neither the state nor any of its political subdivisions is liable for any act or omission of a railroad special agent.

4558 Section 212. Section **57-1-14** is amended to read:

4559 **57-1-14. Form of mortgage -- Effect.**

A mortgage of land may be substantially in the following form:

{-} MORTGAGE

4562 \_\_\_\_\_ (here insert name), mortgagor, of \_\_\_\_\_ (insert place of residence), hereby

4563 mortgages to \_\_\_\_\_ (insert name), mortgagee, of \_\_\_\_\_ (insert place of residence), for the sum of

4564 \_\_\_\_\_ dollars, the following described tract \_\_\_\_\_ of land in \_\_\_\_\_ County, Utah, to wit: (here

4565 describe the premises).

4566 This mortgage is given to secure the following indebtedness (here state amount and form

4567 of indebtedness, maturity, rate of interest, by and to whom payable, and where).

4568 The mortgagor agrees to pay all taxes and assessments on said premises, and the sum of

4569 \_\_\_\_\_ dollars [attorneys'] attorney fee in case of foreclosure.

4570 Witness the hand of said mortgagor this \_\_\_\_\_ (month\day\year).

A mortgage when executed as required by law shall have the effect of a conveyance of the land therein described, together with all the rights, privileges and appurtenances thereunto

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belonging, to the mortgagee, [~~his~~] the mortgagee's heirs, assigns, and legal representatives, as security for the payment of the indebtedness thereon set forth, with covenants from the mortgagor of general warranty of title, and that all taxes and assessments levied and assessed upon the land described, during the continuance of the mortgage, will be paid previous to the day appointed for the sale of such lands for taxes; and may be foreclosed as provided by law upon any default being made in any of the conditions thereof as to payment of either principal, interest, taxes, or assessments.

4580 Section 213. Section **57-1-19** is amended to read:

4581 **57-1-19. Trust deeds -- Definitions of terms.**

As used in Sections 57-1-20 through 57-1-36:

- 4580 (1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for  
whose benefit a trust deed is given, or [~~his~~] that person's successor in interest.
- 4582 (2) "Trustor" means the person conveying real property by a trust deed as security for the performance  
of an obligation.
- 4584 (3) "Trust deed" means a deed executed in conformity with Sections 57-1-20 through 57-1-36 and  
conveying real property to a trustee in trust to secure the performance of an obligation of the trustor  
or other person named in the deed to a beneficiary.
- 4587 (4) "Trustee" means a person to whom title to real property is conveyed by trust deed, or [~~his~~] that  
person's successor in interest.
- 4589 (5) "Real property" has the same meaning as set forth in Section 57-1-1.
- 4590 (6) "Trust property" means the real property conveyed by the trust deed.

4594 Section 214. Section **57-1-37** is amended to read:

4595 **57-1-37. Failure to disclose not a basis for liability.**

- 4593 (1) The failure of an owner of real property to disclose that the property being offered for sale is  
stigmatized is not a material fact that must be disclosed in the transaction of real property.
- 4596 (2) Neither an owner nor [~~his~~] the owner's agent is liable for failing to disclose that the property is  
stigmatized.

4601 Section 215. Section **57-2-13** is amended to read:

4602 **57-2-13. Form for certificate of proof.**

The certificate of proof shall be substantially in the following form, to wit:

State of Utah, County of \_\_\_\_\_

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On this \_\_\_\_\_ (month\day\year), before me personally appeared \_\_\_\_\_, personally known to me (or satisfactorily proved to me by the oath of \_\_\_\_\_, a competent and credible witness for that purpose, by me duly sworn) to be the same person whose name is subscribed to the above instrument as a witness thereto, who, being by me duly sworn, deposed and said [that he] \_\_\_\_\_ resides in \_\_\_\_\_, county of \_\_\_\_\_, and state of Utah; that [he] as a subscribing witness was present and saw \_\_\_\_\_, personally known to [him] the subscribing witness to be the signer of the above instrument as a party thereto, sign and deliver the same, and heard [him] the party acknowledge that [he] the party executed the same, and that [he, the deponent,] the subscribing witness thereupon signed [his] his/her name as a subscribing witness thereto at the request of said \_\_\_\_\_.

4615 Section 216. Section **57-2a-2** is amended to read:

4616 **57-2a-2. Definitions.**

As used in this chapter:

4615 (1) "Acknowledged before me" means:

4616 (a) that the person acknowledging appeared before the person taking the acknowledgment;

4618 (b) [~~that he acknowledged he executed the document~~] that the person acknowledging executed the document;

4620 (c) that, in the case of:

4621 (i) a natural person, [he] the natural person executed the document for the purposes stated in it;

4623 (ii) a corporation, the officer or agent acknowledged [he] the officer or agent held the position or title set forth in the document or certificate, [he] the officer or agent signed the document on behalf of the corporation by proper authority, and the document was the act of the corporation for the purpose stated in it;

4627 (iii) a partnership, the partner or agent acknowledged [he] the partner or agent signed the document on behalf of the partnership by proper authority, and [he] the partner or agent executed the document as the act of the partnership for the purposes stated in it;

4631 (iv) a person acknowledging as principal by an attorney in fact, [he] that person executed the document by proper authority as the act of the principal for the purposes stated in it; or

4634 (v) a person acknowledging as a public officer, trustee, administrator, guardian, or other representative, [he] that person signed the document by proper authority, and [he] that person executed the document in the capacity and for the purposes stated in it; and

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- 4638 (d) that the person taking the acknowledgment:
- 4639 (i) either knew or had satisfactory evidence that the person acknowledging was the person named in the document or certificate; and
- 4641 (ii) in the case of a person executing a document in a representative capacity, either had satisfactory evidence or received the sworn statement or affirmation of the person acknowledging that the person had the proper authority to execute the document.
- 4645 (2) "Notarial act" means any act a notary public is authorized by state law to perform, including administering oaths and affirmations, taking acknowledgments of documents, and attesting documents.

4651 Section 217. Section **57-2a-3** is amended to read:

4652 **57-2a-3. Persons authorized to perform notarial acts.**

- 4650 (1) Notarial acts performed in this state shall be performed by:
- 4651 (a) a judge or court clerk having a seal;
- 4652 (b) a notary public; or
- 4653 (c) a county clerk or county recorder.
- 4654 (2) The following persons authorized under the laws and regulations of other governments may perform notarial acts outside this state for use in this state with the same effect as if performed by a notary public of this state:
- 4657 (a) a notary public authorized to perform notarial acts in the place where the act is performed;
- 4659 (b) a judge, clerk, or deputy clerk of any court of record in the place where the notarial act is performed;
- 4661 (c) an officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place where the act is performed;
- 4664 (d) a commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for any of [~~his~~] that person's dependents, a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States; or
- 4670 (e) any other person authorized to perform notarial acts in the place where the act is performed.

4675 Section 218. Section **57-3-102** is amended to read:

4676

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### **57-3-102. Record imparts notice -- Change in interest rate -- Validity of document -- Notice of unnamed interests -- Conveyance by grantee.**

- 4675 (1) Each document executed, acknowledged, and certified, in the manner prescribed by this title, each original document or certified copy of a document complying with Section 57-4a-3, whether or not acknowledged, each copy of a notice of location complying with Section 40-1-4, and each financing statement complying with Section 70A-9a-502, whether or not acknowledged shall, from the time of recording with the appropriate county recorder, impart notice to all persons of their contents.
- 4681 (2) If a recorded document was given as security, a change in the interest rate in accordance with the terms of an agreement pertaining to the underlying secured obligation does not affect the notice or alter the priority of the document provided under Subsection (1).
- 4684 (3) This section does not affect the validity of a document with respect to the parties to the document and all other persons who have notice of the document.
- 4686 (4) The fact that a recorded document recites only a nominal consideration, names the grantee as trustee, or otherwise purports to be in trust without naming beneficiaries or stating the terms of the trust does not charge any third person with notice of any interest of the grantor or of the interest of any other person not named in the document.
- 4690 (5) The grantee in a recorded document may convey the interest granted to [him] the grantee free and clear of all claims not disclosed in the document in which [he] the grantee appears as grantee or in any other document recorded in accordance with this title that sets forth the names of the beneficiaries, specifies the interest claimed, and describes the real property subject to the interest.
- 4698 Section 219. Section **57-4a-4** is amended to read:
- 4699 **57-4a-4. Presumptions.**
- 4697 (1) A recorded document creates the following presumptions regarding title to the real property affected:
- 4699 (a) the document is genuine and was executed voluntarily by the person purporting to execute it;
- 4701 (b) the person executing the document and the person on whose behalf it is executed are the persons they purport to be;
- 4703 (c) the person executing the document was neither incompetent nor a minor at any relevant time;
- 4705 (d) delivery occurred notwithstanding any lapse of time between dates on the document and the date of recording;
- 4707 (e) any necessary consideration was given;

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- 4708 (f) the grantee, transferee, or beneficiary of an interest created or described by the document acted in good faith at all relevant times;
- 4710 (g) a person executing a document as an agent, attorney in fact, officer of an organization, or in a fiduciary or official capacity:
- 4712 (i) held the position [he] that the person executing the document purported to hold and acted within the scope of [his] that person's authority;
- 4714 (ii) in the case of an officer of an organization, was authorized under all applicable laws to act on behalf of the organization; and
- 4716 (iii) in the case of an agent, [his] the agent's agency was not revoked, and [he] the agent acted for a principal who was neither incompetent nor a minor at any relevant time;
- 4719 (h) a person executing the document as an individual:
- 4720 (i) was unmarried on the effective date of the document; or
- 4721 (ii) if it otherwise appears from the document that the person was married on the effective date of the document, the grantee was a bona fide purchaser and the grantor received adequate and full consideration in money or money's worth so that the joinder of the nonexecuting spouse was not required under Sections 75-2-201 through 75-2-207;
- 4726 (i) if the document purports to be executed pursuant to or to be a final determination in a judicial or administrative proceeding, or to be executed pursuant to a power of eminent domain, the court, official body, or condemnor acted within its jurisdiction and all steps required for the execution of the document were taken; and
- 4730 (j) recitals and other statements of fact in a document, including without limitation recitals concerning mergers or name changes of organizations, are true.
- 4732 (2) The presumptions stated in Subsection (1) arise even though the document purports only to release a claim or to convey any right, title, or interest of the person executing it or the person on whose behalf it is executed.

4738 Section 220. Section **57-8-6** is amended to read:

4739 **57-8-6. Ownership and possession rights.**

Each unit owner shall be entitled to the exclusive ownership and possession of [his]that unit owner's unit. The owner of a time period condominium unit shall be entitled to the exclusive ownership and possession of the physical unit to which [his] that owner's time period relates and shall be entitled to the use and enjoyment of the common areas and facilities

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during, but only during, such annually recurring part or parts of a year as describe and define the time period unit concerned in the declaration.

4746 Section 221. Section **57-8-8** is amended to read:

4747 **57-8-8. Compliance with covenants, bylaws and/or house rules and administrative provisions.**

Subject to reasonable compliance therewith by the manager and the management committee, each unit owner shall reasonably comply with the covenants, conditions, and restrictions as set forth in the declaration or in the deed to [his] that unit owner's unit, and with the bylaws and/or house rules and with the administrative rules and regulations drafted pursuant thereto, as either of the same may be lawfully amended from time to time, and failure to comply shall be ground for an action to recover sums due for damages or injunctive relief or both, maintainable by the manager or management committee on behalf of the unit owners, or in a proper case, by an aggrieved unit owner.

4757 Section 222. Section **57-8-13.14** is amended to read:

4758 **57-8-13.14. Easement rights -- Sales offices and model units -- Damage to property.**

- 4757 (1) Subject to any restrictions and limitations the declaration may specify, the declarant shall have a transferable easement over and on the common areas and facilities for the purpose of making improvements on the land within the project or on any additional land under the declaration and this act, and for the purpose of doing all things reasonably necessary and proper in connection with the same.
- 4762 (2) The declarant and [his] the declarant's duly authorized agents, representatives, and employees may maintain sales offices or model units on the land within the project if the declaration provides for the same and specifies the rights of the declarant about the number, size, location, and relocation of them. Any sales office or model unit which is not designated a unit by the declaration shall become a common area and facility as soon as the declarant ceases to be a unit owner, and the declarant shall cease to have any rights concerning it unless the sales office or model unit is removed immediately from the land included within the project in accordance with a right reserved in the declaration to make this removal.
- 4771 (3) To the extent that damage is inflicted on any part of the condominium project by any person or persons utilizing the easements reserved by the declaration or created by Subsections (1) and (2) of this section, the declarant, together with the person or persons causing the same, shall be jointly and



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severally liable for the prompt repair of the damage and for the restoration of the same to a condition compatible with the remainder of the condominium project.

4780 Section 223. Section **57-8-32.5** is amended to read:

4781 **57-8-32.5. Property taken by eminent domain -- Allocation of award -- Reallocation of**  
**interests.**

4780 (1) If any portion of the common areas and facilities is taken by eminent domain, the award for it shall  
be allocated to the unit owners in proportion to their respective undivided interests in the common  
areas and facilities.

4783 (2) If any units are taken by eminent domain, the undivided interest in the common areas and facilities  
appertaining to these units shall thenceforth appertain to the remaining units, being allocated to  
them in proportion to their respective undivided interests in the common areas and facilities. The  
court shall enter a decree reflecting the reallocation of undivided interests so produced, and the  
award shall include, without limitation, just compensation to the unit owner of any unit taken for  
[his] the unit owner's undivided interest in the common areas and facilities as well as for [his] the  
unit owner's unit.

4790 (3) If portions of any unit are taken by eminent domain, the court shall determine the fair market value  
of the portions of the unit not taken, and the undivided interest in the common areas and facilities  
appertaining to any such units shall be reduced, in the case of each unit, in proportion to the  
diminution in the fair market value of the unit resulting from the taking. The portions of undivided  
interest in the common areas and facilities thus divested from the unit owners of these units shall  
be reallocated among these units and the other units in the condominium project in proportion to  
their respective undivided interests in the common areas and facilities, with any units partially taken  
participating in the reallocation on the basis of their undivided interests as reduced in accordance  
with the preceding sentence. The court shall enter a decree reflecting the reallocation of undivided  
interests produced by this, and the award shall include, without limitation, just compensation to the  
unit owner of any unit partially taken for that portion of [his] the unit owner's undivided interest in  
the common areas and facilities divested from [him] the unit owner by operation of the first sentence  
of this Subsection (3), and not revested in [him] the unit owner by operation of the following  
sentence, as well as for that portion of [his] the unit owner's unit taken by eminent domain.

4806 (4) The court shall enter a decree reflecting the reallocation of undivided interests produced by this,  
and the award shall include, without limitation, just compensation to the unit owner of any unit

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partially taken for that portion of [his] the unit owner's undivided interest in the common areas and facilities divested from [him] the unit owner and also not revested in [him] the unit owner under this Subsection (4), as well as for that portion of [his] the unit owner's unit taken by eminent domain.

- 4812 (5) If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the declaration, then the entire undivided interest in the common areas and facilities appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interest in the common areas and facilities, and the remaining portion of that unit shall thenceforth be a common area and facility. The court shall enter a decree reflecting the reallocation of undivided interests produced by this, and the award shall include, without limitation, just compensation to the unit owner of the unit for [his] the unit owner's entire undivided interest in the common areas and facilities and for [his] the unit owner's entire unit.

4825 Section 224. Section **57-12-6** is amended to read:

4826 **57-12-6. Buildings, structures, or other improvements.**

- 4824 (1) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from the real property or which is determined to be adversely affected by the use to which the real property will be put, shall be acquired.
- 4828 (2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under Subsection (1), the building, structure, or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove the building, structure, or improvement at the expiration of [his] the tenant's term; and the fair market value which the building, structure, or improvement contributes to the fair market value of the property to be acquired, or the fair market value of the building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.
- 4838 (3) Payment for the buildings, structures, or improvements as set forth in Subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any payment, the tenant shall assign, transfer, and release all [his] the tenant's right, title and interest in and to the improvements. Nothing with regard to this acquisition of

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buildings, structures, or other improvements shall be construed to deprive the tenants of any rights to reject payment and to obtain payment for these property interests in accordance with other laws of this state.

4850 Section 225. Section **57-12-7** is amended to read:

4851 **57-12-7. Replacement property.**

4849 (1) No person shall be required to move or be relocated from land used for [~~his~~] the person's residence and acquired under any of the condemnation or eminent domain laws of this state until [~~he~~] the person has been offered a comparable replacement dwelling, including the curtilage, which is a decent, safe, clean, and sanitary dwelling, including the curtilage, adequate to accommodate the occupants, available on the private market, and reasonably accessible to public services and places of employment.

4855 (2) If a program or project cannot proceed to actual construction because comparable sale or rental housing is not available and cannot otherwise be made available, such action shall be taken as is necessary or appropriate to provide this housing by use of funds authorized for the project.

4859 (3) No person shall be required to move from [~~his~~] the person's dwelling, including the curtilage, after the effective date of this act because of any project of the agency, unless replacement housing is available to, and offered to the property owner.

4862 (4) The agency shall assist owners of small businesses and family farms in identifying replacement properties available on the private market, located within the jurisdiction of the agency.

4868 Section 226. Section **57-19-17** is amended to read:

4869 **57-19-17. Administrative procedures.**

4867 (1) The director may summarily deny an application for registration under any of the provisions of Section 57-19-13 or 57-19-16. If a registration is denied, the applicant may, within 10 days after receipt of notice of the denial, request a hearing before an administrative law judge. The director shall schedule the hearing within 30 days after receipt of the applicant's request and give notice of the hearing in writing to the applicant, specifying the reasons for denial of the registration. If, as a result of the hearing, it is determined that the applicant is qualified to be registered, the registration shall be issued.

4875 (2) Before an existing registration is suspended or revoked, or a fine imposed, the director shall schedule a hearing before an administrative law judge and give notice in writing to the affected person as prescribed in Title 13, Chapter 1, Department of Commerce, and the rules of procedure

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for hearings before the Department of Commerce. If, as a result of the hearing, the administrative law judge finds that there has been a violation of this chapter, the registration shall be suspended or revoked, or a fine imposed, by written order of the director in concurrence with the executive director.

- 4882 (3) The developer or salesperson has the right to appear at the hearing, in person or by counsel, to be heard and to examine witnesses appearing in connection with the complaint. At the hearing, all witnesses shall be sworn by the administrative law judge, and stenographic notes or a tape recording of the proceeding shall be taken and filed as a part of the record in the case. Any party to the proceeding shall be furnished a copy of the stenographic notes or tape recording at a reasonable cost. The administrative law judge shall render a decision within 60 days after the completion of the hearing. The executive director and the director shall concurrently make the final decision and promptly notify the parties to the proceedings, in writing, of the ruling, order, or decision.
- 4892 (4) The developer or salesperson, or any person aggrieved, may appeal any adverse ruling, order, or decision of the executive director and the director to the district court for the county in which the hearing was held, within 30 days from the date of service of notice of the ruling, order, or decision upon ~~him~~ the developer, salesperson, or aggrieved person. At the time of filing the notice of appeal, the appellant shall file with the notice a bond for costs on appeal in the amount of \$200, conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed.

4902 Section 227. Section **57-19-18** is amended to read:

4903 **57-19-18. Investigation -- Publication.**

- 4901 (1) The director may make any investigations or requests for information, within or outside of this state, that ~~he~~ the director considers necessary:
- 4903 (a) to determine whether any registration under this chapter should be granted, denied, or revoked;
- 4905 (b) to determine whether any person has violated or is about to violate any of the provisions of this chapter or any rule or order under this chapter; or
- 4907 (c) to aid in the enforcement of this chapter.
- 4908 (2) The director may publish information concerning any violation of this chapter or any rule or order under this chapter.

4913 Section 228. Section **57-19-23** is amended to read:

4914 **57-19-23. Prosecution.**

The director may refer any available evidence concerning violations of this chapter or of

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any rule or order under this chapter to the attorney general or the proper prosecuting attorney, who may, in [his] the attorney's discretion, with or without such a referral, institute the appropriate civil or criminal proceedings under this chapter.

4919 Section 229. Section **57-22-3** is amended to read:

4920 **57-22-3. Duties of owners and renters -- Generally.**

- 4918 (1) Each owner and [his] the owner's agent renting or leasing a residential rental unit shall maintain that unit in a condition fit for human habitation and in accordance with local ordinances and the rules of the board of health having jurisdiction in the area in which the residential rental unit is located. Each residential rental unit shall have electrical systems, heating, plumbing, and hot and cold water.
- 4923 (2) Each renter shall cooperate in maintaining [his] the renter's residential rental unit in accordance with this chapter.
- 4925 (3) This chapter does not apply to breakage, malfunctions, or other conditions which do not materially affect the physical health or safety of the ordinary renter.
- 4927 (4) Any duty in this act may be allocated to a different party by explicit written agreement signed by the parties.

4932 Section 230. Section **58-1-105** is amended to read:

4933 **58-1-105. Employment of staff.**

The director, with the approval of the executive director, may employ necessary staff, including specialists and professionals, to assist [him] the director in performing the duties, functions, and responsibilities of the division.

4937 Section 231. Section **58-3a-603** is amended to read:

4938 **58-3a-603. Seal -- Authorized use.**

- 4936 [(+) An architect may only affix the architect's seal to a plan and a specification when the plan and the specification:
- 4938 [(a)] (1) was personally prepared by the architect;
- 4939 [(b)] (2) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing [his] the seal assumes responsibility;
- 4942 [(c)] (3) was prepared by a licensed architect, professional engineer, or professional structural engineer in this state or any other state provided:
- 4944 [(i)] (a) the licensee in this state affixing the seal performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and

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- 4947 [(ii)] (b) makes any necessary corrections before submitting the final plan and specification:
- 4949 [(A)] (i) to a building official for the purpose of obtaining a building permit; or
- 4950 [(B)] (ii) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plans and a specification to be complete and final;
- 4953 [(d)] (4) was prepared in part by a licensed architect, professional engineer, or professional structural engineer in this state or any other state provided:
- 4955 [(i)] (a) the licensee in this state clearly identifies that portion of the plans and specification for which the licensee is responsible;
- 4957 [(ii)] (b) the licensee in this state affixing the seal performs a thorough review of that portion of the plan and specification for which the licensee is responsible for compliance with the standards of the profession; and
- 4960 [(iii)] (c) makes any necessary corrections before submitting the final plan and specification for which the licensee is responsible:
- 4962 [(A)] (i) to a building official for the purpose of obtaining a building permit; or
- 4963 [(B)] (ii) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plans and specifications to be complete and final;
- 4966 [(e)] (5) was prepared by a person exempt from licensure as an architect, professional engineer, or professional structural engineer provided that:
- 4968 [(i)] (a) the licensee in this state affixing the seal performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and
- 4970 [(ii)] (b) makes any necessary corrections before submitting the final plan and specification:
- 4972 [(A)] (i) to a building official for the purpose of obtaining a building permit; or
- 4973 [(B)] (ii) to a client who has contracted with an architect for the design of a building, when the architect represents, or could reasonably expect the client to consider, the plan and specification to be complete and final; or
- 4976 [(f)] (6) meet any additional requirements established by rule by the division in collaboration with the board.
- 4981 Section 232. Section **58-16a-201** is amended to read:
- 4982 **58-16a-201. Creation of board -- Board duties and functions.**

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- 4980 (1) There is created an Optometrist Licensing Board consisting of five optometrists and two members from the general public who do not provide eye care services.
- 4982 (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- 4983 (3) The board's duties and responsibilities shall be in accordance with Sections 58-1-202 and 58-1-203, and as provided under this Subsection (3).
- 4985 (4) The board shall designate one of its members on a permanent or rotating basis to:
- 4986 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
- 4988 (b) advise the division in its investigation of these complaints.
- 4989 (5) A board member who has, under Subsection (4), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint. The board member may be disqualified:
- 4993 (a) on [his] the board member's own motion, due to actual or perceived bias or lack of objectivity; or
- 4995 (b) upon challenge for cause raised on the record by any party to the adjudicative proceeding.
- 5000 Section 233. Section **58-16a-701** is amended to read:
- 5001 **58-16a-701. Form of practice.**
- 4999 (1) An optometrist licensed under this chapter may engage in practice as an optometrist or in the practice of optometry only as an individual licensee. However, as an individual licensee~~[-he]~~ , the optometrist may be:
- 5002 (a) an individual operating as a business proprietor;
- 5003 (b) an employee of another person or corporation;
- 5004 (c) a partner in a lawfully organized partnership;
- 5005 (d) a lawfully formed professional corporation;
- 5006 (e) a lawfully organized limited liability company;
- 5007 (f) a lawfully organized business corporation; or
- 5008 (g) any other form of organization recognized by the state and which is not prohibited by division rule made in collaboration with the board.
- 5010 (2) Regardless of the form in which a licensee engages in the practice of optometry, the licensee may only permit the practice of optometry in that form of practice to be conducted by an individual:
- 5013 (a) licensed in Utah as an optometrist under Section 58-16a-301; and
- 5014 (b) who is able to lawfully and competently engage in the practice of optometry.

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5018 Section 234. Section **58-22-603** is amended to read:

5019 **58-22-603. Seal -- Authorized use.**

- 5017 (1) A professional engineer or professional structural engineer may only affix the licensee's seal to a  
plan, specification, and report when the plan, specification, and report:
- 5019 (a) was personally prepared by the licensee;
- 5020 (b) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee,  
provided the licensee or a principal affixing [his] the seal assumes responsibility;
- 5023 (c) was prepared by a licensed professional engineer, professional structural engineer, or architect in  
this state or any other state provided:
- 5025 (i) the licensee in this state affixing the seal performs a thorough review of all work for compliance with  
all applicable laws and rules and the standards of the profession; and
- 5028 (ii) makes any necessary corrections before submitting the final plan, specification, or report:
- 5030 (A) to a building official for the purpose of obtaining a building permit; or
- 5031 (B) to a client who has contracted with a professional engineer or professional structural engineer for  
the design of a building or structure, when the licensee represents, or could reasonably expect the  
client to consider, the plan, specification, or report to be complete and final;
- 5035 (d) was prepared in part by a licensed professional engineer, professional structural engineer, or  
architect in this state or any other state provided:
- 5037 (i) the licensee in this state clearly identifies that portion of the plan, specification, or report for which  
the licensee is responsible;
- 5039 (ii) the licensee in this state affixing the seal performs a thorough review of that portion of the plan,  
specification, or report for which the licensee is responsible for compliance with the standards of the  
profession; and
- 5042 (iii) makes any necessary corrections before submitting the final plan, specification, or report for which  
the licensee is responsible:
- 5044 (A) to a building official for the purpose of obtaining a building permit; or
- 5045 (B) to a client who has contracted with a professional engineer or professional structural engineer for  
the design of a building or structure, when the licensee represents, or could reasonably expect the  
client to consider, the plans, specifications, or reports to be complete and final;
- 5049 (e) was prepared by a person exempt from licensure as a professional engineer, professional structural  
engineer, or architect provided that:



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- 5051 (i) the licensee in this state affixing the seal performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and
- 5054 (ii) makes any necessary corrections before submitting the final plan, specification, or report:
- 5056 (A) to a building official for the purpose of obtaining a building permit; or
- 5057 (B) to a client who has contracted with a professional engineer, professional structural engineer, or architect for the design of a building or structure, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, or report to be complete and final; or
- 5061 (f) meet any additional requirements established by rule by the division in collaboration with the board.
- 5063 (2) A professional land surveyor may only affix the licensee's seal to a plan, map, sketch, survey, drawing, document, plat, and report when the plan, map, sketch, survey, drawing, document, plat, and report:
- 5066 (a) was personally prepared by the licensee; or
- 5067 (b) was prepared by an employee, subordinate, associate, or drafter under the supervision of a professional land surveyor, provided the professional land surveyor or a principal affixing ~~his~~ the seal assumes responsibility.
- 5073 Section 235. Section **58-31b-801** is amended to read:
- 5074 **58-31b-801. Practice within limits of competency.**
- 5072 (1) Each person licensed under this chapter is responsible for confining ~~his~~ the person's practice as a nurse to those acts and practices permitted by law.
- 5074 (2) A person licensed under this act may not engage in any act or practice for which ~~he~~ the person is not competent.
- 5079 Section 236. Section **58-37-15** is amended to read:
- 5080 **58-37-15. Burden of proof in proceedings on violations -- Enforcement officers exempt from liability.**
- 5079 (1) It is not necessary for the state to negate any exemption or exception set forth in this act in any complaint, information, indictment or other pleading or trial, hearing, or other proceeding under this act, and the burden of proof of any exemption or exception is upon the person claiming its benefit.
- 5083 (2) In absence of proof that a person is the duly authorized holder of an appropriate license, registration, order form, or prescription issued under this act, ~~he~~ a person shall be presumed not to be the holder of a license, registration, order form, or prescription, and the burden of proof is upon ~~him~~ the person to rebut the presumption.

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5087 (3) No liability shall be imposed upon any duly authorized state or federal officer engaged in the  
enforcement of this act who is engaged in the enforcement of any law, municipal ordinance, or  
regulation relating to controlled substances.

5093 Section 237. Section **58-41-16** is amended to read:

5094 **58-41-16. Privileged communication.**

A person licensed under this chapter may not be examined or required to reveal any findings, examinations, or representation made [~~by his client to him~~] to the licensed person by the licensed person's client, or any advice or treatment given to [~~his~~] the client in the course of professional practice, without the consent of [~~his~~] the client or the client's representative. A person employed by a person licensed under this chapter may not be examined without the consent of the employer concerning any fact of which the employee has acquired knowledge in [~~his~~] the employee's professional capacity.

5102 Section 238. Section **58-49-7** is amended to read:

5103 **58-49-7. Certificates -- Display -- Surrender.**

5101 (1) Any person who meets the certification qualifications of this chapter shall receive a certificate stating that [~~he~~] the person has met these qualifications.

5103 (2) Each certified dietitian shall:

5104 (a) display the certificate in an appropriate, conspicuous, and public manner; and

5105 (b) keep the division informed of [~~his~~] the certified dietitian's current address.

5106 (3) A certificate issued by the division is the property of the division and shall be surrendered on demand.

5111 Section 239. Section **58-50-5** is amended to read:

5112 **58-50-5. Qualifications for licensure.**

An applicant for licensure as a private probation provider shall:

5111 (1) have a baccalaureate degree in a program approved by the division in collaboration with the board or have a combination of equivalent education and training as determined by the division in collaboration with the board;

5114 (2) submit evidence that a business license to engage in private probation has been issued by the political subdivision of the state in which the applicant intends to establish [~~his~~] a business office or offices; and

5117 (3) apply for licensure and pay the required fees.

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5121 Section 240. Section **58-55-601** is amended to read:

5122 **58-55-601. Payment -- Account designated.**

When making any payment to a materialman, supplier, contractor, or subcontractor with whom [he] a contractor has a running account, or with whom [he] the contractor has more than one contract, or to whom [he] the contractor is otherwise indebted, the contractor shall designate the contract under which the payment is made or the items of account to which it is to be applied. When a payment for materials or labor is made to a subcontractor or materialman, the subcontractor or materialman shall demand of the person making the payment a designation of the account and the items of account to which the payment is to apply. In cases where a lien is claimed for materials furnished or labor performed by a subcontractor or materialman, it is a defense to the claim that a payment was made by the owner to the contractor for the materials and was so designated and paid over to the subcontractor or materialman, if when the payment was received by the subcontractor or materialman, [he] the subcontractor or materialman did not demand a designation of the account and of the items of account to which the payment was to be applied.

5136 Section 241. Section **58-55-603** is amended to read:

5137 **58-55-603. Payment to subcontractors and suppliers.**

- 5135 (1) When a contractor receives any construction funds from an owner or another contractor for work performed and billed, [he] the contractor receiving funds shall pay each of [his] that contractor's subcontractors and suppliers in proportion to the percentage of the work they performed under that billing, unless otherwise agreed by contract.
- 5139 (2) If, under this section and without reasonable cause, or unless otherwise agreed by contract, the contractor fails to pay for work performed by [his] subcontractors or suppliers within 30 consecutive days after receiving construction funds from the owner or another contractor for work performed and billed, or after the last day payment is due under the terms of the billing, whichever is later, [he] the contractor receiving funds shall pay to the subcontractor or supplier, in addition to the payment, interest in the amount of 1% per month of the amount due, beginning on the day after payment is due, and reasonable costs of any collection and [attorney's] attorney fees.
- 5147 (3) When a subcontractor receives any construction payment under this section, Subsections (1) and (2) apply to that subcontractor.

5152 Section 242. Section **58-67-802** is amended to read:

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5153           **58-67-802. Form of practice.**

- 5151       (1) A physician and surgeon licensed under this chapter may engage in practice as a physician and surgeon, or in the practice of medicine only as an individual licensee; but as an individual licensee, [he] a physician and surgeon may be:
- 5154       (a) an individual operating as a business proprietor;
- 5155       (b) an employee of another person;
- 5156       (c) a partner in a lawfully organized partnership;
- 5157       (d) a lawfully formed professional corporation;
- 5158       (e) a lawfully organized limited liability company;
- 5159       (f) a lawfully organized business corporation; or
- 5160       (g) any other form of organization recognized by the state which is not prohibited by division rule made in collaboration with the board.
- 5162       (2) Regardless of the form in which a licensee engages in the practice of medicine, the licensee may only permit the practice of medicine in that form of practice to be conducted by an individual:
- 5165       (a) licensed in Utah as a physician and surgeon under Section 58-67-301 or as an osteopathic physician and surgeon under Section 58-68-301; and
- 5167       (b) who is able to lawfully and competently engage in the practice of medicine.

5171           Section 243. Section **58-69-804** is amended to read:

5172           **58-69-804. Form of practice.**

- 5170       (1) A dentist licensed under this chapter may engage in practice as a dentist, or in the practice of dentistry only as an individual licensee, but as an individual licensee, [he] the individual licensee may be:
- 5173       (a) an individual operating as a business proprietor;
- 5174       (b) an employee of another person;
- 5175       (c) a partner in a lawfully organized partnership;
- 5176       (d) a lawfully formed professional corporation;
- 5177       (e) a lawfully organized limited liability company;
- 5178       (f) a lawfully organized business corporation; or
- 5179       (g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules made in collaboration with the board.

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- (2) Regardless of the form in which a licensee engages in the practice of dentistry, the licensee may not permit another person who is not licensed in Utah as a dentist and is not otherwise competent to engage in the practice of dentistry to direct, or in any other way participate in, or interfere in the licensee's practice of dentistry.

5188 Section 244. Section **59-1-701** is amended to read:

5189 **59-1-701. Grounds for termination and jeopardy assessment -- Notice -- Collection --  
Reopening period -- Bond.**

- 5188 (1) If the commission finds that a taxpayer intends quickly to depart from this state or to remove [his] the taxpayer's property therefrom, or to conceal [~~himself or his~~] the taxpayer or the taxpayer's property therein, or to do any other act (including in the case of a taxpayer selling or otherwise distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect any tax or penalty in lieu of tax for the current or the preceding taxable period, unless such proceedings be brought without delay, the commission may declare the taxable period for such taxpayer immediately terminated whether or not the time otherwise allowed by law for filing returns and paying the liability has expired. The commission shall immediately make a determination of tax for the current taxable period or for the preceding period, or both, and notwithstanding any other provision of law, the tax shall become immediately due and payable. The commission shall immediately assess the amount of the tax so determined (together with all interest, penalties, additional amounts, and additions to the tax provided by law) for the current taxable period or such preceding taxable period, or both, and shall give the notice of determination and assessment to the taxpayer, together with a demand for immediate payment of the tax.
- 5205 (2) In the case of a current taxable period, the commission shall determine the tax for the period beginning on the first day of the current taxable period and ending on the date of the determination under Subsection (1) as though the period were a taxable period of the taxpayer. The commission shall take into account any prior determination made under this subsection with respect to such current taxable period. Any amounts collected as a result of any assessments under this subsection shall be treated as a partial payment of tax for the taxable period.
- 5212 (3) Notwithstanding the termination of the taxable period of the taxpayer as provided in Subsection (1), the commission may reopen such taxable period each time the taxpayer is found by the commission to have incurred additional liabilities, within the current taxable period, since the termination of

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such period. A taxable period so terminated by the commission may be reopened by the taxpayer if [he] the taxpayer files a true and accurate return, as required under [~~Title 59, Chapter 2, Property Tax Act,~~] Chapter 2, Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, for the taxable period, together with such other information as the commission may by rule prescribe.

5221 (4) Payment of taxes may not be enforced by any proceedings under Subsection (1) prior to the expiration of the time otherwise allowed for paying such taxes if the taxpayer furnishes, under rules prescribed by the commission, a bond to ensure the timely making of returns with respect to, and payment of, the taxes, penalties, or interest for prior periods.

5229 Section 245. Section **59-1-707** is amended to read:

5230 **59-1-707. Writ of mandate requiring taxpayer to file return.**

5228 (1)

(a) If a taxpayer fails to file any return required pursuant to [~~Title 59, Revenue and Taxation,~~] this title within 60 days of the time prescribed, the commission may petition for a writ of mandate to compel the taxpayer to file the return. The petition may be filed, in the discretion of the commission, in the Tax Division of the Third Judicial District or in the district court for the county in which the taxpayer resides or has [~~his~~] a principal place of business. In the case of a nonresident taxpayer the petition shall be filed in the Third District Court.

5235 (b) The court shall grant a hearing on the petition for a writ of mandate within 20 days after the filing of the petition or as soon thereafter as the court may determine, having regard for the rights of the parties and the necessity of a speedy determination of the petition.

5239 (c) Upon a finding of failure to file a return within 60 days of the time prescribed pursuant to [~~Title 59, Revenue and Taxation,~~] this title the court shall issue a writ of mandate requiring the taxpayer to file a return. The order of the court shall include an award of [~~attorneys' fees~~] attorney fees, court costs, witness fees, and all other costs in favor of the prevailing party.

5244 (2) Nothing in this section shall limit the remedies otherwise available to the commission under [~~Title 59, Revenue and Taxation,~~] this title or other laws of this state.

5249 Section 246. Section **59-1-1002** is amended to read:

5250 **59-1-1002. Audit interviews.**

5248 (1) During any audit interview, the commission shall:

5249 (a) require reasonable scheduling of its audit interviews;

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- 5250 (b) permit recording of audit interviews;
- 5251 (c) explain its audit and collection process before the first interview; and
- 5252 (d) allow a taxpayer to be represented at an interview by an attorney or other representative with power of attorney.
- 5254 (2) The commission may not require a taxpayer to bring [~~his~~] an attorney or other representative to interviews.

5259 Section 247. Section **59-1-1004** is amended to read:

5260 **59-1-1004. Installment payments.**

- 5258 (1) The commission may enter into agreements with taxpayers on installment payments of taxes, penalties, and interest. The commission may revise, accelerate, or cancel the installment agreement if any of the following occurs:
- 5261 (a) the commission determines that the financial condition of the taxpayer has substantially changed;
- 5263 (b) the commission determines that the taxpayer provided inaccurate information concerning [~~his~~] the taxpayer's financial condition; or
- 5265 (c) the taxpayer fails to make timely payments pursuant to the terms of the installment agreement.
- 5267 (2) The commission shall give the taxpayer reasonable notice of its intent to revise or cancel an installment agreement entered into under this section.

5272 Section 248. Section **59-2-326** is amended to read:

5273 **59-2-326. Assessment roll delivered to county treasurer.**

Before November 1, the county auditor must deliver the corrected assessment roll to the county treasurer, together with a signed statement subscribed by [~~him~~] the county auditor in a form substantially as follows:

I, \_\_\_\_ county auditor of the county of \_\_\_\_, do swear that I received the accompanying assessment roll of the taxable property of the county from the assessor, and that I have corrected it and made it conform to the requirements of the county board of equalization and commission, that I have reckoned the respective sums due as taxes and have added up the columns of valuations, taxes, and acreage as required by law.

5282 Section 249. Section **59-10-512** is amended to read:

5283 **59-10-512. Signing of returns and other documents.**

5281

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(1) Except as otherwise provided by Subsection (2), any return, statement, or other document required to be made under any provision of this chapter shall be signed in accordance with forms or rules prescribed by the commission.

5284 (2) The return of a partnership made under Section 59-10-507 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

5287 (3) The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by ~~him~~ the individual.

5293 Section 250. Section **59-12-112** is amended to read:

5294 **59-12-112. Tax a lien when selling business -- Liability of purchaser.**

The tax imposed by this chapter shall be a lien upon the property of any person who sells out ~~his~~ the person's business or stock of goods or quits business. Such person shall complete the return provided for under Section 59-12-107, within 30 days after the date ~~he~~ the person sold ~~his~~ the business or stock of goods, or quit business. Such person's successor in business shall withhold enough of the purchase money to cover the amount of taxes due and unpaid until the former owner produces a receipt from the commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withhold such purchase money and the taxes are due and unpaid after the 30-day period allowed, ~~he~~ the purchaser is personally liable for the payment of the taxes collected and unpaid by the former owner.

5305 Section 251. Section **59-18-104** is amended to read:

5306 **59-18-104. Duties and powers of trustee.**

Except as provided in Section 59-18-106, the trustee of a private foundation trust or a split interest trust has the duties and powers conferred upon ~~him~~ the trustee by the provisions of this chapter.

5310 Section 252. Section **59-18-105** is amended to read:

5311 **59-18-105. Trustee's fiduciary obligations and duty not to deprive trust of tax exemption, deduction, or credit.**

5310 (1) In the exercise of ~~his~~ a trustee's powers including the powers granted by this chapter, a trustee has a duty to act with due regard to ~~his~~ the trustee's obligation as a fiduciary, including a duty not to



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exercise any power in such a way as to deprive the trust of an otherwise available tax exemption, deduction, or credit for tax purposes or deprive a donor of a trust asset of a tax deduction or credit or operate to impose a tax upon a donor, trust, or other person. The word "tax" includes, but is not limited to any federal, state, or local excise, income, gift, estate, or inheritance tax.

- 5317 (2) A trustee of a private foundation trust, except as provided in Section 59-18-106, shall make distributions at such time and in such manner as not to subject the trust to tax under Section 4942.
- 5320 (3) A trustee of a private foundation trust or a split interest trust, to the extent that the split interest trust is subject to the provisions of Section 4947(a)(2), in the exercise of [~~his~~] the trustee's powers, except as provided in Subsection (4) of this section and Section 59-18-106, shall not:
- 5324 (a) engage in any act of self dealing (as defined in Section 4941(d));
- 5325 (b) retain any excess business holdings (as defined in Section 4943(c));
- 5326 (c) make any investments in such manner as to subject the foundation to tax under Section 4944; and
- 5328 (d) make any taxable expenditures (as defined in Section 4945(d)).
- 5329 (4) Subsections (3)(b) and (c) do not apply to a split interest trust if:
- 5330 (a) all the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in Section 170(c)(2)(B), and all amounts in such trust for which a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have aggregate fair market value not more than 60% of the aggregate fair market value of all amounts in such trust; or
- 5336 (b) a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary but not to any income beneficiary.

5342 Section 253. Section **59-18-108** is amended to read:

5343 **59-18-108. Court's power to relieve trustee from restrictions on powers and duties.**

This chapter does not affect the power of a court of competent jurisdiction for cause shown and upon petition of the trustee, attorney general, or affected beneficiary, and upon appropriate notice to the affected parties to relieve a trustee from any restrictions on [~~his~~] the trustee's powers and duties that are placed upon [~~him~~] the trustee by the governing instrument or applicable law.

5350 Section 254. Section **63B-2-117** is amended to read:

5351 **63B-2-117. Report to Legislature.**

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The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5355 Section 255. Section **63B-2-217** is amended to read:

5356 **63B-2-217. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5360 Section 256. Section **63B-3-117** is amended to read:

5361 **63B-3-117. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5365 Section 257. Section **63B-3-217** is amended to read:

5366 **63B-3-217. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5370 Section 258. Section **63B-4-117** is amended to read:

5371 **63B-4-117. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5375 Section 259. Section **63B-5-117** is amended to read:

5376 **63B-5-117. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5380 Section 260. Section **63B-6-117** is amended to read:

5381 **63B-6-117. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session

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of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5385 Section 261. Section **63B-6-217** is amended to read:

5386 **63B-6-217. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5390 Section 262. Section **63B-6-302** is amended to read:

5391 **63B-6-302. Authorization, terms, and procedures.**

5389 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of bond anticipation notes, including, but not limited to, flexible notes and short-term series notes, in the form and with the terms that [he] the state treasurer determines.

5392 (2) The state treasurer may:

5393 (a) enter into whatever agreements with other persons that [he] the state treasurer considers necessary or appropriate in connection with the issuance, sale, and resale of the notes; and

5396 (b) resell or retire any notes purchased by the state before the stated maturity of those notes.

5398 (3)

. (a) The notes and renewals of the notes shall:

5399 (i) bear the interest rate or rates as determined by the state treasurer; and

5400 (ii) mature within a period not to exceed three years.

5401 (b) The notes and renewals of notes may:

5402 (i) bear a variable interest rate; and

5403 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the provisions of the notes relating to redemption prior to maturity.

5405 (4) The proceeds from the sale of the notes may be used only for:

5406 (a) the purposes established in Section 63B-6-202;

5407 (b) the payment of principal of and, if not otherwise provided, interest on, bond anticipation notes;

5409 (c) the payment of costs of issuance; or

5410 (d) any combination of Subsections (4)(a), (b), and (c).

5411 (5)

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- (a) All of the notes and any renewals of the notes shall be payable from the proceeds of the sale of bonds.
- 5413 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of which the original note was issued.
- 5415 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5417 (a) issue renewal notes for that purpose;
- 5418 (b) pay the notes from state money legally available for paying those notes; or
- 5419 (c) any combination of Subsections (6)(a) and (b).
- 5420 (7) Each note and any renewal of any note, with the interest on the note or renewal, constitute general obligations of the state.
- 5422 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5423 (a) secured by the full faith, credit, and resources of the state in the manner provided in Part 2, 1997 Highway General Obligation Bond Authorization;
- 5425 (b) payable from:
- 5426 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5427 (ii) money of the state on hand and legally available for that purpose; or
- 5428 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5429 (c) payable within five years from the date of original issue.
- 5430 (9) The total amount of notes or renewals of notes issued and outstanding at any one time may not exceed the lesser of:
- 5432 (a) the total amount of bonds authorized to be issued but not yet issued; or
- 5433 (b) \$260,000,000.
- 5434 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor, include a detailed statement of all notes and bonds issued during the year and of [his] the state treasurer's actions in relation to them.

5440 Section 263. Section **63B-6-417** is amended to read:

5441 **63B-6-417. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

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5445 Section 264. Section **63B-7-117** is amended to read:

5446 **63B-7-117. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5450 Section 265. Section **63B-7-217** is amended to read:

5451 **63B-7-217. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5455 Section 266. Section **63B-7-302** is amended to read:

5456 **63B-7-302. Authorization, terms, and procedures.**

5454 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of bond anticipation notes, including, but not limited to, flexible notes and short-term series notes, in the form and with the terms that [he] the state treasurer determines.

5457 (2) The state treasurer may:

5458 (a) enter into whatever agreements with other persons that [he] the state treasurer considers necessary or appropriate in connection with the issuance, sale, and resale of the notes; and

5461 (b) resell or retire any notes purchased by the state before the stated maturity of those notes.

5463 (3)

(a) The notes and renewals of the notes shall:

5464 (i) bear the interest rate or rates as determined by the state treasurer; and

5465 (ii) mature within a period not to exceed three years.

5466 (b) The notes and renewals of notes may:

5467 (i) bear a variable interest rate; and

5468 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the provisions of the notes relating to redemption prior to maturity.

5470 (4) The proceeds from the sale of the notes may be used only for:

5471 (a) the purposes established in Section 63B-7-202;

5472 (b) the payment of principal of and, if not otherwise provided, interest on, bond anticipation notes;

5474 (c) the payment of costs of issuance; or

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- 5475 (d) any combination of Subsections (4)(a), (b), and (c).
- 5476 (5)
- . (a) All of the notes and any renewals of the notes shall be payable from the proceeds of the sale of bonds.
- 5478 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of which the original note was issued.
- 5480 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5482 (a) issue renewal notes for that purpose;
- 5483 (b) pay the notes from state money legally available for paying those notes; or
- 5484 (c) any combination of Subsections (6)(a) and (b).
- 5485 (7) Each note and any renewal of any note, with the interest on the note or renewal, constitute general obligations of the state.
- 5487 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5488 (a) secured by the full faith, credit, and resources of the state in the manner provided in Part 2, 1998 Highway General Obligation Bond Authorization;
- 5490 (b) payable from:
- 5491 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5492 (ii) money of the state on hand and legally available for that purpose; or
- 5493 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5494 (c) payable within five years from the date of original issue.
- 5495 (9)
- . (a) As used in this Subsection (9), "total amount of bonds authorized to be issued but not yet issued" includes bonds authorized to be issued only if one or more conditions are met.
- 5498 (b) The total amount of notes or renewals of notes issued and outstanding at any one time may not exceed the total amount of bonds authorized to be issued but not yet issued.
- 5501 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor, include a detailed statement of all notes and bonds issued during the year and of [his] the state treasurer's actions in relation to them.
- 5507 Section 267. Section **63B-7-417** is amended to read:
- 5508 **63B-7-417. Report to Legislature.**

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The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5512 Section 268. Section **63B-8-117** is amended to read:

5513 **63B-8-117. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5517 Section 269. Section **63B-8-217** is amended to read:

5518 **63B-8-217. Report to Legislature.**

The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5522 Section 270. Section **63B-8-302** is amended to read:

5523 **63B-8-302. Authorization, terms, and procedures.**

5521 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of bond anticipation notes, including flexible notes and short-term series notes, in the form and with the terms that [~~he~~] the state treasurer determines.

5524 (2) The state treasurer may:

5525 (a) enter into whatever agreements with other persons that [~~he~~] the state treasurer considers necessary or appropriate in connection with the issuance, sale, and resale of the notes; and

5528 (b) resell or retire any notes purchased by the state before the stated maturity of those notes.

5530 (3)

(a) The notes and renewals of the notes shall:

5531 (i) bear the interest rate or rates as determined by the state treasurer; and

5532 (ii) mature within a period not to exceed three years.

5533 (b) The notes and renewals of notes may:

5534 (i) bear a variable interest rate; and

5535 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with the provisions of the notes relating to redemption prior to maturity.

5537 (4) The proceeds from the sale of the notes may be used only for:

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- 5538 (a) the purposes established in Section 63B-8-202;
- 5539 (b) the payment of principal of and, if not otherwise provided, interest on, bond anticipation notes;
- 5541 (c) the payment of costs of issuance, credit enhancement, and liquidity support; or
- 5542 (d) any combination of Subsections (4)(a), (b), and (c).
- 5543 (5)
- . (a) All of the notes and any renewals of the notes shall be payable from the proceeds of the sale of bonds.
- 5545 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of which the original note was issued.
- 5547 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5549 (a) issue renewal notes for that purpose;
- 5550 (b) pay the notes from state money legally available for paying those notes; or
- 5551 (c) any combination of Subsections (6)(a) and (b).
- 5552 (7) Each note and any renewal of any note, with the interest on the note or renewal, constitute general obligations of the state.
- 5554 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5555 (a) secured by the full faith, credit, and resources of the state in the manner provided in Part 2, 1999 Highway General Obligation Bond Authorization;
- 5557 (b) payable from:
- 5558 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5559 (ii) money of the state on hand and legally available for that purpose; or
- 5560 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5561 (c) payable within five years from the date of original issue.
- 5562 (9) The total amount of notes or renewals of notes issued and outstanding at any one time may not exceed the total amount of bonds authorized to be issued but not yet issued.
- 5564 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor, include a detailed statement of all notes and bonds issued during the year and of [his] the state treasurer's actions in relation to them.
- 5570 Section 271. Section **63B-8-417** is amended to read:
- 5571 **63B-8-417. Report to Legislature.**



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The governor shall report the commission's proceedings to each annual general session of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter remain outstanding.

5575 Section 272. Section **64-13-15** is amended to read:

5576 **64-13-15. Property of offender -- Storage and disposal.**

5574 (1)

- . (a) Offenders may retain personal property at correctional facilities only as authorized by the department. An offender's property which is retained by the department shall be inventoried and placed in storage by the department and a receipt for the property shall be issued to the offender. Offenders shall be required to arrange for disposal of property retained by the department within a reasonable time under department rules. Property retained by the department shall be returned to the offender at discharge, or in accordance with Title 75, Utah Uniform Probate Code, in the case of death prior to discharge.
- 5582 (b) If property is not claimed within one year of discharge, or it is not disposed of by the offender within a reasonable time after the department's order to arrange for disposal, it becomes property of the state and may be used for correctional purposes or donated to a charity within the state.
- 5586 (c) If an inmate's property is not claimed within one year of [~~his~~] the inmate's death, it becomes the property of the state in accordance with Section 75-2-105.
- 5588 (d) Funds which are contraband and in the physical custody of any prisoner, whether in the form of currency and coin which are legal tender in any jurisdiction or negotiable instruments drawn upon a personal or business account, shall be subject to forfeiture following a hearing which accords with prevailing standards of due process. All such forfeited funds shall be used by the department for purposes which promote the general welfare of prisoners in the custody of the department. Money and negotiable instruments taken from offenders' mail under department rule and which are not otherwise contraband shall be placed in an account administered by the department, to the credit of the offender who owns the money or negotiable instruments.
- 5597 (2) Upon discharge from a secure correctional facility, the department may give an inmate transition funds in an amount established by the department with the approval of the director of the Division of Finance. At its discretion, the department may spend the funds directly on the purchase of necessities or transportation for the discharged inmate.

5604 Section 273. Section **64-13-32** is amended to read:

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5605           **64-13-32. Discipline of offenders -- Use of force.**

- 5603   (1) If an offender offers violence to an officer or other employee of the Department of Corrections, or to another offender, or to any other person; attempts to damage or damages any corrections property; attempts to escape; or resists or refuses to obey any lawful and reasonable command; the officers and other employees of the department may use all reasonable means, including the use of weapons, to defend themselves and department property and to enforce the observance of discipline and prevent escapes.
- 5609   (2) An inmate who is housed in a secure correctional facility and is in the act of escaping from that secure correctional facility or from the custody of a peace or correctional officer is presumed to pose a threat of death or serious bodily injury to an officer or others if apprehension is delayed. Notwithstanding Section 76-2-404, a peace or correctional officer is justified in using deadly force if [he] the peace or correctional officer reasonably believes deadly force is necessary to apprehend the inmate.

5618           Section 274. Section **64-13d-106** is amended to read:

5619           **64-13d-106. Monitoring contracts.**

- 5617   (1) The executive director or [his] the executive director's designee shall monitor the performance of all facilities incarcerating inmates under the jurisdiction of the department.
- 5620   (2) The executive director or [his] the executive director's designee shall have unlimited access to all facilities, records, and staff for monitoring purposes.
- 5622   (3) The executive director may appoint a monitor to inspect a facility. The monitor shall have unlimited access to all facilities, records, and staff for monitoring purposes.
- 5624   (4) The department shall be reimbursed by the entity operating the facility for that portion of the salary and expenses of the monitor attributable to monitoring the particular facility.
- 5627   (5) Monitoring consists of ensuring that:
- 5628   (a) all state laws, department rules, and contractual obligations applicable to the facility are being met; and
- 5630   (b) all operations are effective, efficient, and economical.

5634           Section 275. Section **65A-6-11** is amended to read:

5635           **65A-6-11. Land subject to a federal mineral lease.**

- 5633   (1) With respect to any tract of land in which the state acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a

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petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which [he] the lessee or permittee would have had under the permit or lease had the state not acquired its interest in the tract.

- 5639 (2) In consideration of the voluntary termination by the federal lessee or permittee of [his] the lease or permit as it relates to that tract, the division may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances upon terms that the lessee or permittee shall have all the rights, privileges, and benefits with reference to that tract which [he] the lessee or permittee would have had by reason of [his] the lease or permit from the United States had the state not acquired its interest in the tract.

5649 Section 276. Section **67-1-1** is amended to read:

5650 **67-1-1. General powers and duties.**

In addition to those prescribed by the constitution, the governor~~[has the following powers and must perform the following duties]~~:

- 5650 (1) ~~[He-]~~shall supervise the official conduct of all executive and ministerial officers~~[-]~~ ;
- 5651 (2) ~~[He-]~~shall see that all offices are filled and the duties thereof performed, or in default thereof, apply such remedy as the law allows, and, if the remedy is imperfect, acquaint the Legislature therewith at its next session~~[-]~~ ;
- 5654 (3) ~~[He-]~~shall make appointments and fill vacancies as required by law~~[-]~~ ;
- 5655 (4) ~~[He-]~~is the sole official organ of communication between the government of this state and the government of any other state and of the United States~~[-]~~ ;
- 5657 (5) ~~[Whenever]~~ whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, ~~[he-]~~may direct the attorney general to appear on behalf of the state, and may employ such additional counsel as [he] the governor may judge expedient~~[-]~~ ;
- 5661 (6) ~~[He-]~~may require the attorney general or the county attorney or district attorney of any county to inquire into the affairs or management of any corporation doing business in this state~~[-]~~ ;
- 5664 (7) ~~[He-]~~may require the attorney general to aid any county attorney or district attorney in the discharge of [his] the county attorney's or district attorney's duties~~[-]~~ ;
- 5666 (8) ~~[He-]~~may offer rewards, not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison, or any person who has committed, or is charged with the commission of, a felony~~[-]~~ ;

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- 5669 (9) [~~He must~~] shall perform such duties respecting fugitives from justice as are prescribed by law[-] ;
- 5671 (10) [~~He must~~] shall issue and transmit election proclamations as prescribed by law[-] ;
- 5672 (11) [~~He must~~] shall issue land warrants and patents as prescribed by law[-] ;
- 5673 (12) [~~He must~~] shall, prior to each regular meeting of the Legislature, deliver to the Division of Archives for publication all biennial reports of officers, commissions, and boards for the two preceding years[-] ;
- 5676 (13) [~~He may~~] shall require any officer, commission, or board to make special reports to [~~him~~] the governor in writing[-] ;
- 5678 (14) [~~He must~~] shall discharge the duties of a member of all boards of which [~~he~~] the governor is or may be made a member by the constitution or by law[-] ;
- 5680 (15) [~~He~~]shall each year issue a proclamation recommending the observance of Arbor day, by the planting of trees, shrubs, and vines, in the promotion of forest growth and culture, and in the adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of such holiday[-] ; and
- 5685 (16) [~~He~~]has such other powers and must perform such other duties as are devolved upon [~~him~~] the governor by law.

5690 Section 277. Section **67-5-5** is amended to read:

5691 **67-5-5. Hiring of legal counsel for agencies -- Costs.**

Except where specifically authorized by the Utah Constitution, or statutes, no agency shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal counsel for each such agency. Where the Legislature has provided by statute for separate agency counsel, no such counsel may act as an assistant attorney general nor as a special assistant attorney general unless the attorney general shall so authorize. Unless [~~he~~]the attorney general hires such legal counsel from outside [~~his~~] the attorney general's office, the attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired for an agency, then the costs of any services to be rendered by this counsel shall be approved by the attorney general before these costs are incurred. The attorney general shall approve all billing statements from outside counsel and shall pay the full costs of this counsel unless the agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or proceeds reserved or designated for the payment of legal fees receives from any other source the equivalent cost or a portion thereof, in which case the attorney general may bill the agency

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for the services; provided, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal service rendered.

5707 Section 278. Section **67-9-1** is amended to read:

5708 **67-9-1. Appointment -- Powers.**

The state auditor, the state treasurer, the attorney general, and the superintendent of public instruction may each appoint a deputy, who may, during the absence or disability of the principal, perform all the duties pertaining to the office, except those required of the principal as a member of any board. The principal shall be answerable for neglect or misconduct in office of [his] the deputy, and may require from [him] the deputy a bond for [his own] security. The appointment of a deputy shall be in writing, and shall be revocable at the pleasure of the principal; and all such appointments and revocations shall be filed with the lieutenant governor.

5716 Section 279. Section **67-16-2** is amended to read:

5717 **67-16-2. Purpose of chapter.**

The purpose of this chapter is to set forth standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between their public duties and their private interests. In this manner the Legislature intends to promote the public interest and strengthen the faith and confidence of the people of Utah in the integrity of their government. It does not intend to deny any public officer or employee the opportunities available to all other citizens of the state to acquire private economic or other interests so long as this does not interfere with [his] the full and faithful discharge of [his] a public officer's or employee's public duties.

5726 Section 280. Section **70C-2-207** is amended to read:

5727 **70C-2-207. Referral sales.**

With respect to a consumer credit sale, the seller may not give or offer to give a rebate or discount or otherwise pay or offer to pay value to the buyer as an inducement for a sale in consideration of [his] the buyer giving to the seller the names of prospective purchasers or otherwise aiding the seller in making a sale to another person, if the earning of the rebate, discount, or other value is contingent upon the occurrence of an event subsequent to the time the buyer agrees to buy. If a buyer is induced by a violation of this section to enter into a consumer credit sale, the agreement is unenforceable by the seller and the buyer may rescind the agreement and retain any goods delivered until all payments made by the debtor have been

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fully refunded to [him] the buyer. The buyer may retain the benefit of any services performed without any obligation to pay for them. This section does not apply if any goods delivered to the buyer are damaged while in the buyer's possession or are not delivered to the seller at the buyer's residence, or at any other place agreed on by the parties, within a reasonable time after the seller tenders or delivers a full refund of all payments to the buyer.

5741 Section 281. Section **70C-5-101** is amended to read:

5742 **70C-5-101. Definition -- Home solicitation sale.**

As used in this chapter, "home solicitation sale" means a consumer credit sale of goods or services in which the seller or a person acting for [him] the seller engages in a face-to-face solicitation of the sale at a residence or place of employment of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for [him] the seller. It does not include a sale made pursuant to preexisting open-end accounts, or a sale made between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

5750 Section 282. Section **70C-5-103** is amended to read:

5751 **70C-5-103. Form of agreement or offer -- Statement of buyer's rights.**

5749 (1) In a home solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the seller shall present to the buyer and obtain [his] the buyer's signature to a written agreement or offer to purchase which designates as the date of the transaction the date on which the buyer actually signs and contains a statement of the buyer's rights which complies with Subsection (2).

5754 (2) The statement shall:

5755 (a) appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL"; and

5756 (b) read as follows:

5757 "If this agreement was solicited at your residence or place of employment and you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the goods or services and must be mailed before midnight on the third business day after you sign this agreement. The notice must be mailed to: \_\_\_\_\_ (insert name and mailing address of seller)."

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- (3) Compliance with any notice of cancellation or similar requirement of any rule of the Federal Trade Commission which by its terms applies to a home solicitation sale covered by this title is deemed compliance with Subsection (2)(b) if compliance is totally consistent with this title.
- 5766 (4) Until the seller has complied with this section the buyer may cancel the home solicitation sale by notifying the seller in any manner and by any means of [his] the buyer's intention to cancel.
- 5772 Section 283. Section **70C-5-104** is amended to read:
- 5773 **70C-5-104. Restoration of down payment.**
- 5771 (1) Within 10 days after a home solicitation sale has been canceled or an offer to purchase revoked the seller shall tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.
- 5774 (2) If the down payment includes goods traded in, the goods shall be tendered in substantially as good condition as when received by the seller. If the seller fails to tender the goods as provided by this section, the buyer may recover an amount equal to the trade-in allowance stated in the agreement.
- 5778 (3) A provision permitting the seller to keep all or any part of any payment, note, or evidence of indebtedness is in violation of this section and unenforceable.
- 5780 (4) Until the seller has complied with the obligations imposed by this section, the buyer may retain possession of goods delivered to [him] the buyer by the seller and has a lien on the goods in [his] the buyer's possession or control for any recovery to which [he] the buyer is entitled.
- 5787 Section 284. Section **70C-5-105** is amended to read:
- 5788 **70C-5-105. Duty of buyer -- No compensation for services prior to cancellation.**
- 5786 (1) Except as provided by the provisions on retention of goods by the buyer under Subsection 70C-5-104(4), within a reasonable time after a home solicitation sale has been canceled or an offer to purchase revoked, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale, but [he] the buyer is not obligated to tender at any place other than [his] the buyer's residence or place of employment. If the seller fails to demand possession of goods within a reasonable period of time after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them. For the purpose of this section, 40 days is a reasonable period of time.
- 5795 (2) The buyer has a duty to take reasonable care of the goods in [his] the buyer's possession before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk.

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5798 (3) If the seller has performed any services pursuant to a home solicitation sale prior to its cancellation,  
the seller is entitled to no compensation.

5803 Section 285. Section **70C-6-104** is amended to read:

5804 **70C-6-104. Conditions applying to insurance to be provided by creditor.**

If a creditor agrees with a debtor to provide insurance:

5803 (1) the insurance shall be evidenced by an individual policy or certificate of insurance delivered to the  
debtor, or sent to [~~him~~] the debtor at [~~his~~] the debtor's address as stated by [~~him~~] the debtor, within  
30 days after the term of the insurance commences under the agreement between the creditor and  
debtor; or

5807 (2) the creditor shall promptly notify the debtor of any failure or delay in providing the insurance.

5812 Section 286. Section **70C-6-106** is amended to read:

5813 **70C-6-106. Refund or credit required -- Amount.**

5811 (1) A debtor or [~~his~~] a debtor's estate is entitled to any rebate or refund due from an insurer and to any  
unearned part of a separate charge for insurance previously paid by the debtor, resulting from the  
prepayment of a consumer credit debt, except when all refunds and credits due to the debtor under  
this title amount to less than \$5.

5815 (2) A creditor shall promptly make or cause to be made an appropriate refund or credit to the debtor  
with respect to any separate charge made to [~~him~~] the debtor for insurance if:

5817 (a) the insurance is not provided or is provided for a shorter term than that for which the charge to a  
debtor for insurance was computed; or

5819 (b) the insurance terminates prior to the end of the term for which it was written because of prepayment  
in full or otherwise.

5821 (3) All refunds or credit required by this section shall be computed according to a method prescribed  
or approved by the Insurance Department or formula filed by the insurer with the Insurance  
Department at least 30 days before any debtor's right to a refund or credit becomes determinable,  
unless the method or formula is employed after the Insurance Department notifies the insurer that  
the method or formula has been disapproved.

5826 (4) Except as provided in Subsection (1), a creditor is not obligated to account to a debtor for any  
portion of a separate charge for insurance when:

5828 (a) the insurance is terminated by performance of the insurer's obligation;

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(b) the creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

5831 (c) the creditor receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

5836 Section 287. Section **70C-6-304** is amended to read:

5837 **70C-6-304. Cancellation by creditor.**

A creditor may not request cancellation of a policy of property or liability insurance except after the debtor's default or in accordance with a written authorization by the debtor, and in either case the cancellation does not take effect until written notice is delivered to the debtor or mailed to ~~[him]~~ the debtor at ~~[his]~~ the debtor's address as stated by ~~[him]~~ the debtor. The notice shall state that the policy may be cancelled on a date not less than 10 days after the notice is delivered, or, if the notice is mailed, not less than 13 days after it is mailed.

5844 Section 288. Section **70C-7-104** is amended to read:

5845 **70C-7-104. No discharge from employment for garnishment.**

No employer may discharge any employee because ~~[his]~~ the employee's earnings have been subject to garnishment in connection with any one judgment.

5848 Section 289. Section **70C-7-201** is amended to read:

5849 **70C-7-201. Effect of violations by creditors -- Penalties -- Debtor's rights.**

5847 (1) A debtor is not obligated to pay a charge in excess of that allowed by this title, and if ~~[he]~~ the debtor has paid an excess charge~~[-he]~~ , the debtor has a right to a refund. A refund may be made in whole or in part by reducing the debtor's obligation by the amount of the excess charge. If the debtor has paid an amount in excess of the lawful obligation under the agreement, the debtor may recover the excess amount from the party who made the excess charge or from an assignee of the creditor's rights who undertakes direct collection of payments from or enforcement of rights against the debtor with respect to the debt.

5855 (2) If a debtor is entitled to a refund and a party liable to the debtor in bad faith refuses to make a refund within a reasonable time after demand, the debtor may recover from that party a penalty in an amount to be determined by a court not exceeding the greater of either the amount of the finance charge or 10 times the amount of the excess charge. If the creditor has made an excess charge in deliberate violation of or in reckless disregard for this title, the penalty may be recovered even though the creditor has refunded the excess charge.

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5865 Section 290. Section **72-2-104** is amended to read:

5866 **72-2-104. Budget.**

- 5864 (1) The department shall prepare and submit to the governor, to be included in [his] the governor's budget to be submitted to the Legislature, a budget of the requirements for the operation of the department for the fiscal year following the convening of the Legislature.
- 5868 (2) This budget shall be so separated, in relation to the various functions of the department, so as to allow the separate determination of funds for deposit into the Transportation Fund and into any other special funds which are required by law to be utilized for specific purposes and which are separately maintained by the department for those purposes.

5876 Section 291. Section **72-5-107** is amended to read:

5877 **72-5-107. United States patents -- Patentee and county to assert claims to roads crossing land.**

5876 (1)

- (a) If any person acquires title from the United States to any land in this state over which any public highway extends that has not been duly platted, and that has not been continuously used as a public highway for a period of 10 years, the person shall within three months after receipt of the person's patent assert the person's claim for damages in writing to the county executive of the county in which the land is situated.

5881 (b) The county legislative body shall have an additional period of three months in which to begin proceedings to condemn the land according to law.

5883 (2)

- (a) The highway shall continue open as a public highway during the periods described under Subsection (1).

5885 (b) If no action is begun by the county executive within the period described under Subsection (1)(b), the highway shall be considered to be abandoned by the public.

5887 (3) In case of a failure by the person so acquiring title to public lands to assert [his] the person's claim for damage during the three months from the time the person received a patent to the lands, the person shall thereafter be barred from asserting or recovering any damages by reason of the public highway, and the public highway shall remain open.

5894 Section 292. Section **72-9-303** is amended to read:

5895 **72-9-303. Cease and desist orders -- Registration sanctions.**

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- 5893 (1) The department may issue cease and desist orders to any person:
- 5894 (a) who engages in or represents himself or herself to be engaged in a motor carrier operation that is in violation of this chapter;
- 5896 (b) to prevent the violation of any of the provisions of this title; and
- 5897 (c) who otherwise violates this chapter or any rules adopted under this chapter.
- 5898 (2)
- . (a) The department shall notify the Motor Vehicle Division of the State Tax Commission upon having reasonable grounds to believe that a motor carrier is in violation of this chapter. Upon receiving notice by the department, the Motor Vehicle Division shall refuse registration or shall suspend or revoke a registration as provided in Sections 41-1a-109 and 41-1a-110.
- 5903 (b) The department shall notify the Motor Vehicle Division immediately upon being satisfied that a motor carrier, reported as being in violation under Subsection (2)(a), is in compliance with this chapter. Upon receiving notice by the department, the Motor Vehicle Division shall remove any restriction made on a registration under this chapter.
- 5911 Section 293. Section **72-9-703** is amended to read:
- 5912 **72-9-703. Civil penalties for violations -- Compromise.**
- 5910 (1) In addition to any other penalties, a motor carrier that fails or neglects to comply with any provision of the Constitution of this state, statute, or any rule or order of the department is subject to a civil penalty of not less than \$500 nor more than \$2,000 for each offense.
- 5914 (2) Every violation of any provision of the constitution of this state, statute, or any rule or order of the department, is a separate and distinct offense. Each day's continuance of the violation is a separate and distinct offense.
- 5917 (3)
- . (a) The civil penalty may be compromised by the department and a determination of compromise is appealable by the person alleged to have committed the violation. In determining the amount of the penalty or the amount agreed upon in compromise, the department shall consider the:
- 5921 (i) gravity of the violation; and
- 5922 (ii) good faith of the person charged in attempting to achieve compliance after notification of the violation.
- 5924

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(b) The amount of the penalty when finally determined or the amount agreed upon in compromise may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the courts of this state.

5927 (4) In construing and enforcing the provisions of this chapter relating to penalties, the act, omission, or  
failure of any officer, agent, or employee of any motor carrier, acting within the scope of [his] the  
5934 officer's, agent's, or employee's official duties or employment, is deemed to be the act, omission, or  
5935 failure of the motor carrier.

5934 Section 294. Section **73-2-10** is amended to read:

5935 **73-2-10. Knowledge of waterways and irrigation -- Suggestions as to amendment or  
enactment of laws.**

The state engineer shall become conversant with the waterways of the state and its needs as to irrigation matters; and [he] the state engineer shall make such suggestions as to the amendment of existing laws or the enactment of new laws as [his] the state engineer's information and experience shall suggest.

5941 Section 295. Section **73-2-12** is amended to read:

5942 **73-2-12. Seal.**

The state engineer shall have a seal which [he] the state engineer shall affix to all certificates issued from [his] the state engineer's office, and [he] the state engineer shall file a description and an impression of the same with the Division of Archives.

5946 Section 296. Section **73-2-13** is amended to read:

5947 **73-2-13. Attorney general and county attorneys to counsel.**

In all matters requiring legal advice in the performance of [his] the state engineer's duties and the prosecution or defense of any action growing out of the performance of [his] the state engineer's duties, the attorney general or county attorney of the county in which any legal question arises, shall be the legal advisers of the state engineer, and [they] are hereby required to perform any and all legal services required [~~of them~~] by [him] the state engineer without other compensation than their salaries.

5954 Section 297. Section **73-2-23.1** is amended to read:

5955 **73-2-23.1. Assistance of state engineer in management of flood waters.**

In addition to [his] the state engineer's other flood management authority under Sections  
5954 73-2-22 and 73-2-23, the state engineer may assist in the management of flood waters pursuant

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to court judgments and decrees.

5959 Section 298. Section **73-3-5.5** is amended to read:

5960 **73-3-5.5. Temporary applications to appropriate water -- Approval by engineer --**  
**Expiration -- Proof of appropriation not required.**

5959 (1) The state engineer may issue temporary applications to appropriate water for beneficial purposes.

5961 (2) The provisions of this chapter governing regular applications to appropriate water shall apply to  
temporary applications with the following exceptions:

5963 (a)

. (i) The state engineer shall undertake a thorough investigation of the proposed appropriation, and if the  
temporary application complies with the provisions of Section 73-3-8, may make an order approving  
the application.

5966 (ii) If the state engineer finds that the appropriation sought might impair other rights, before approving  
the application, the state engineer shall give notice of the application to all persons whose rights  
may be affected by the temporary appropriations.

5970 (b) The state engineer may issue a temporary application for a period of time not exceeding one year.

5972 (c)

. (i) The state engineer, in the approval of a temporary application, may make approval subject to  
whatever conditions and provisions [~~he~~] the state engineer considers necessary to fully protect prior  
existing rights.

5975 (ii) If the state engineer determines that it is necessary to have a water commissioner distribute the  
water under a temporary application for the protection of other vested rights, the state engineer may  
assess the distribution costs against the holder of the temporary application.

5979 (d)

. (i) A temporary application does not vest in its holder a permanent vested right to the use of water.

5981 (ii) A temporary application automatically expires and is cancelled according to its terms.

5983 (e) Proof of appropriation otherwise required under this chapter is not required for temporary  
applications.

5988 Section 299. Section **73-3a-108** is amended to read:

5989 **73-3a-108. Approval of applications -- Criteria.**

5987 (1) The state engineer shall:

5988 (a) undertake an investigation of any application made under this chapter; and

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- 5989 (b) approve the application, if [he] the state engineer finds that:
- 5990 (i) the proposed appropriation or change:
- 5991 (A) satisfies Section 73-3-3, 73-3-5.5, or 73-3-8, whichever is applicable;
- 5992 (B) is consistent with Utah's reasonable water conservation policies or objectives;
- 5993 (C) is not contrary to the public welfare; and
- 5994 (D) does not impair the ability of the state of Utah to comply with its obligation under any interstate compact or judicial decree which apportions water among Utah and other states; and
- 5997 (ii) the water can be transported, measured, delivered, and beneficially used in the recipient state.
- 5999 (2) In reviewing the criteria of Subsections (1)(b)(i)(B) and (1)(b)(i)(C), the state engineer shall consider the following factors:
- 6001 (a) the supply and quality of water available to the state of Utah;
- 6002 (b) the current and reasonably anticipated water demands of the state of Utah;
- 6003 (c) whether there are current or reasonably anticipated water shortages within Utah;
- 6004 (d) whether the water that is the subject of the application could feasibly be used to alleviate current or reasonably anticipated water shortages within Utah;
- 6006 (e) the alternative supply and sources of water available to the applicant in the state where the applicant intends to use the water; and
- 6008 (f) the demands placed on the applicant's alternate water supply in the state where the applicant intends to use the water.
- 6010 (3) If any application fails to meet any criteria of Subsection (1), it shall be rejected.
- 6011 (4) The state engineer may condition any approval to ensure that the use of the water in another state:
- 6013 (a) is subject to the same laws, rules, and controls that may be imposed upon water use within the state of Utah; or
- 6015 (b) is consistent with the terms and conditions of any applicable interstate compact to which the state of Utah is a party.
- 6020 Section 300. Section **73-3b-303** is amended to read:
- 6021 **73-3b-303. Modification of recharge or recovery permits.**
- 6019 (1) The state engineer, on [his] the state engineer's own initiative or at the request of any person holding a recharge or recovery permit, may modify the conditions of the respective permit, if [he] the state engineer finds that modifications are necessary and will not impair existing water rights or the water quality of the aquifer.

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6023 (2) Before any permit condition is modified, the state engineer may require notice to potentially  
impaired water users if [he] the state engineer finds that the modification under consideration may  
6029 impair existing water rights.

6029 Section 301. Section **73-5a-203** is amended to read:

6030 **73-5a-203. Review of plans.**

6028 (1) The state engineer shall establish a formal written procedure for the review of plans submitted  
pursuant to Section 73-5a-202. Plans shall be reviewed according to:

6030 (a) design criteria which the state engineer shall specify in rules; and

6031 (b) data or criteria generally accepted by the general dam design community.

6032 (2) Upon review of the plans, the state engineer will:

6033 (a) approve them with appropriate conditions;

6034 (b) reject them; or

6035 (c) return them for correction.

6036 (3) The state engineer shall document each review indicating:

6037 (a) how the plans were reviewed; and

6038 (b) [his] the state engineer's evaluation of the plans.

6042 Section 302. Section **73-5a-301** is amended to read:

6043 **73-5a-301. Inspections to insure compliance with plans -- Duties and costs of owners --**

### **Weekly reports.**

6042 (1) During construction, enlargement, repair, alteration, or removal of any dam:

6043 (a) the state engineer, [his] the state engineer's staff, or an independent consultant shall make periodic  
inspections of the work for the purpose of ascertaining compliance with the approved plans and  
specifications; and

6046 (b) the owner of the dam shall:

6047 (i) conduct tests that the state engineer determines are necessary;

6048 (ii) provide adequate supervision of the work by an engineer licensed by the state who has experience in  
dam design and construction; and

6050 (iii) disclose information sufficient to enable the state engineer to determine that the work is being done  
in conformance with the approved plans and specifications.

6052 (2) Costs of any work or tests required by the state engineer shall be paid by the owner of the dam.

6054

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- (3) The engineer who is supervising the work pursuant to Subsection (1)(b)(ii) is required to submit a report weekly to the state engineer. Each report shall show the work accomplished during the previous week and summarize the results of any material testing.

6061 Section 303. Section **73-5a-302** is amended to read:

6062 **73-5a-302. Failure to conform to plans.**

- 6060 (1) If at any time during construction, enlargement, repair, alteration, or removal of any dam the state engineer finds that the work is not being done in accordance with the approved plans and specifications, [~~he~~] the state engineer shall:
- 6063 (a) notify the owner of the failure to comply;
- 6064 (b) order the owner to effect compliance with the plans and specifications; or
- 6065 (c) approve the modification to the approved plans and specifications.
- 6066 (2) The state engineer may order that no further work be done until compliance has been effected and approved by [~~him~~] the state engineer.
- 6068 (3) A failure to comply with the approved plans and specifications shall render the approval subject to revocation by the state engineer. If compliance is not effected in a reasonable time, the state engineer may order the incomplete structure removed in order to eliminate any safety hazard to life or property.

6075 Section 304. Section **73-5a-303** is amended to read:

6076 **73-5a-303. Circumstances under which the plan must be modified or the approval revoked.**

- 6075 (1) If at any time during construction, enlargement, repair, alteration, or removal of a dam the state engineer finds that the conditions encountered differ appreciably from those assumed in the plan, [~~he~~] the state engineer may require the plans to be modified.
- 6078 (2) If conditions are revealed which will not permit the construction of a safe dam, the state engineer shall revoke the approval.

6083 Section 305. Section **73-5a-402** is amended to read:

6084 **73-5a-402. Standard operating plans required.**

The owner of each dam shall prepare a standard operating plan for the dam. In the case of a dam in operation prior to May 1, 1991, the standard operating plan shall be submitted to the state engineer for [~~his~~] the state engineer's approval by May 1, 1994. In the case of any dam beginning operations on or after May 1, 1991, the standard operating plan shall be submitted to the state engineer for [~~his~~] the state engineer's approval prior to the final



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inspection.

6091 Section 306. Section **73-5a-601** is amended to read:

6092 **73-5a-601. Emergency action plans required.**

6090 (1) The owner of any dam which, in the state engineer's opinion, may pose a threat to life or cause significant damage to property if it fails shall prepare a plan of action to be implemented when an emergency involving the dam occurs.

6093 (2) In the case of a dam in operation prior to May 1, 1991, the emergency action plan shall be submitted to the state engineer for [~~his~~] the state engineer's approval by May 1, 1994.

6095 (3) In the case of a dam beginning operations on or after May 1, 1991, the emergency action plan shall be submitted to the state engineer prior to the date of the final inspection.

6101 Section 307. Section **73-18-7.1** is amended to read:

6102 **73-18-7.1. Fraudulent application for registration or certificate of title.**

A person is guilty of a third degree felony if [~~he~~] the person:

6101 (1) fraudulently uses a false or fictitious name in any application for a registration or certificate of title for a motorboat, sailboat, or outboard motor; or

6103 (2) in making an application specified in Subsection (1)[~~he~~]:

6104 (a) knowingly makes a false statement;

6105 (b) knowingly conceals a material fact; or

6106 (c) otherwise commits a fraud.

6110 Section 308. Section **73-18-10** is amended to read:

6111 **73-18-10. Owner of boat livery -- Duties.**

6109 (1) The owner of a boat livery shall keep a record of the following: the name and address of the person hiring any vessel; the identification number of the vessel; the vessel's departure date and time; and the vessel's expected time of return. The record shall be preserved for at least one year.

6113 (2) Neither the owner of a boat livery nor [~~his~~] the owner's agent or employee may permit any vessel to depart from the premises of the boat livery unless the owner has equipped it as required under this chapter and unless [~~he~~] the owner has advised the lessee or renter of the vessel of all rules promulgated under this chapter which the lessee or renter must obey.

6121 Section 309. Section **73-18-20.3** is amended to read:

6122 **73-18-20.3. Falsified hull identification, engine, or motor number.**

6120 (1) A person is guilty of a third degree felony if [~~he~~] the person:

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- 6121 (a) with fraudulent intent defaces, destroys, or alters a vessel hull identification number or serial number for an engine or outboard motor;
- 6123 (b) places or stamps any vessel hull identification number upon a vessel or serial number upon an engine or outboard motor, except one assigned by the division or its authorized agent;
- 6126 (c) knowingly buys, receives, disposes of, sells, offers for sale, or [~~has in his possession~~] possesses any vessel, or engine or outboard motor removed from a vessel, from which the vessel hull identification number or engine or outboard motor serial number, has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vessel, engine, or outboard motor;
- 6131 (d) with intent to procure or pass title to a vessel or outboard motor, receives or transfers possession of a vessel or outboard motor which he knows or has reason to believe has been stolen or unlawfully taken; or
- 6134 (e) [~~has in his possession~~] possesses a vessel or outboard motor which [~~he~~] the person knows or has reason to believe has been stolen or unlawfully taken, unless the person is a peace officer engaged at the time in the performance of [~~his duty~~] peace officer duties.
- 6138 (2)
- . (a) This section does not prohibit the restoration by an owner of an original vessel hull identification number or manufacturer's serial number for an engine or outboard motor if the restoration is made by application to the division or its authorized agent.
- 6141 (b) This section does not prohibit any manufacturer from placing, in the ordinary course of business, numbers or marks upon vessels, motors, outboard motors, or parts.
- 6146 Section 310. Section **73-18-20.5** is amended to read:
- 6147 **73-18-20.5. Reporting of theft and recovery of vessels.**
- 6145 (1)
- . (a) Any peace officer upon receiving reliable information that any vessel or outboard motor has been stolen shall immediately report the theft to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.
- 6149 (b) Any peace officer upon receiving information that any vessel or outboard motor which was previously reported as stolen has been recovered shall immediately report the recovery to [~~his~~] the peace officer's law enforcement agency and to the Criminal Investigations and Technical Services Division.

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- 6153 (2) The reporting and recovery procedures for vessels and outboard motors shall be the same as those specified in Section 41-1a-1401 for motor vehicles.
- 6158 Section 311. Section **73-18-20.7** is amended to read:
- 6159 **73-18-20.7. Unlawful control over vessels -- Penalties -- Effect of prior consent -- Accessory or accomplice.**
- 6158 (1) Any person who exercises unauthorized control over a vessel[~~, not his own,~~] that the person does not own without the consent of the owner or lawful custodian and with intent to temporarily deprive the owner or lawful custodian of possession of the vessel, is guilty of a class A misdemeanor.
- 6162 (2) An offense under this section is a third degree felony if the actor does not return the vessel to the owner or lawful custodian within 24 hours after the exercise of unauthorized control.
- 6165 (3) The consent of the owner or legal custodian of a vessel to its control by the actor is not in any case presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the vessel by the same or a different person.
- 6168 (4) Any person who assists in, or is a party or accessory to or an accomplice in, an unauthorized taking or operating of a vessel is guilty of a class A misdemeanor.
- 6173 Section 312. Section **76-1-304** is amended to read:
- 6174 **76-1-304. Defendant out of state -- Plea held invalid -- New prosecutions.**
- 6172 (1) The period of limitation does not run against any defendant during any period of time in which the defendant is out of the state following the commission of an offense.
- 6174 (2) If the defendant has entered into a plea agreement with the prosecution and later successfully moves to invalidate [~~his~~] the defendant's conviction, the period of limitation is suspended from the time of the entry of the plea pursuant to the plea agreement until the time at which the conviction is determined to be invalid, and that determination becomes final.
- 6179 (3) For purposes of this section, "final" means:
- 6180 (a) all appeals have been exhausted;
- 6181 (b) no judicial review is pending; and
- 6182 (c) no application for judicial review is pending.
- 6183 (4) When the period of limitation is suspended pursuant to Subsection (2), the suspension includes any charges to which the defendant pleaded guilty pursuant to a plea agreement, charges which were dismissed as a result of a plea agreement, as well as any known charges which were not barred at the time of entry of the plea.

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- 6187 (5) Notwithstanding any other limitation, a prosecution may be commenced for charges described  
in Subsection (4) within one year after a plea entered pursuant to a plea agreement has been  
determined to be invalid, and that determination becomes final.
- 6193 Section 313. Section **76-1-402** is amended to read:
- 6194 **76-1-402. Separate offenses arising out of single criminal episode -- Included offenses.**
- 6193 (1) A defendant may be prosecuted in a single criminal action for all separate offenses arising out of a  
single criminal episode; however, when the same act of a defendant under a single criminal episode  
shall establish offenses which may be punished in different ways under different provisions of this  
code, the act shall be punishable under only one such provision; an acquittal or conviction and  
sentence under any such provision bars a prosecution under any other such provision.
- 6199 (2) Whenever conduct may establish separate offenses under a single criminal episode, unless the court  
otherwise orders to promote justice, a defendant shall not be subject to separate trials for multiple  
offenses when:
- 6202 (a) ~~[The]~~ the offenses are within the jurisdiction of a single court; and
- 6203 (b) ~~[The]~~ the offenses are known to the prosecuting attorney at the time the defendant is arraigned on  
the first information or indictment.
- 6205 (3) A defendant may be convicted of an offense included in the offense charged but may not be  
convicted of both the offense charged and the included offense. An offense is so included when:
- 6208 (a) ~~[It]~~ it is established by proof of the same or less than all the facts required to establish the  
commission of the offense charged; or
- 6210 (b) ~~[It]~~ it constitutes an attempt, solicitation, conspiracy, or form of preparation to commit the offense  
charged or an offense otherwise included therein; or
- 6212 (c) ~~[It]~~ it is specifically designated by a statute as a lesser included offense.
- 6213 (4) The court shall not be obligated to charge the jury with respect to an included offense unless there is  
a rational basis for a verdict acquitting the defendant of the offense charged and convicting ~~[him]~~ the  
defendant of the included offense.
- 6216 (5) If the district court on motion after verdict or judgment, or an appellate court on appeal or certiorari,  
shall determine that there is insufficient evidence to support a conviction for the offense charged but  
that there is sufficient evidence to support a conviction for an included offense and the trier of fact  
necessarily found every fact required for conviction of that included offense, the verdict or judgment

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of conviction may be set aside or reversed and a judgment of conviction entered for the included offense, without necessity of a new trial, if such relief is sought by the defendant.

6226 Section 314. Section **76-2-201** is amended to read:

6227 **76-2-201. Definitions.**

As used in this part:

- 6226 (1) "Agent" means any director, officer, employee, or other person authorized to act in behalf of a corporation or association.
- 6228 (2) "High managerial agent" means:
- 6229 (a) ~~[A]~~ a partner in a partnership;
- 6230 (b) ~~[An]~~ an officer of a corporation or association;
- 6231 (c) ~~[An]~~ an agent of a corporation or association who has duties of such responsibility that ~~[his]~~ the agent's conduct reasonably may be assumed to represent the policy of the corporation or association.
- 6234 (3) "Corporation" means all organizations required by the laws of this state or any other state to obtain a certificate of authority, a certificate of incorporation, or other form of registration to transact business as a corporation within this state or any other state and shall include domestic, foreign, profit and nonprofit corporations, but shall not include a corporation sole, as such term is used in Title 16, Chapter 7, Corporations Sole. Lack of an appropriate certificate of authority, incorporation, or other form of registration shall be no defense when such organization conducted its business in a manner as to appear to have lawful corporate existence.

6245 Section 315. Section **76-2-204** is amended to read:

6246 **76-2-204. Criminal responsibility of corporation or association.**

A corporation or association is guilty of an offense when:

- 6245 (1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations or associations by law; or
- 6247 (2) The conduct constituting the offense is authorized, solicited, requested, commanded, or undertaken, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of ~~[his]~~ employment and in behalf of the corporation or association.

6254 Section 316. Section **76-2-205** is amended to read:

6255 **76-2-205. Criminal responsibility of person for conduct in name of corporation or association.**

A person is criminally liable for conduct constituting an offense which ~~[he]~~ the person

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performs or causes to be performed in the name of or on behalf of a corporation or association to the same extent as if such conduct were performed in [his] the person's own name or behalf.

6260 Section 317. Section **76-2-301** is amended to read:

6261 **76-2-301. Person under 14 years old not criminally responsible.**

A person is not criminally responsible for conduct performed before [he] the person reaches [~~the age of~~]14 years old. This section shall in no way limit the jurisdiction of or proceedings before the juvenile courts of this state.

6265 Section 318. Section **76-2-302** is amended to read:

6266 **76-2-302. Compulsion.**

6264 (1) A person is not guilty of an offense when [he] the person engaged in the proscribed conduct because [he] the person was coerced to do so by the use or threatened imminent use of unlawful physical force upon [him] the person or a third person, which force or threatened force a person of reasonable firmness in [his] that situation would not have resisted.

6269 (2) The defense of compulsion provided by this section shall be unavailable to a person who intentionally, knowingly, or recklessly places himself or herself in a situation in which it is probable that [he] the person will be subjected to duress.

6272 (3) A married woman is not entitled, by reason of the presence of her husband, to any presumption of compulsion or to any defense of compulsion except as in Subsection (1) provided.

6278 Section 319. Section **76-2-303** is amended to read:

6279 **76-2-303. Entrapment.**

6277 (1) It is a defense that the actor was entrapped into committing the offense. Entrapment occurs when a peace officer or a person directed by or acting in cooperation with the officer induces the commission of an offense in order to obtain evidence of the commission for prosecution by methods creating a substantial risk that the offense would be committed by one not otherwise ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

6283 (2) The defense of entrapment shall be unavailable when causing or threatening bodily injury is an element of the offense charged and the prosecution is based on conduct causing or threatening the injury to a person other than the person perpetrating the entrapment.

6287 (3) The defense provided by this section is available even though the actor denies commission of the conduct charged to constitute the offense.

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- 6289 (4) Upon written motion of the defendant, the court shall hear evidence on the issue and shall determine as a matter of fact and law whether the defendant was entrapped to commit the offense. Defendant's motion shall be made at least 10 days before trial except the court for good cause shown may permit a later filing.
- 6293 (5) Should the court determine that the defendant was entrapped, it shall dismiss the case with prejudice, but if the court determines the defendant was not entrapped, such issue may be presented by the defendant to the jury at trial. Any order by the court dismissing a case based on entrapment shall be appealable by the state.
- 6297 (6) In any hearing before a judge or jury where the defense of entrapment is an issue, past offenses of the defendant shall not be admitted, except that in a trial where the defendant testifies[~~he~~] , the defendant may be asked [~~of his~~] about past convictions for felonies and any testimony given by the defendant at a hearing on entrapment may be used to impeach [~~his~~] the defendant's testimony at trial.

6305 Section 320. Section **76-2-304** is amended to read:

6306 **76-2-304. Ignorance or mistake of fact or law.**

- 6304 (1) Unless otherwise provided, ignorance or mistake of fact which disproves the culpable mental state is a defense to any prosecution for that crime.
- 6306 (2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense to a crime unless:
- 6308 (a) [~~Due~~] due to [~~his~~] an actor's ignorance or mistake, the actor reasonably believed [~~his~~] the actor's conduct did not constitute an offense[~~,~~] ; and
- 6310 (b) [~~His~~] an actor's ignorance or mistake resulted from the actor's reasonable reliance upon:
- 6312 (i) [~~An~~] an official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in question; or
- 6315 (ii) [~~A~~] a written interpretation of the law contained in an opinion of a court of record or made by a public servant charged by law with responsibility for interpreting the law in question.
- 6318 (3) Although an actor's ignorance or mistake of fact or law may constitute a defense to the offense charged, [~~he~~] the actor may nevertheless be convicted of a lesser included offense of which [~~he~~] the actor would be guilty if the fact or law were as [~~he~~] the actor believed.

6324 Section 321. Section **76-2-307** is amended to read:

6325 **76-2-307. Voluntary termination of efforts prior to offense.**

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- It is an affirmative defense to a prosecution in which an actor's criminal responsibility arises from ~~[his]~~ the actor's own conduct or from being a party to an offense under Section 76-2-202 that prior to the commission of the offense, the actor voluntarily terminated ~~[his]~~the actor's effort to promote or facilitate its commission and either:
- 6327 (1) ~~[Gave-]~~ gave timely warning to the proper law enforcement authorities or the intended victim; or
- 6329 (2) ~~[Wholly-]~~ wholly deprives ~~[his]~~ the actor's prior efforts of effectiveness in the commission.
- 6334 Section 322. Section **76-2-403** is amended to read:
- 6335 **76-2-403. Force in arrest.**
- Any person is justified in using any force, except deadly force, which ~~[he]~~ the person reasonably believes to be necessary to effect an arrest or to defend himself or herself or another from bodily harm while making an arrest.
- 6339 Section 323. Section **76-3-303** is amended to read:
- 6340 **76-3-303. Additional sanctions against corporation or association -- Advertising of conviction -- Disqualification of officer.**
- 6339 (1) When a corporation or association is convicted of an offense, the court may, in addition to or in lieu of imposing other authorized sanctions, require the corporation or association to give appropriate publicity of the conviction by notice to the class or classes of persons or section of the public interested in or affected by the conviction, by advertising in designated areas, or by designated media or otherwise.
- 6344 (2) When an executive or high managerial officer of a corporation or association is convicted of an offense committed in furtherance of the affairs of the corporation or association, the court may include in the sentence an order disqualifying ~~[him]~~ the executive or high managerial officer from exercising similar functions in the same or other corporations or associations for a period of not exceeding five years if ~~[it]~~ the court finds the scope or willfulness of ~~[his]~~ the illegal actions make it dangerous or inadvisable for such functions to be entrusted to ~~[him]~~ the executive or high managerial officer.
- 6354 Section 324. Section **76-3-405** is amended to read:
- 6355 **76-3-405. Limitation on sentence where conviction or prior sentence set aside.**
- 6353 (1) Where a conviction or sentence has been set aside on direct review or on collateral attack, the court shall not impose a new sentence for the same offense or for a different offense based on the



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same conduct which is more severe than the prior sentence less the portion of the prior sentence previously satisfied.

6357 (2) This section does not apply when:

6358 (a) the increased sentence is based on facts which were not known to the court at the time of the original sentence, and the court affirmatively places on the record the facts which provide the basis for the increased sentence; or

6361 (b) a defendant enters into a plea agreement with the prosecution and later successfully moves to invalidate [~~his~~] the defendant's conviction, in which case the defendant and the prosecution stand in the same position as though the plea bargain, conviction, and sentence had never occurred.

6368 Section 325. Section **76-3-409** is amended to read:

6369 **76-3-409. Child abuse or sex offense against child -- Treatment of offender or victim --**

### **Payment of costs.**

6368 (1) Any person convicted in the district court of child abuse, or a sexual offense if the victim is under 18 years [~~of age~~] old, may be ordered to participate in treatment or therapy under the supervision of the adult probation and parole section of the Department of Corrections, in cooperation with the division of children, youth, and families until the court is satisfied that such treatment or therapy has been successful or that no further benefit to the convicted offender would result if such treatment or therapy were continued. The court may also order treatment of the victim if it believes the same would be beneficial under the circumstances. Nothing in this section shall preclude the court from imposing any additional sentence as provided by law.

6377 (2) The convicted offender shall be ordered to pay, to the extent that [~~he or she~~] the convicted offender is able, the costs of [~~his or her~~] the convicted offender's treatment, together with treatment costs incurred by the victim and any administrative costs incurred by the appropriate state agency in the supervision of such treatment. If the convicted offender is unable to pay all or part of the costs of treatment, the court may order the appropriate state agency to pay such costs to the extent funding is provided by the Legislature for such purpose and shall order the convicted offender to perform public service work as compensation for the cost of treatment.

6388 Section 326. Section **76-7-202** is amended to read:

6389 **76-7-202. Orders for support in criminal nonsupport proceedings.**

6387 (1) In any proceeding under Section 76-7-201, the court may, instead of imposing the punishments otherwise prescribed, issue an order directing the defendant to periodically pay a sum to the

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Office of Recovery Services, or otherwise as the court may direct, to be used for the support of the dependents who are the subject of the proceeding under Section 76-7-201.

- 6392 (2) The order to periodically pay a sum for the support of the dependents:
- 6393 (a) may be issued with the consent of the defendant prior to trial, or after conviction, having regard to the circumstances, financial ability, and earning capacity of the defendant;
- 6396 (b) shall be subject to change from time to time as circumstances may require;
- 6397 (c) may not require payments for a period exceeding the term of probation provided for the offense with which the defendant is charged, or of which ~~he~~ the defendant is found guilty; and
- 6400 (d) shall be conditioned upon the defendant either entering a recognizance in accordance with Subsection (3), or providing security in a sum as the court directs.
- 6402 (3) The condition of recognizance shall require the defendant to:
- 6403 (a) make personal appearance in court whenever ordered to do so within the period of probation; and
- 6405 (b) comply with the terms of the order and any subsequent modifications of the order.
- 6406 (4) If the court is satisfied by information and due proof under oath that at any time during the period of probation the defendant has violated the terms of the order, it may proceed with the trial of defendant under the original charge or sentence ~~him~~ the defendant under the original conviction or enforce the original sentence as the case may be. In the case of forfeiture of bail or bond in any proceeding under Section 76-7-201, the sum recovered may, in the discretion of the court, be paid in whole or in part to the Office of Recovery Services, or otherwise as the court may direct, to be used for the support of the dependents involved.

6417 Section 327. Section **76-7-303** is amended to read:

6418 **76-7-303. Concurrence of attending physician based on medical judgment.**

No abortion may be performed in this state without the concurrence of the attending physician, based on ~~his~~ the attending physician's best medical judgment.

6421 Section 328. Section **76-7-308** is amended to read:

6422 **76-7-308. Medical skills required to preserve life of unborn child.**

Consistent with the purpose of saving the life of the woman or preventing grave damage to the woman's medical health, the physician performing the abortion must use all of ~~his~~ the physician's medical skills to attempt to promote, preserve and maintain the life of any unborn child sufficiently developed to have any reasonable possibility of survival outside of the mother's womb.

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6428 Section 329. Section **77-1-6** is amended to read:

6429 **77-1-6. Rights of defendant.**

6427 (1) In criminal prosecutions the defendant is entitled to:

6428 (a) ~~[Tø]~~ appear in person and defend in person or by counsel;

6429 (b) ~~[Tø]~~ receive a copy of the accusation filed against ~~[him]~~ the defendant;

6430 (c) ~~[Tø]~~ testify in ~~[his]~~ the defendant's own behalf;

6431 (d) ~~[Tø]~~ be confronted by the witnesses against ~~[him]~~ the defendant;

6432 (e) ~~[Tø]~~ have compulsory process to insure the attendance of witnesses in ~~[his]~~ the defendant's behalf;

6434 (f) ~~[Tø]~~ a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed;

6436 (g) ~~[Tø]~~ the right of appeal in all cases; and

6437 (h) ~~[Tø]~~ be admitted to bail in accordance with provisions of law, or be entitled to a trial within 30 days after arraignment if unable to post bail and if the business of the court permits.

6440 (2) In addition:

6441 (a) ~~[Nø]~~ no person shall be put twice in jeopardy for the same offense;

6442 (b) ~~[Nø]~~ no accused person shall, before final judgment, be compelled to advance money or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay the costs of those rights when received;

6445 (c) ~~[Nø]~~ no person shall be compelled to give evidence against himself or herself;

6446 (d) ~~[A wife shall not be compelled to testify against her husband nor a husband against his wife]~~ an individual may not be compelled to testify against the individual's spouse; and

6449 (e) ~~[Nø]~~ no person shall be convicted unless by verdict of a jury, or upon a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived or, in case of an infraction, upon a judgment by a magistrate.

6455 Section 330. Section **77-2-4** is amended to read:

6456 **77-2-4. Dismissal of prosecution.**

After commencement of a prosecution the prosecutor may, upon reasonable grounds, move the magistrate before whom the prosecution is pending to dismiss the prosecution. If, in the judgment of the magistrate, the prosecution should not continue, ~~[he]~~ the magistrate may dismiss the prosecution and enter an order of dismissal stating the reasons for the dismissal in the order.

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6462 Section 331. Section **77-2-4.5** is amended to read:

6463 **77-2-4.5. Dismissal by compromise -- Limitations.**

6461 (1) In misdemeanor cases the court may dismiss the case upon motion of the prosecutor if it is compromised by the defendant and the injured party, except under Subsection (2). The injured party shall first acknowledge the compromise before the court or in writing. The reasons for the order shall be set forth and entered in the minutes. The order is a bar to another prosecution for the same offense.

6466 (2) A dismissal by compromise may not be granted when the misdemeanor is committed by or upon a peace officer while in the performance of [~~his~~] the peace officer's duties, or riotously, or with intent to commit a felony.

6472 Section 332. Section **77-2-6** is amended to read:

6473 **77-2-6. Dismissal after compliance with diversion agreement.**

The court shall dismiss the information or indictment filed against the defendant who has complied with the requirements of [~~his~~] a diversion agreement and the defendant shall not thereafter be subject to further prosecution for the offense involved or for any lesser included offense.

6478 Section 333. Section **77-2-8** is amended to read:

6479 **77-2-8. Violation of diversion agreement -- Hearing -- Prosecution resumed.**

If, during the course of the diversion of a defendant, information is brought to the attention of a magistrate or the prosecuting attorney that the defendant has violated [~~his~~] the diversion agreement and it appears in the best interests of the community to reinstate and proceed with the prosecution, the prosecuting attorney, upon court approval, or the magistrate, on [~~his~~] the magistrate's own motion, shall cause to be served upon the defendant an order to show cause specifying the facts relied upon by the prosecuting attorney or magistrate to terminate diversion and shall set a time and place for a hearing to determine whether or not the defendant has violated [~~his~~] the diversion agreement. If, at the hearing, the magistrate finds the defendant has failed to comply with any terms or conditions of the diversion agreement, [~~he~~] the magistrate may authorize the prosecuting attorney to proceed with prosecution. The prosecution of a diverted offense shall not bar any independent prosecution arising from any offense that constituted a violation of any term or condition of the diversion agreement by which the original prosecution was diverted.

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6493 Section 334. Section **77-3-2** is amended to read:

6494 **77-3-2. Examination of complainant and witnesses.**

The magistrate shall examine, on oath, the complainant and any witnesses [~~he~~]the complainant may produce and may take [~~their~~] the complainant's or witnesses' testimony in writing.

6498 Section 335. Section **77-3-4** is amended to read:

6499 **77-3-4. Warrant of arrest -- Temporary restraining order.**

If the magistrate believes there is reasonable ground to fear the commission of the offense threatened, [~~he~~] the magistrate may issue:

6499 (1) [~~Issue~~]a warrant directed generally to any peace officer, reciting the substance of the complaint and commanding the officer to immediately arrest the person complained of and bring [~~him~~] that person before the magistrate or, in the case of [~~his~~] the magistrate's absence or inability to act, before the nearest and most accessible magistrate of the county; and

6504 (2) [~~Issue~~]a temporary restraining order against the commission of the offense and order the person complained of to immediately appear before the magistrate for a hearing.

6509 Section 336. Section **77-3-5** is amended to read:

6510 **77-3-5. Defendant taken before different magistrate -- Procedure.**

When the person arrested is taken before a magistrate other than the one who issued the warrant, the peace officer who executed the warrant shall deliver it to the issuing magistrate with his or her endorsed return. The complaint and written testimony, if any, on which the warrant was issued shall be sent to the magistrate before whom the person arrested is taken.

6515 Section 337. Section **77-3-8** is amended to read:

6516 **77-3-8. Findings and orders -- Discharge -- Undertaking -- Commitment.**

6514 (1) If it appears there is no reasonable ground to fear the commission of the offense alleged to have been threatened, the person complained of shall be discharged. The complainant may be ordered to pay the costs of the proceedings if the magistrate believes the complaint was unfounded and frivolous.

6518 (2) If there is reasonable ground to fear the commission of an offense, the court may, in addition or as an alternative to other relief, enter an order permanently restraining the person from engaging in illegal conduct or acting in any manner that could result in illegal conduct or the person complained of may be required to enter into an undertaking in a sum not to exceed \$3,000, with one or more

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sufficient sureties, to keep the peace toward the people of this state and particularly toward the persons endangered. The conditions of the undertaking shall be in writing and shall be for a period of six months. It may be extended on good cause shown for a longer period or enlarged and a new undertaking may be required.

- 6527 (a) If the undertaking is given, the party complained of shall be discharged.
- 6528 (b) If the undertaking is not given, the magistrate shall commit the defendant to jail specifying in the warrant of commitment the requirement to give security, the amount thereof, and the effective period of time.
- 6531 (c) A person committed for not giving the required undertaking may be discharged by any magistrate when ~~[he]~~ the person provides the undertaking.

6536 Section 338. Section **77-3-10** is amended to read:

6537 **77-3-10. Assault in presence of magistrate or court.**

A person who, in the presence of the court or magistrate, assaults or threatens to assault another or to commit an offense against person or property, or who contends with another with threatening words, may be ordered by the court or magistrate to give security and if ~~[he]~~the person refuses to do so, may be committed as provided in Subsection 77-3-8(2)(b).

6542 Section 339. Section **77-5-2** is amended to read:

6543 **77-5-2. Chief justice to preside, when.**

When the governor is on trial, the chief justice of the Supreme Court shall preside, and, in case ~~[he]~~ the chief justice is disqualified or unable to act, the Senate shall select some other justice of the Supreme Court to preside.

6547 Section 340. Section **77-5-8** is amended to read:

6548 **77-5-8. Two-thirds vote necessary for conviction.**

The officer shall not be convicted on impeachment without the concurrence of two-thirds of the senators elected, voting by ayes and nays, and if two-thirds of the senators elected do not concur in a conviction, ~~[he]~~ the officer shall be acquitted.

6552 Section 341. Section **77-6-5** is amended to read:

6553 **77-6-5. Appearance -- Procedure on default.**

The defendant shall appear at the time appointed and answer the accusation, unless for some sufficient cause the court assigns another time for that purpose. If ~~[he]~~ the defendant does not appear, the court may proceed to hear and determine the accusation in ~~[his]~~ the defendant's

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absence.

6558 Section 342. Section **77-6-6** is amended to read:

6559 **77-6-6. Answer -- Objections for insufficiency.**

The defendant may orally answer the accusation either by admitting or denying it in open court, or [he] the defendant may, in writing, object to the legal sufficiency of the accusation. If the objection to the sufficiency of the accusation is sustained, the accusation shall be dismissed. If the objection is overruled, the defendant shall immediately admit or deny the accusation.

6565 Section 343. Section **77-6-8** is amended to read:

6566 **77-6-8. Judgment of removal -- Service on defendant.**

If the defendant admits the accusation or is convicted, the court shall enter judgment against [~~him~~] the defendant directing the defendant be removed from office and setting forth the causes of removal. The judgment of removal shall immediately be served upon the defendant.

6571 Section 344. Section **77-6-9** is amended to read:

6572 **77-6-9. Appeal -- Suspension from office.**

From a judgment of removal an appeal may be taken to the Supreme Court in the same manner as from a judgment in a civil action; but from entry of judgment and until the judgment is reversed, the defendant shall be suspended from [~~his~~] the defendant's office. Pending the appeal, the office shall be filled as in the case of a vacancy.

6577 Section 345. Section **77-7-1** is amended to read:

6578 **77-7-1. "Arrest" defined -- Restraint allowed.**

An arrest is an actual restraint of the person arrested or submission to custody. The person shall not be subjected to any more restraint than is necessary for [~~his~~] arrest and detention.

6582 Section 346. Section **77-7-3** is amended to read:

6583 **77-7-3. By private persons.**

A private person may arrest another:

6582 (1) [~~For~~] for a public offense committed or attempted in [~~his~~] the private person's presence; or

6583 (2) [~~When~~] when a felony has been committed and [~~he~~] the private person has reasonable cause to believe the person arrested has committed it.

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6588 Section 347. Section **77-7-9** is amended to read:

6589 **77-7-9. Weapons may be taken from prisoner.**

Any person making an arrest may seize from the person arrested all weapons which [~~he~~] the person arrested may have on or about his or her person.

6592 Section 348. Section **77-7-10** is amended to read:

6593 **77-7-10. Telegraph or telephone authorization of execution of arrest warrant.**

Any magistrate may, by an endorsement on a warrant of arrest, authorize by telegraph, telephone or other reasonable means, its execution. A copy of the warrant or notice of its issuance and terms may be sent to one or more peace officers. The copy or notice communicated authorizes the officer to proceed in the same manner under it as if [~~he~~] the peace officer had an original warrant.

6599 Section 349. Section **77-7-11** is amended to read:

6600 **77-7-11. Possession of warrant by arresting officer not required.**

Any peace officer who has knowledge of an outstanding warrant of arrest may arrest a person [~~he~~] the peace officer reasonably believes to be the person described in the warrant, without the peace officer having physical possession of the warrant.

6604 Section 350. Section **77-7-14** is amended to read:

6605 **77-7-14. Person causing detention or arrest of person suspected of shoplifting or library theft**  
**-- Civil and criminal immunity.**

6604 (1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the detention of a person as provided in Section 77-7-12, or who causes the arrest of a person for theft of goods held or displayed for sale, is not criminally or civilly liable where [~~he has~~] there is reasonable and probable cause to believe the person detained or arrested committed a theft of goods held or displayed for sale.

6609 (2) A peace officer or employee of a library who causes a detention or arrest of a person under Title 76, Chapter 6, Part 8, Library Theft, is not criminally or civilly liable where [~~he has~~] there is reasonable and probable cause to believe that the person committed a theft of library materials.

6616 Section 351. Section **77-7-16** is amended to read:

6617 **77-7-16. Authority of peace officer to frisk suspect for dangerous weapon -- Grounds.**

A peace officer who has stopped a person temporarily for questioning may frisk the person for a dangerous weapon if [~~he~~] the peace officer reasonably believes [~~he~~] the peace



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officer or any other person is in danger.

6622 Section 352. Section **77-7-17** is amended to read:

6623 **77-7-17. Authority of peace officer to take possession of weapons.**

A peace officer who finds a dangerous weapon pursuant to a frisk may take and keep it until the completion of the questioning, at which time [he] the peace officer shall either return it if lawfully possessed, or arrest such person.

6627 Section 353. Section **77-8-2** is amended to read:

6628 **77-8-2. Suspect's right to have attorney present.**

A suspect has the right to have [his] an attorney present at any lineup. The magistrate or party in charge of the lineup shall notify the suspect of this right. Every suspect unable to employ counsel shall be entitled to representation by an attorney appointed by a magistrate for a lineup either before or after an arrest.

6633 Section 354. Section **77-8-4** is amended to read:

6634 **77-8-4. Record of proceedings -- Access by suspect.**

The entire lineup procedure shall be recorded, including all conversations between the witnesses and the conducting peace officers. The suspect shall have access to and may make copies of the record and any photographs taken of [him] the suspect or any other persons in connection with the lineup.

6639 Section 355. Section **77-8a-1** is amended to read:

6640 **77-8a-1. Joinder of offenses and of defendants.**

6638 (1) Two or more felonies, misdemeanors, or both, may be charged in the same indictment or information if each offense is a separate count and if the offenses charged are:

6640 (a) based on the same conduct or are otherwise connected together in their commission; or

6642 (b) alleged to have been part of a common scheme or plan.

6643 (2)

. (a) When a felony and misdemeanor are charged together the defendant is afforded a preliminary hearing with respect to both the misdemeanor and felony offenses.

6645 (b) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or conduct or in the same criminal episode.

6648 (c) The defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

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- 6650 (d) When two or more defendants are jointly charged with any offense, they shall be tried jointly unless  
the court in its discretion on motion or otherwise orders separate trials consistent with the interests  
of justice.
- 6653 (3)
- . (a) The court may order two or more indictments or informations or both to be tried together if the  
offenses, and the defendants, if there is more than one, could have been joined in a single indictment  
or information.
- 6656 (b) The procedure shall be the same as if the prosecution were under a single indictment or information.
- 6658 (4)
- . (a) If the court finds a defendant or the prosecution is prejudiced by a joinder of offenses or defendants  
in an indictment or information or by a joinder for trial together, the court shall order an election of  
separate trials of separate counts, grant a severance of defendants, or provide other relief as justice  
requires.
- 6662 (b) A defendant's right to severance of offenses or defendants is waived if the motion is not made at  
least five days before trial. In ruling on a motion by defendant for severance, the court may order  
the prosecutor to disclose any statements made by the defendants which [~~he~~] the prosecutor intends  
to introduce in evidence at the trial.

6669 Section 356. Section **77-9-1** is amended to read:

6670 **77-9-1. Authority of peace officer of another state.**

A peace officer of another state or the District of Columbia who enters this state in fresh  
pursuit and continues in fresh pursuit of a person in order to make an arrest [~~him~~] on the  
ground that [~~he~~] the person is reasonably believed to have committed a felony in another state,  
has the same authority to arrest and hold a person in custody as a peace officer of this state.  
Fresh pursuit does not require instant action, but pursuit without unreasonable delay.

6676 Section 357. Section **77-9-2** is amended to read:

6677 **77-9-2. Procedure after arrest.**

An officer who has made an arrest pursuant to Section 77-9-1 shall without unnecessary  
delay take the person arrested before a magistrate of the county in which the arrest was made.  
The magistrate shall conduct a hearing to determine the lawfulness of the arrest. If [~~he~~]the  
magistrate finds the arrest was lawful, the magistrate may commit the person arrested for a  
reasonable time or may admit the person to bail pending extradition proceedings.

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6683 Section 358. Section **77-9-3** is amended to read:

6684 **77-9-3. Authority of peace officer of this state beyond normal jurisdiction.**

6682 (1) Any peace officer authorized by any governmental entity of this state may exercise a peace officer's authority beyond the limits of such officer's normal jurisdiction as follows:

6685 (a) when in fresh pursuit of an offender for the purpose of arresting and holding that person in custody or returning the suspect to the jurisdiction where the offense was committed;

6688 (b) when a public offense is committed in such officer's presence;

6689 (c) when participating in an investigation of criminal activity which originated in the officer's normal jurisdiction in cooperation with the local authority; or

6691 (d) when called to assist peace officers of another jurisdiction.

6692 (2)

. (a) Any peace officer, prior to taking any action authorized by Subsection (1), shall notify and receive approval of the local law enforcement authority, or if the prior contact is not reasonably possible, notify the local law enforcement authority as soon as reasonably possible.

6696 (b) Unless specifically requested to aid a peace officer of another jurisdiction or otherwise as provided for by law, no legal responsibility for a peace officer's action outside ~~his~~ the peace officer's normal jurisdiction, except as provided in this section, shall attach to the local law enforcement authority.

6703 Section 359. Section **77-10a-1** is amended to read:

6704 **77-10a-1. Definitions.**

As used in this chapter:

6703 (1) "Clerk of the court" means the state court administrator or ~~his~~ the state court administrator's designee.

6705 (2) "Managing judge" means the supervising judge when ~~he~~ the supervising judge retains authority to manage a grand jury, or the district court judge to whom the supervising judge delegates management of a grand jury.

6708 (3) "Presiding officer" means the presiding officer of the Judicial Council.

6709 (4) "Subject" means a person whose conduct is within the scope of the grand jury's investigation, and that conduct exposes the person to possible criminal prosecution.

6711 (5) "Supervising judge" means the district court judge appointed by the presiding officer to supervise the five-judge grand jury panel.

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(6) "Target" means a person regarding whom the attorney for the state, the special prosecutor, or the grand jury has substantial evidence that links that person to the commission of a crime and who could be indicted or charged with that crime.

6716 (7) "Witness" means a person who appears before the grand jury either voluntarily or pursuant to subpoena for the purpose of providing testimony or evidence for the grand jury's use in discharging its responsibilities.

6722 Section 360. Section **77-10a-7** is amended to read:

6723 **77-10a-7. Selection of grand jurors -- Notice -- Examination -- Qualification -- Alternates.**

6722 (1) When the supervising judge orders that a grand jury be summoned, the managing judge shall direct the clerk to select at random from the master list the number of names determined by the managing judge to ensure that the required number of grand jurors under this chapter may be qualified to constitute the grand jury.

6726 (2)

. (a) The managing judge may direct the clerk to draw additional names from the master list so alternate grand jurors may be designated at the time the grand jury is selected.

6729 (b) Alternate grand jurors shall be drawn in the same manner and have the same qualifications as the regular grand jurors. If impanelled, they are subject to the same challenges, shall take the same oath, and have the same functions, powers, facilities, and privileges as the regular jurors.

6733 (3) The clerk shall cause each person drawn for service on the grand jury or as an alternate to be notified of when and where to report for service. Notice may be given by telephone or by service of a summons, either personally or by first class mail addressed to the prospective juror's current residence, place of business, or post office box.

6737 (4) The names of those drawn for service on the grand jury or as alternates and the contents of all grand juror questionnaires may not be made available to the public.

6739 (5)

. (a) At the time and place specified for the appearance of the persons summoned to serve as grand jurors and alternates, the managing judge shall examine the prospective grand jurors and alternates. Before accepting any person as a grand juror or alternate, the managing judge shall be satisfied that the person has no bias or prejudice that would prevent ~~[him]~~ the person from fairly and dispassionately considering the matters presented to the grand jury.

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- (b) When drawn and qualified, the person shall be accepted for service unless~~[the managing judge in his]~~ , in the managing judge's discretion and on the application of the juror, the managing judge excuses ~~[him]~~ the person from service before ~~[he]~~ the person is sworn.
- 6749 (6) The managing judge may dismiss the grand jury panel if ~~[he]~~ the managing judge finds there has been a material departure from the methods prescribed for the selecting, drawing, and return of the grand jury, or if there has been an intentional omission by the proper officer to summon one or more of the grand jurors drawn.
- 6753 (7) When 15 of the persons summoned as grand jurors who are qualified and not excused remain, they are the grand jury. If more than 15 qualified persons remain, their names shall be written by the clerk on separate slips, folded to conceal the names, and placed in a box. The clerk shall then draw 15 slips, and the persons whose names are drawn are the grand jury.
- 6758 (8)
- . (a) When the number of persons to be designated as alternate grand jurors who are qualified and not excused remain, they are the alternate grand jurors.
- 6760 (b) If more than the number of alternate grand jurors designated by the managing judge remain, their names shall be written by the clerk on separate slips, folded to conceal the names, and placed in a box. The clerk shall then draw slips until the designated number of alternate grand jurors are selected.
- 6767 Section 361. Section **77-10a-8** is amended to read:
- 6768 **77-10a-8. Challenge of prospective grand jurors -- Failure to comply in selection of jurors -- Remedies.**
- 6767 (1) The attorney general, county attorney, district attorney, or special prosecutor may challenge:
- 6769 (a) the array of grand jurors on the ground the grand jury was not selected, drawn, or summoned in accordance with law; and
- 6771 (b) an individual juror on the ground the juror is not legally qualified.
- 6772 (2) Challenges shall be made before the administration of the oath to the jurors and shall be tried to the court managing the grand jury.
- 6774 (3) A motion to dismiss the indictment may be based on objections to the array or on the lack of legal qualification of an individual juror, if not previously determined upon challenge.
- 6777 (4) In criminal cases the defendant or attorney for the state may move to dismiss the indictment or stay the proceedings on the ground of substantial failure to comply with this chapter in selecting the

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grand jury. However, [he] the defendant or attorney for the state must do so before the voir dire examination begins or within seven days after the defendant or attorney for the state discovered or could have discovered the grounds by the exercise of diligence, whichever is earlier, or the motion is considered waived.

6783 (5)

(a) Any motion filed under Subsection (1), (3), or (4) must contain a sworn statement of facts which, if true, would constitute a substantial failure to comply with the provisions of this chapter. The moving party may present in support of the motion the testimony of the clerk if [he] the clerk is available, any relevant records and papers used by the clerk that were not made public or otherwise available, and any other relevant evidence.

6789 (b) If the managing judge determines there has been a substantial failure to comply with the provisions of this chapter in selecting the grand jury, [he] the managing judge shall stay the proceedings pending the selection of a grand jury in conformity with this chapter or dismiss the indictment, whichever is appropriate.

6793 (6)

(a) The procedures prescribed by this section are the exclusive means by which a party accused of a crime or an attorney for the state may challenge any grand jury on the ground it was not selected in conformity with this chapter.

6796 (b) An indictment may not be dismissed in any case on the ground that one or more members of the grand jury that returned the indictment were not legally qualified if it appears from the record kept by the grand jury that eight or more jurors, after deducting the number not qualified, concurred in finding the indictment.

6803 Section 362. Section **77-10a-11** is amended to read:

6804 **77-10a-11. Jury foreman -- Compensation of grand jurors.**

6802 (1) The managing judge shall appoint one of the jurors to be foreman and another to be deputy foreman. The foreman may administer oaths and affirmations and shall sign all indictments. The foreman or another juror designated by [him] the foreman shall keep record of the number of jurors concurring in the finding of every indictment and shall file the record with the clerk of the court. The record may not be made public except on order of the managing judge.

6808 (2) During the absence of the foreman the deputy foreman shall act as foreman.

6809

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- (3) A grand juror shall be compensated at the same rate as a juror in a state district court for each day of service.

6814 Section 363. Section **77-10a-17** is amended to read:

6815 **77-10a-17. Grand jury report on noncriminal misconduct -- Action on the report.**

- 6813 (1) A grand jury may upon completion of its original term or each extension, with the concurrence of a majority of its members, submit to the managing judge a report concerning noncriminal misconduct, malfeasance, or misfeasance in office as a basis for a recommendation of removal or disciplinary action against a public officer or employee.
- 6817 (2) The judge to whom the report is submitted shall examine it and the minutes of the grand jury. The judge shall make an order accepting and filing the report as a public record, but only if the judge is satisfied that it complies with Subsection (1) and:
- 6820 (a) the report is based on facts revealed during the grand jury's investigation and is supported by a preponderance of evidence; and
- 6822 (b) each person named and any reasonable number of witnesses on [his] the named person's behalf as designated by [him] the named person to the foreman of the grand jury were afforded an opportunity to testify before the grand jury prior to the filing of the report.
- 6826 (3) An order accepting a report made under this section and the report itself shall be sealed by the managing judge and may not be filed as a public record or be subject to subpoena or otherwise made public until:
- 6829 (a) at least 31 days after a copy of the order and report are served on each public officer or employee named and an answer has been filed;
- 6831 (b) the time for filing an answer has expired; or
- 6832 (c) an appeal is taken or until all rights of review of the public officer or employee named have expired or terminated in an order accepting the report.
- 6834 (4)
- . (a) An order accepting the report may not be entered until 30 days after the delivery of the report to the public officer or body having jurisdiction, responsibility, or authority over each public officer or employee named in the report.
- 6837 (b) The managing judge may issue orders it finds necessary and appropriate to prevent unauthorized publication of a report. Unauthorized publication of a report may be punished as contempt of court.
- 6840 (5)

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- . (a) A public officer or employee named in a report may file with the clerk a verified answer to the report not later than 20 days after service of the order and report upon [~~him~~] the public officer or employee. Upon a showing of good cause, the managing judge may grant the public officer or employee an extension of time to file an answer and may authorize limited publication of the report as necessary to prepare an answer.
- 6845 (b) The answer shall plainly and concisely state the facts and law constituting the defense of the public officer or employee to the charges in the report. Except for those parts the managing judge determines have been inserted scandalously, prejudiciously, or unnecessarily, the answer becomes an appendix to the report.
- 6849 (6) Upon the submission of a report made under this section the managing judge shall order the report sealed if [~~he~~] the managing judge finds the filing of the report as a public record may prejudice fair consideration of a pending criminal matter. The report may not be subject to subpoena or public inspection during the pendency of the criminal matter except upon order of the managing judge.
- 6854 (7)
- . (a) When the managing judge to whom a report is submitted is not satisfied that the report complies with the provisions of this section, [~~he~~] the managing judge may direct that additional testimony be taken before the same grand jury or [~~he~~] the managing judge shall make an order sealing the report.
- 6858 (b) If the report is sealed, it may not be filed as a public record or be subject to subpoena or otherwise made public until the provisions of this section are met.
- 6860 (8) A grand jury's term may be extended by the managing judge so additional testimony may be taken or the provisions of this section met.
- 6865 Section 364. Section **77-10a-18** is amended to read:
- 6866 **77-10a-18. Grand jury term of service -- Excusing a juror.**
- 6864 (1) A grand jury shall serve until discharged by the managing judge. However, a grand jury may not serve more than 18 months unless the managing judge extends the service of the grand jury, upon determining an extension is in the public interest. The extension may be no longer than a period of six months.
- 6868 (2) The managing judge may at any time excuse a juror either temporarily or permanently for cause shown. If a juror is excused permanently, the managing judge may impanel another juror in [~~his~~] that juror's place.
- 6874 Section 365. Section **77-13-5** is amended to read:



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6875 **77-13-5. Failure to plead -- Not guilty entered.**

When a defendant does not enter a plea, the court shall enter a plea of not guilty for [him]  
the defendant.

6878 Section 366. Section **77-14-1** is amended to read:

6879 **77-14-1. Time and place of alleged offense -- Specification.**

The prosecuting attorney, on timely written demand of the defendant, shall within 10  
days, or such other time as the court may allow, specify in writing as particularly as is known  
to [him] the prosecuting attorney the place, date and time of the commission of the offense  
charged.

6884 Section 367. Section **77-14-2** is amended to read:

6885 **77-14-2. Alibi -- Notice requirements -- Witness lists.**

6883 (1) A defendant, whether or not written demand has been made, who intends to offer evidence of an  
alibi shall, not less than 10 days before trial or at such other time as the court may allow, file and  
serve on the prosecuting attorney a notice, in writing, of [his] the defendant's intention to claim  
alibi. The notice shall contain specific information as to the place where the defendant claims to  
have been at the time of the alleged offense and, as particularly as is known to the defendant or  
[his] the defendant's attorney, the names and addresses of the witnesses by whom [he] the defendant  
proposes to establish alibi. The prosecuting attorney, not more than five days after receipt of the list  
provided herein or at such other time as the court may direct, shall file and serve the defendant with  
the addresses, as particularly as are known to [him] the prosecuting attorney, of the witnesses the  
state proposes to offer to contradict or impeach the defendant's alibi evidence.

6895 (2) The defendant and prosecuting attorney shall be under a continuing duty to disclose the names and  
addresses of additional witnesses which come to the attention of either party after filing their alibi  
witness lists.

6898 (3) If a defendant or prosecuting attorney fails to comply with the requirements of this section, the court  
may exclude evidence offered to establish or rebut alibi. However, the defendant may always testify  
on [his] the defendant's own behalf concerning alibi.

6901 (4) The court may, for good cause shown, waive the requirements of this section.

6905 Section 368. Section **77-16a-303** is amended to read:

6906 **77-16a-303. Court determinations.**

After entry of judgment of not guilty by reason of insanity, the court shall:

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6905 (1) determine on the record the offense of which the person otherwise would have been convicted and  
the maximum sentence [he] the person could have received; and

6907 (2) make specific findings regarding whether there is a victim of the crime for which the defendant has  
been found not guilty by reason of insanity and, if so, whether the victim wishes to be notified of  
any conditional release, discharge, or escape of the defendant.

6913 Section 369. Section **77-17-1** is amended to read:

6914 **77-17-1. Doubt as to degree -- Conviction only on lowest.**

When it appears the defendant has committed a public offense and there is reasonable  
doubt as to which of two or more degrees [he] the defendant is guilty, [he] the defendant shall  
be convicted only of the lower degree.

6918 Section 370. Section **77-17-2** is amended to read:

6919 **77-17-2. Discharging one of several defendants -- To testify for state.**

When two or more persons are included in the same charge, the court may at any time,  
on the application of the prosecuting attorney, direct any defendant to be discharged or [his]the  
defendant's case severed so that [he] the defendant may be a witness for the prosecution.

6923 Section 371. Section **77-17-3** is amended to read:

6924 **77-17-3. Discharge for insufficient evidence.**

When it appears to the court that there is not sufficient evidence to put a defendant to [his]  
the defendant's defense, it shall forthwith order [him] the defendant discharged.

6927 Section 372. Section **77-17-9** is amended to read:

6928 **77-17-9. Separation or sequestration of jurors -- Oath of officer having custody.**

6926 (1) The court, at any time before the submission of the case to the jury, may permit the jury to separate  
or order that it be sequestered in charge of a proper officer.

6928 (2) If the jury is sequestered, the officer:

6929 (a) shall be sworn to keep the jurors together until the next meeting of the court, to prevent any person  
from speaking or communicating with them~~[, and]~~ ;

6931 (b) ~~[not to do so himself]~~ may not communicate with the jurors on any subject connected with the  
trial~~[,]~~ ; and

6933 (c) ~~[to]~~ shall return the jury to the court pursuant to its order.

6937 Section 373. Section **77-17-11** is amended to read:

6938 **77-17-11. Jury to retire for deliberation -- Oath of officer having custody.**

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- 6936 (1) After hearing the court's instructions and arguments of counsel, the jury shall retire for deliberation.
- 6938 (2) An officer shall:
- 6939 (a) be sworn to keep ~~[them]~~ the jury together in some private and convenient place~~[-and]~~ ;
- 6940 (b) ~~[-]~~not permit any person to speak to or communicate with ~~[them or to do so himself]~~ the jury;
- 6942 (c) not communicate with the jury except:
- 6943 (i) ~~[-]~~upon the order of the court~~[-]~~ ; or
- 6944 (ii) ~~[-]~~to ask ~~[them]~~ the jury whether ~~[they have]~~ the jury has agreed on a verdict~~[-He shall]~~ ; and
- 6946 (d) ~~[-]~~return ~~[them]~~ the jury to court when ~~[they have]~~ the jury has agreed and the court has so ordered, or when otherwise ordered by the court.

6951 Section 374. Section **77-17-12** is amended to read:

6952 **77-17-12. Defendant on bail appearing for trial may be committed.**

When a defendant who has given bail appears for trial, the court may, at any time after [ ~~his~~] the defendant's appearance for trial, order ~~[him]~~ the defendant to be committed to the custody of the proper officer to await the judgment or further order of the court.

6956 Section 375. Section **77-19-5** is amended to read:

6957 **77-19-5. Special release from city or county jail -- Revocation.**

The judge may, for good cause, revoke any release time previously awarded, and shall notify the prisoner that, if ~~[he]~~ the prisoner makes written request, a hearing shall be afforded to [ ~~him~~] the prisoner to challenge the revocation.

6961 Section 376. Section **77-19-11** is amended to read:

6962 **77-19-11. Who may be present -- Photographic and recording equipment.**

6960 (1) As used in this section:

6961 (a) "Close relative of the deceased victim" means:

6962 (i) the spouse of the victim;

6963 (ii) a parent or stepparent of the victim;

6964 (iii) a brother, sister, stepbrother, stepsister, child, or stepchild of the victim; and

6965 (iv) any person who had a close relationship with the deceased victim, or with a close relative of the victim, upon the recommendation of the victim assistance coordinator for the Department of Corrections or for the Office of the Attorney General.

6969 (b) "Director" means the executive director of the Department of Corrections, or the director's designee.

6971 (2) At the discretion of the director, the following persons may attend the execution:

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- 6972 (a) the prosecuting attorney, or a designated deputy, of the county in which the defendant committed the offense for which [he] the defendant is being executed;
- 6974 (b) no more than two law enforcement officials from the county in which the defendant committed the offense for which [he] the defendant is being executed;
- 6976 (c) the attorney general or a designee;
- 6977 (d) religious representatives, friends, or relatives designated by the defendant, not exceeding a total of five persons; and
- 6979 (e) unless approved by the director, no more than five close relatives of the deceased victim, as selected by the director, but giving priority in the order listed in Subsection (1)(a).
- 6982 (3) The persons listed in Subsection (2) may not be required to attend, nor may any of them attend as a matter of right.
- 6984 (4) The director shall permit the attendance at the execution of members of the press and broadcast news media:
- 6986 (a) as named by the director in accordance with rules of the department; and
- 6987 (b) with the agreement of the selected news media members that they serve as a pool for other members of the news media.
- 6989 (5)
- . (a) Except as provided in Subsection (5)(b), photographic or recording equipment is not permitted at the execution site until the execution is completed, the body is removed, and the site has been restored to an orderly condition. However, the physical arrangements for the execution may not be disturbed.
- 6993 (b) Audio recording equipment may be used by the department for the purpose of recording the defendant's last words.
- 6995 (c) The department shall permanently destroy the recording made under Subsection (5)(b) not later than 24 hours after the completion of the execution.
- 6997 (d) A violation of this subsection is a class B misdemeanor.
- 6998 (6) All persons in attendance are subject to reasonable search as a condition of attendance.
- 6999 (7)
- . (a) The following persons may also attend the execution:
- 7000 (i) staff as determined by the director; and
- 7001

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(ii) no more than three correctional officials from other states that are preparing for executions, but no more than two correctional officials may be from any one state, as designated by the director.

7004 (b) A person younger than 18 years [~~of age~~] old may not attend.

7005 (8) The department shall adopt rules governing the attendance of persons, including the number of media representatives, at the execution. These rules shall be in accordance with this section.

7011 Section 377. Section **77-19-12** is amended to read:

7012 **77-19-12. Return upon death warrant.**

After the execution, the executive director of the Department of Corrections or [~~his~~]the executive director's designee shall make a return upon the death warrant, showing the time, place, and manner in which it was executed.

7016 Section 378. Section **77-22-4.5** is amended to read:

7017 **77-22-4.5. Prosecutorial authority to compromise an offense regarding a witness.**

7015 (1) As used in this section, "prosecutor" includes the state attorney general and any assistant, a district attorney and any deputy, a county attorney and any deputy, and a municipal prosecutor and any deputy.

7018 (2) This chapter does not prohibit or limit the authority of a prosecutor to divert, reduce, or compromise any criminal charge against a witness or other party when the witness voluntarily enters into an agreement to provide testimony or other evidence against himself or herself or another accused in consideration for the diversion, reduction, or compromise if:

7023 (a) the prosecutor holds authority to prosecute the offense against the witness or other party; and

7025 (b) the complete agreement with the witness is in writing and a copy of the agreement is given to the witness.

7027 (3) Any agreement under Subsection (2) is subject to discovery by counsel for the accused in any prosecution in which the witness with whom the agreement is made has agreed to testify.

7033 Section 379. Section **77-22a-2** is amended to read:

7034 **77-22a-2. Service of administrative subpoena.**

7032 (1) A subpoena issued under this section may be served by any person designated in the subpoena for that purpose. Service upon a natural person may be made by personal delivery of the subpoena to [~~him~~] the natural person. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association subject to suit under a common name by delivering

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the subpoena to an officer, managing or general agent, or other agent authorized by appointment or law to receive service of process.

7039 (2) The affidavit of the person serving the subpoena, when entered on a copy of the subpoena by the person serving it, is proof of service.

7044 Section 380. Section **77-22a-3** is amended to read:

7045 **77-22a-3. Compliance with administrative subpoena.**

7043 (1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the attorney general or a deputy or assistant attorney general or the county attorney or district attorney or [his] the district attorney's deputy may compel compliance with the subpoena through the district court:

7047 (a) in the jurisdiction where the investigation is carried on;

7048 (b) where the subpoenaed person is an inhabitant;

7049 (c) where [he] the subpoenaed person carries on business; or

7050 (d) where [he] the subpoenaed person may be found.

7051 (2) The court may issue an order requiring the person subpoenaed to produce records or to appear before the attorney general or deputy or assistant attorney general, or the county attorney or district attorney or [his] the district attorney's deputy who issued the subpoena testimony touching the matter under investigation.

7055 (3) Any failure to obey the court order may be punished by the court as contempt. All process in the case may be served in any judicial district in which the person may be found within the state.

7058 (4) A witness may not be held liable in any civil or criminal proceeding for producing records or disclosing information to the person issuing the administrative subpoena as commanded by the subpoena.

7064 Section 381. Section **77-23a-3** is amended to read:

7065 **77-23a-3. Definitions.**

As used in this chapter:

7064 (1) "Aggrieved person" means a person who was a party to any intercepted wire, electronic, or oral communication, or a person against whom the interception was directed.

7066 (2) "Aural transfer" means any transfer containing the human voice at any point between and including the point of origin and the point of reception.

7068 (3) "Communications common carrier" means any person engaged as a common carrier for hire in intrastate, interstate, or foreign communication by wire or radio, including a provider of electronic

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communication service. However, a person engaged in radio broadcasting is not, when that person is so engaged, a communications common carrier.

- 7072 (4) "Contents" when used with respect to any wire, electronic, or oral communication includes any information concerning the substance, purport, or meaning of that communication.
- 7075 (5) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:
- 7078 (a) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;
- 7080 (b) any wire or oral communications;
- 7081 (c) any communication made through a tone-only paging device; or
- 7082 (d) any communication from an electronic or mechanical device that permits the tracking of the movement of a person or object.
- 7084 (6) "Electronic communications service" means any service that provides for users the ability to send or receive wire or electronic communications.
- 7086 (7) "Electronic communications system" means any wire, radio, electromagnetic, photoelectronic, or photo-optical facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.
- 7090 (8) "Electronic, mechanical, or other device" means any device or apparatus that may be used to intercept a wire, electronic, or oral communication other than:
- 7092 (a) any telephone or telegraph instrument, equipment or facility, or a component of any of them:
- 7094 (i) furnished by the provider of wire or electronic communications service or by the subscriber or user, and being used by the subscriber or user in the ordinary course of its business; or
- 7097 (ii) being used by a provider of wire or electronic communications service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his the officer's duties; or
- 7100 (b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal.
- 7102 (9) "Electronic storage" means:
- 7103 (a) any temporary intermediate storage of a wire or electronic communication incident to the electronic transmission of it; and

7105

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- (b) any storage of the communication by an electronic communications service for the purposes of backup protection of the communication.
- 7107 (10) "Intercept" means the acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.
- 7109 (11) "Investigative or law enforcement officer" means any officer of the state or of a political subdivision, who by law may conduct investigations of or make arrests for offenses enumerated in this chapter, or any federal officer as defined in Section 53-13-106, and any attorney authorized by law to prosecute or participate in the prosecution of these offenses.
- 7114 (12) "Judge of competent jurisdiction" means a judge of a district court of the state.
- 7115 (13) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception, under circumstances justifying that expectation, but does not include any electronic communication.
- 7119 (14) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which the device is attached. "Pen register" does not include any device used by a provider or customer of a wire or electronic communication service for billing or recording as an incident to billing, for communications services provided by the provider, or any device used by a provider or customer of a wire communications service for cost accounting or other like purposes in the ordinary course of its business.
- 7126 (15) "Person" means any employee or agent of the state or a political subdivision, and any individual, partnership, association, joint stock company, trust, or corporation.
- 7128 (16) "Readily accessible to the general public" means, regarding a radio communication, that the communication is not:
- 7130 (a) scrambled or encrypted;
- 7131 (b) transmitted using modulation techniques with essential parameters that have been withheld from the public with the intention of preserving the privacy of the communication;
- 7134 (c) carried on a subcarrier or signal subsidiary to a radio transmission;
- 7135 (d) transmitted over a communications system provided by a common carrier, unless the communication is a tone-only paging system communication; or
- 7137 (e) transmitted on frequencies allocated under Part 25, Subpart D, E, or F of Part 74, or Part 94, Rules of the Federal Communications Commission unless, in the case of a communication transmitted on



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a frequency allocated under Part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio.

- 7142 (17) "Trap and trace device" means a device, process, or procedure that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication is transmitted.
- 7145 (18) "User" means any person or entity who:
- 7146 (a) uses an electronic communications service; and
- 7147 (b) is authorized by the provider of the service to engage in the use.
- 7148 (19)
- . (a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of the connection in a switching station, furnished or operated by any person engaged as a common carrier in providing or operating these facilities for the transmission of intrastate, interstate, or foreign communications.
- 7154 (b) "Wire communication" includes the electronic storage of the communication, but does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.
- 7160 Section 382. Section **77-23a-9** is amended to read:
- 7161 **77-23a-9. Disclosure or use of intercepted information.**
- 7159 (1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, electronic, or oral communication, or evidence derived from any of these, may disclose those contents to another investigative or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.
- 7165 (2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, electronic, or oral communication or evidence derived from any of them may use those contents to the extent the use is appropriate to the proper performance of ~~his~~ the officer's official duties.
- 7169 (3) Any person who has received, by any means authorized by this chapter, any information concerning a wire, electronic, or oral communication or evidence derived from any of them intercepted in accordance with this chapter may disclose the contents of that communication or the derivative

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evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or of any state or political subdivision.

- 7175 (4) An otherwise privileged wire, electronic, or oral communication intercepted in accordance with, or  
in violation of, the provisions of this chapter does not lose its privileged character.
- 7178 (5) When an investigative or law enforcement officer, while engaged in intercepting wire, electronic, or  
oral communications in the manner authorized, intercepts wire, electronic, or oral communications  
relating to offenses other than those specified in the order of authorization or approval, the contents,  
and evidence derived from the contents, may be disclosed or used as provided in Subsections (1)  
and (2). The contents and any evidence derived from them may be used under Subsection (3)  
when authorized or approved by a judge of competent jurisdiction, if the judge finds on subsequent  
application that the contents were otherwise intercepted in accordance with this chapter. The  
application shall be made as soon as practicable.

7190 Section 383. Section **77-23a-16** is amended to read:

7191 **77-23a-16. Communications provider -- Cooperation and support services -- Compensation**  
**-- Liability defense.**

7190 (1) Upon the request of an attorney for the government or an officer of a law enforcement agency  
authorized to install and use pen registers under this chapter, a provider of wire or electronic  
communications service, landlord, custodian, or other person shall furnish investigative or law  
enforcement officers forthwith all information, facilities, and technical assistance necessary to  
accomplish the installation of the pen register unobtrusively and with a minimum of interference  
with the services the person ordered by the court accords the party regarding whom the installation  
and use is to take place, if such assistance is directed by a court order as provided in Subsection  
77-23a-15(2)(b) of this chapter.

- 7199 (2)
- . (a) Upon request of an attorney for the government or an officer of a law enforcement agency  
authorized to receive the results of a trap and trace device under this chapter, a provider of wire or  
electronic communications service, landlord, custodian, or other person shall:
- 7203 (i) install the device forthwith on the appropriate line[-] ; and
- 7204 (ii)
- . [(b) He shall also] furnish the investigative or law enforcement officer all additional information,  
facilities, and technical assistance, including installation and operation of the device unobtrusively

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and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by a court order under ~~[Section]~~ Subsection 77-23a-15(2)(b).

- 7211 [(e)] (b) Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of the law enforcement agency designated by the court, at reasonable intervals and during regular business hours, for the duration of the order.
- 7215 (3) A provider of wire or electronic communications service, landlord, custodian, or other person who furnishes facilities or technical assistance under this section shall be reasonably compensated for reasonable expenses incurred in providing the facilities and assistance.
- 7219 (4) A cause of action does not lie in any court against the provider of wire or electronic communications service, its officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.
- 7223 (5) A good faith reliance on a court order, a legislative authorization, or a statutory authorization, is a complete defense against any civil or criminal action brought under this chapter or any other law.
- 7228 Section 384. Section **77-23b-2** is amended to read:
- 7229 **77-23b-2. Interference with access to stored communication -- Offenses -- Penalties.**
- 7229 (1) Except under Subsection (3), a person who obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in the system shall be punished under Subsection (2) if ~~[he]~~ the person:
- 7232 (a) intentionally accesses without authorization a facility through which an electronic communications service is provided; or
- 7234 (b) intentionally exceeds an authorization to access that facility.
- 7235 (2) A person who commits a violation of Subsection (1) is:
- 7236 (a) if the offense is committed for purposes of commercial advantage, malicious destruction, or damage, or private commercial gain, guilty of a:
- 7238 (i) third degree felony for the first offense under this subsection; and
- 7239 (ii) second degree felony for any subsequent offense; and
- 7240 (b) class B misdemeanor in any other case.
- 7241 (3) Subsection (1) does not apply to conduct authorized:
- 7242 (a) by the person or entity providing a wire or electronic communications service;
- 7243 (b) by a user of that service with respect to a communication of or intended for that user; or

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- 7245 (c) under Sections 77-23a-10, 77-23b-4, and 77-23b-5.
- 7248 Section 385. Section **77-23b-5** is amended to read:
- 7249 **77-23b-5. Backup copy of communications -- When required of provider -- Court order --  
Procedures.**
- 7249 (1)
- (a) A governmental entity acting under Subsection 77-23b-4(2)(b) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of the subpoena or court order, the service provider shall create the backup as soon as practicable, consistent with its regular business practices. The provider shall also confirm to the governmental entity that the backup copy has been made. The backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.
- 7258 (b) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of confirmation, unless the notice is delayed under Subsection 77-23b-6(1).
- 7261 (c) The service provider may not destroy the backup copy until the later of:
- 7262 (i) the delivery of the information; or
- 7263 (ii) the resolution of any proceedings, including appeals of any proceeding, concerning the government's subpoena or court order.
- 7265 (d) The service provider shall release the backup copy to the requesting governmental entity no sooner than 14 days after the governmental entity's notice to the subscriber or customer, if the service provider:
- 7268 (i) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and
- 7270 (ii) has not initiated proceedings to challenge the request of the governmental entity.
- 7271 (e) A governmental entity may seek to require the creation of a backup copy under Subsection (1)
- (a) if in its sole discretion the entity determines that there is reason to believe that notification under Section 77-23b-4 of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber, customer, or service provider.
- 7277 (2)

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- (a) Within 14 days after notice by the governmental entity to the subscriber or customer under Subsection (1)(b), the subscriber or customer may file a motion to quash the subpoena or vacate the court order, with copies served upon the governmental entity, and with written notice of the challenge to the service provider. A motion to vacate a court order shall be filed in the court that issues the order. A motion to quash a subpoena shall be filed in the appropriate district court. The motion or application shall contain an affidavit or sworn statement:
- 7284 (i) that the applicant is a customer or subscriber to the service from which the contents of electronic  
communications maintained for ~~him~~ the applicant have been sought; and
- 7287 (ii) that the applicant's reason for believing the records sought are not relevant to a legitimate law  
enforcement inquiry or that there has not been substantial compliance with the provisions of this  
chapter in some other respect.
- 7290 (b) Service shall be made under this section upon a governmental entity by delivering or mailing by  
registered or certified mail a copy of the papers to the person, office, or department specified in the  
notice the customer received under this chapter. For purposes of this subsection, "deliver" has the  
same meaning as under the Utah Rules of Criminal Procedure.
- 7295 (c) If the court finds that the customer has complied with Subsections (2)(a) and (b), the court  
shall order the governmental entity to file a sworn response, that may be filed in camera if the  
governmental entity includes in its response the reasons making in camera review appropriate.  
If the court is unable to determine the motion or application on the basis of the parties' initial  
allegations and response, the court may conduct additional proceedings as it considers appropriate.  
All proceedings shall be completed, and the motion or application decided, as soon as practicable  
after the filing of the governmental entity's response.
- 7303 (d) If the court finds that the applicant is not the subscriber or customer for whom the communications  
sought by the governmental entity are maintained, or that there is a reason to believe that the law  
enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry,  
it shall deny the motion or application and order the process enforced. If the court finds that the  
applicant is the subscriber or customer for whom the communications sought by the governmental  
entity are maintained, and that there is no reason to believe that the communications sought are  
relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance  
with this chapter, it shall order the process quashed.

7312

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- (e) A court order denying a motion or application under this section is not considered a final order, and no interlocutory appeal may be taken from it by the customer or subscriber.

7317 Section 386. Section **77-27-5.5** is amended to read:

7318 **77-27-5.5. Review procedure -- Commutation.**

7317 (1) The Board of Pardons and Parole may consider the commutation of a death sentence only to life without parole.

7319 (2) Only the person who has been sentenced to death or [his] the sentenced person's counsel may petition the Board of Pardons and Parole for commutation.

7321 (3) The petition shall be in writing, signed personally by the person sentenced to death, and shall include a statement of the grounds upon which the petitioner seeks review.

7323 (4) The state shall be permitted to respond in writing to the petition as may be established by board rules.

7325 (5) The board shall review the petition and determine whether the petition presents a substantial issue which has not been reviewed in the judicial process.

7327 (6) The board shall not consider legal issues, including constitutional issues, which:

7328 (a) have been reviewed previously by the courts;

7329 (b) should have been raised during the judicial process; or

7330 (c) if based on new information, are subject to judicial review.

7331 (7)

. (a) If the board does not find a substantial issue, the board shall deny the hearing to the petitioner.

7333 (b) If the board finds a substantial issue, the board shall conduct a hearing in which the petitioner and the state may present evidence and argument as may be provided by board rules.

7338 Section 387. Section **77-27-12** is amended to read:

7339 **77-27-12. Parole discharge--Sentence termination.**

Any person released on parole shall be discharged from parole or have [his] the person's sentence terminated subject to the conditions and limitations contained in Section 76-3-202.

7342 Section 388. Section **77-27-26** is amended to read:

7343 **77-27-26. Deputization of agents to effect return of parole and probation violators.**

7343 (1)

. (a) The official administrator of the interstate compact for the supervision of parolees and probationers is authorized and empowered to deputize any person to act as an officer and agent of this state

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in carrying out the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

- 7347 (b) In any matter relating to the return of a violator described in Subsection (1)(a), any deputized agent shall have all the powers of a peace officer of this state.
- 7349 (2) Any deputization of any person pursuant to this section shall be in writing and the deputized agent shall:
- 7351 (a) carry formal evidence of [~~his~~]deputization; and
- 7352 (b) produce the evidence of deputization upon demand.
- 7353 (3) The official administrator of the interstate compact is authorized, subject to the approval of the governor, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

7360 Section 389. Section **77-28b-3** is amended to read:

7361 **77-28b-3. Eligibility criteria for international transfer.**

An offender must meet the following criteria before [~~he may be~~] being considered for an international transfer:

- 7362 (1) the offender is a citizen of the receiving country;
- 7363 (2) the offender consents to transfer to [~~his~~] the offender's country of citizenship;
- 7364 (3) the offense committed by the offender constitutes a criminal offense under the laws of the receiving state;
- 7366 (4) the offender does not have fewer than 12 months remaining on [~~his~~] the offender's sentence at the time of the application for transfer;
- 7368 (5) the offender is not under a sentence of death;
- 7369 (6) the offender does not have collateral attacks or appeals on either the sentence or conviction pending;
- 7371 (7) all other provisions of the imposed sentence such as fines, restitution, and penalties are paid in full;
- 7373 (8) there are no detainers, wanted notices based on criminal convictions, indictments, informations, complaints, or parole or probation violation allegations pending against the offender; and
- 7376 (9) the offender meets all of the eligibility requirements of the treaty with [~~his~~] the offender's country.

7380 Section 390. Section **77-28b-4** is amended to read:

7381 **77-28b-4. Role of the classification officer.**

7380

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- (1) The classification officer of each correctional institution shall be provided with the eligibility requirements of each prisoner transfer treaty.
- 7382 (2) The classification officer shall forward Form I, Transfer Inquiry, to all offenders identified as having national or citizenship status in a party nation.
- 7384 (3) Upon receipt of Form I, Transfer Inquiry, the offender may indicate [he] that the offender is:
- 7386 (a) interested in pursuing a transfer by signing Form I and returning it to the classification officer along with proof of citizenship; or
- 7388 (b) not interested in pursuing a transfer by returning Form I to the classification officer without proof of citizenship.
- 7390 (4) If the offender indicates on Form I, Transfer Inquiry, that [he] the offender is interested in pursuing a transfer, the institution classification officer shall complete Form II, Inmate Information Provided to Treaty Nation, and Form III, Notice Regarding International Prisoner Transfer.
- 7394 (5) The following forms, provided by the federal government, shall be completed and forwarded in triplicate by the classification officer to the superintendent of the institution:
- 7397 (a) Form I, Transfer Inquiry;
- 7398 (b) Form II, Inmate Information Provided to Treaty Nation;
- 7399 (c) Form III, Notice Regarding International Prisoner Transfer;
- 7400 (d) proof of citizenship;
- 7401 (e) statement of offender's eligibility;
- 7402 (f) presentence report;
- 7403 (g) classification assessment;
- 7404 (h) current psychological and medical reports;
- 7405 (i) signed release of confidential information forms;
- 7406 (j) criminal history sheet; and
- 7407 (k) judgments of conviction or certification to be tried as an adult.
- 7410 Section 391. Section **77-28b-7** is amended to read:
- 7411 **77-28b-7. Role of director.**
- 7410 (1) The director of the Department of Corrections shall review the application and materials. Upon [his] the director's approval the application and materials shall be forwarded to the governor for authorization to transfer.

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- (2) Applications that are not approved by the director shall be returned to the sending institution and the inmate shall be notified.

7417 Section 392. Section **77-30-3** is amended to read:

7418 **77-30-3. Form of demand -- What documents presented must show.**

No demand for the extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under Section  
7419 77-30-6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter [~~he~~] the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon or by a copy of a judgment of conviction or of a sentence composed in execution, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of [~~his~~] the person's bail, probation or parole. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state and the copy of the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

7433 Section 393. Section **77-30-4** is amended to read:

7434 **77-30-4. Governor may investigate demand.**

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with a crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to [~~him~~] the governor the situation and circumstances of the person so demanded, and whether [~~he~~] the person ought to be surrendered.

7440 Section 394. Section **77-30-5** is amended to read:

7441 **77-30-5. Extradition for prosecution before conclusion of trial or term in other state --  
Return of person involuntarily leaving demanding state.**

7441 (1) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against [~~him~~] the person in another state, the governor of this state may agree with the executive authority of such other state for

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the extradition of such person before the conclusion of such proceedings or [his] the person's term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

7448

7449 (2){(2)} The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in Section 77-30-23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

7455 Section 395. Section **77-30-7** is amended to read:

7456 **77-30-7. Governor's warrant of arrest -- Recitals.**

If the governor decides that the demand should be complied with, [he] the governor shall sign a warrant of arrest, which shall be sealed with the state seal, directed to any peace officer or other person whom [he] the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

7461 Section 396. Section **77-30-10** is amended to read:

7462 **77-30-10. Time to apply for habeas corpus allowed.**

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding [him] the arrested person shall have appointed to receive [him] the arrested person unless [he] the arrested person shall first be taken forthwith before a judge of a court of record in this state who shall inform [him] the arrested person of the demand made for [his] the arrested person's surrender and of the crime with which [he] the arrested person is charged and that [he] the arrested person has the right to demand and procure legal counsel and if the prisoner or [his] the prisoner's counsel shall state that [~~he or they desire~~] the prisoner or the prisoner's counsel desires to test the legality of [his] the prisoner's arrest, the judge of such court of record shall fix a reasonable time to be allowed [him] the prisoner within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and the time and place of hearing thereon shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

7476 Section 397. Section **77-30-11** is amended to read:

7477 **77-30-11. Penalty for disobedience of habeas corpus.**

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Any officer who shall deliver to the agent for extradition of the demanding state a person in [his] the officer's custody under the governor's warrant, in willful disobedience to Section 77-30-10, shall be guilty of a misdemeanor and on conviction shall be fined not more than \$1,000 or be imprisoned in the county jail not more than six months, or both.

7482 Section 398. Section **77-30-12** is amended to read:

7483 **77-30-12. Officers entitled to use local jails.**

7482 (1) The officer or persons executing the governor's warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which [he] the officer or person having charge of the prisoner may pass and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of [him] the prisoner is ready to proceed[~~on his route~~], such officer or person being chargeable with the expense of keeping.

7488

7489 (2){(2)} The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which [he] the officer or person having charge of the prisoner may pass, and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of [him] the prisoner is ready to proceed[~~on his route~~], such officer or agent being chargeable with the expense of keeping; provided, such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that [he] the officer or agent is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

7504 Section 399. Section **77-30-13** is amended to read:

7505 **77-30-13. Fugitives from justice -- Warrant of arrest.**

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under Section 77-30-6, that [he] the person charged has fled from justice, or with having been convicted of a crime in that state and having escaped

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from confinement, or having broken the terms of [his] the person's bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the [accused] person has been charged in such state with the commission of the crime, and except in cases arising under Section 77-30-6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of [his] the person's bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding [him] the officer to apprehend the person named therein, wherever [he]the named person may be found in this state, and to bring [him] the named person before the same or any judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

7524 Section 400. Section **77-30-14** is amended to read:

7525 **77-30-14. Arrest without warrant.**

The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused person must be taken before a judge or magistrate with all practicable speed and complaint must be made against [him] the accused person under oath setting forth the ground for the arrest as in Section 77-30-13, and thereafter [his]the accused person's answer shall be heard as if [he] the accused person had been arrested on a warrant.

7533 Section 401. Section **77-30-15** is amended to read:

7534 **77-30-15. Commitment pending arrest under warrant of governor.**

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under Section 77-30-6, that [he] the accused person has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit [him] the accused person to the county jail for such a time not exceeding 30 days and specified in the warrant as will enable the arrest of the accused person to be made under a warrant of the governor on a requisition of

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the executive authority of the state having jurisdiction of the offense, unless the accused person gives bail as provided in the next section or until [he] the accused person shall be legally discharged.

7544 Section 402. Section **77-30-16** is amended to read:

7545 **77-30-16. Amount of bail.**

7544 (1) Except as provided in Subsection (2), a judge or magistrate in this state may admit the person arrested to bail by bond with sufficient sureties and in an amount [he] the judge or magistrate considers proper, conditioned for [his] the arrested person's appearance before [him] the judge or magistrate at a time specified in the bond and for [his] the arrested person's surrender, to be arrested upon the warrant of the governor of this state.

7549 (2) A person arrested under Section 77-30-13 shall be admitted to bail as a matter of right, except the court has discretion to deny bail as provided in Utah Constitution Article I, Section 8, and when a judge or magistrate in the demanding state has ordered that the person charged be held without bail or the person has waived extradition.

7553 (3) There is a rebuttable presumption that the bail set by the court or magistrate in the demanding state is the proper amount of bail in this state.

7557 Section 403. Section **77-30-17** is amended to read:

7558 **77-30-17. Procedure when no arrest made under warrant of governor.**

If the accused person is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge [him] the accused person or may recommit [him] the accused person for a further period not to exceed 60 days, or a judge or magistrate may again take bail for [his] the accused person's appearance and surrender, as provided in Section 77-30-16, but within a period not to exceed 60 days after the date of such new bond.

7565 Section 404. Section **77-30-20** is amended to read:

7566 **77-30-20. Governor not to inquire into guilt or innocence.**

The guilt or innocence of the accused person as to the crime of which [he] the accused person is charged in another state may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the accused person held as the person charged with the crime.

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7572 Section 405. Section **77-30-21** is amended to read:

7573 **77-30-21. Governor's warrant of arrest recalled or another issued.**

The governor may recall [~~his~~] the governor's warrant of arrest or may issue another warrant whenever [~~he~~] the governor deems proper.

7576 Section 406. Section **77-30-22** is amended to read:

7577 **77-30-22. Fugitives from this state -- Issuance of governor's warrant.**

Whenever the governor of this state shall demand a person charged with a crime or with escaping from confinement or breaking the terms of [~~his~~]bail, probation, or parole in this state from the executive authority of any other state or from the chief justice or an associate justice of the superior court of the District of Columbia authorized to receive such demand under the laws of the United States, [~~he~~] the governor shall issue a warrant under the seal of this state to some agent, commanding [~~him~~] the agent to receive the person so charged if delivered to [~~him~~] the agent and convey [~~him~~] the charged person to the proper officer of the county in this state in which the offense was committed.

7586 Section 407. Section **77-30-26** is amended to read:

7587 **77-30-26. Prosecution not limited to crime specified in requisition.**

After a person has been brought back to this state by or after waiver of extradition proceedings[~~he~~] , the person may be tried in this state for other crimes which [~~he~~] the person may be charged with having committed here as well as that specified in the requisition for [~~his~~] the person's extradition.

7592 Section 408. Section **77-38-10** is amended to read:

7593 **77-38-10. Victim's discretion.**

7592 (1)

. (a) The victim may exercise any rights under this chapter at [~~his~~] the victim's discretion to be present and to be heard at a court proceeding, including a juvenile delinquency proceeding.

7595 (b) The absence of the victim at the court proceeding does not preclude the court from conducting the proceeding.

7597 (2) A victim shall not refuse to comply with an otherwise lawful subpoena under this chapter.

7599 (3) A victim shall not prevent the prosecution from complying with requests for information within a prosecutor's possession and control under this chapter.

7603 Section 409. **Effective date.**

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This bill takes effect on May 7, 2025.

7605

Section 410. **Coordinating S.B. 79 with other 2025 General Session legislation.**

The Legislature intends that, on May 7, 2025, any 2025 General Session legislation amending the Utah Code that conflicts with amendments made in S.B. 79, and that passes and becomes law, supersedes the conflicting amendments in S.B. 79.

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